



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-391/16, C-77/17 and C-78/17
M v Ministerstvo vnitra, X and X v Commissaire général aux réfugiés et aux
apatrides

The provisions of the Refugee Directive relating to the revocation of and refusal to grant refugee status on grounds connected with the protection of the security or the community of the host Member State are valid

The effect of the revocation of or refusal to grant refugee status is neither that a person who has a well-founded fear of persecution in his or her country of origin is not a refugee, nor that he or she does not have the rights which the Geneva Convention attaches to being a refugee

In Belgium and the Czech Republic, an Ivorian national, a Congolese national and an individual of Chechen origin, who either have or have applied for refugee status, have either had that status revoked or have been refused that status on the basis of provisions¹ of the Refugee Directive² that enable such measures to be adopted in respect of persons representing a danger either to the security of the host Member State or, having convicted of a particularly serious crime, to the community of that State. The individuals concerned contest that revocation of or refusal to grant refugee status before the Conseil du contentieux des étrangers (Council for asylum and immigration proceedings, Belgium) and the Nejvyšší správní soud (Supreme Administrative Court, Czech Republic), respectively, both of which have doubts as to whether the relevant provisions of the directive are in line with the Geneva Convention³.

Those courts emphasise that, although the Geneva Convention permits, on the grounds referred to above, the expulsion and refoulement of a foreign national or a stateless person, it does not state that such a person is no longer a refugee. They question, in that context, whether the provisions of the directive enabling Member States to revoke or refuse to grant refugee status on those grounds contain a ground for cessation or exclusion not set out in the Geneva Convention. In those circumstances, they ask the Court of Justice whether those provisions of the directive are valid in the light of the rules of the Charter of Fundamental Rights of the European Union ('the Charter') and the Treaty on the Functioning of the European Union, pursuant to which EU asylum policy must comply with the Geneva Convention.

By today's judgment, the Court notes, first of all, that, although the directive establishes a refugee protection system peculiar to the EU, it is nonetheless based on the Geneva Convention and its purpose is to ensure that that convention is complied with in full.

In that context, the Court specifies that **both a national of a non-EU country and a stateless person with a well-founded fear of persecution in his or her country of origin or residence must be classified as a refugee for the purposes of the directive and the Geneva Convention, regardless of whether he or she has been formally granted refugee status as defined in the directive.** In that regard, the Court finds that 'refugee status' is defined by the

¹ Article 14(4) and (5).

² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

³ Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, vol. 189, p. 137, No 2545 (1954)), which entered into force on 22 April 1954, as supplemented by the Protocol Relating to the Status of Refugees, concluded in New York on 31 January 1967, which entered into force on 4 October 1967.

directive as being the recognition of a person as a refugee by a Member State and that **that act of recognition is purely declaratory and is not constitutive of being a refugee.**

In that regard, the Court notes that the result of formal recognition as a refugee is that the refugee concerned is entitled to all the rights and benefits laid down in the directive in respect of that type of international protection, which include both rights equivalent to those set out in the Geneva Convention and rights providing greater protection deriving directly from the directive and with no equivalent in the convention.

Next, the Court notes that the grounds for revocation and refusal laid down in the directive correspond to the grounds recognised by the Geneva Convention as justifying the refoulement of a refugee. In that regard, the Court emphasises that, although, in the event that the conditions permitting the grounds referred to above to be evoked are satisfied, the Geneva Convention may deny the refugee the benefit of the principle of non-refoulement to a country in which his or her life or freedom would be threatened, **the directive must be interpreted and applied in a way that observes the rights guaranteed by the Charter which exclude the possibility of refoulement to such a country.** The Charter prohibits, in absolute terms, torture and inhuman or degrading punishment or treatment, irrespective of the conduct of the person concerned, as well as removal to a State where there is a serious risk of a person being subjected to such treatment.

In those circumstances, the Court considers that, in so far as the directive, with a view to guaranteeing that the security and the community of the host Member State are protected, provides for the possibility for that State to revoke or refuse to grant refugee status, while the Geneva Convention permits, on those same grounds, the refoulement of a refugee to a State where his or her life or freedom would be threatened, **EU law provides more extensive international protection for the refugees concerned than that guaranteed by that convention.**

The Court also considers that **the effect of the revocation of refugee status or the refusal to grant that status is not that a person who has a well-founded fear of persecution in his or her country of origin is no longer a refugee.** Thus, although such a person will not or will no longer be entitled to all the rights and benefits that the directive reserves for persons with refugee status, he or she is or continues to be entitled to a certain number of rights laid down in the Geneva Convention. In that regard, the Court specifies that **a person who is a refugee must be guaranteed the rights enshrined in the Geneva Convention expressly referred to in the directive⁴ in the context of the revocation of or the refusal to grant refugee status on the grounds referred to above, together with the rights provided for by that convention which do not require a lawful stay, but merely the refugee's physical presence in the territory of the host Member State.**

In those circumstances, the Court concludes that **the relevant provisions of the directive are in line with the Geneva Convention and with the rules of the Charter and the Treaty on the Functioning of the European Union requiring compliance with that convention.** Accordingly, **those provisions must be regarded as valid.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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⁴ Article 14(6).