



An applicant for international protection guilty of serious breaches of the rules of the accommodation centre in which he or she is hosted or of seriously violent behaviour cannot be sanctioned by a withdrawal of material reception conditions relating to housing, food or clothing

In the judgment delivered on 12 November 2019, Haqbin (C-233/18), the Grand Chamber of the Court ruled for the first time on the scope of the right conferred on Member States by Article 20(4) of Directive 2013/33¹ to determine the sanctions applicable when an applicant for international protection is guilty of serious breaches of the rules of the accommodation centre in which he or she is hosted or of seriously violent behaviour. The Court held that that provision, read in the light of Article 1 of the Charter of Fundamental Rights of the European Union, does not allow Member States to impose in such cases a sanction consisting in the withdrawal, even temporary, of material reception conditions relating to housing, food or clothing in respect of the applicant.

Mr Zubair Haqbin is an Afghan national who arrived in Belgium as an unaccompanied minor. After having lodged an application for international protection, he was hosted in a reception centre. In that centre, Mr Haqbin was involved in a brawl with other residents of various ethnic origins. Following that brawl, the director of the reception centre decided to exclude Mr Haqbin for a period of 15 days from material aid in a reception facility. During that period of exclusion, Mr Haqbin, according to his own statements, spent his nights in a park in Brussels and stayed with friends.

In those circumstances, the referring court before which Mr Haqbin lodged an appeal against the first-instance ruling that dismissed his action against the exclusion decision, asked the Court whether it was possible for the Belgian authorities to withdraw or reduce material reception conditions in respect of an applicant for international protection in Mr Haqbin's situation. Moreover, with regard to his particular situation, the question arose as to the conditions under which such a sanction can be imposed on an unaccompanied minor.

The Court first clarified that the sanctions referred to in Article 20(4) of Directive 2013/33 may, in principle, concern material reception conditions. However, such sanctions must, in accordance with Article 20(5) of the directive, be objective, impartial, motivated and proportionate to the particular situation of the applicant and must, under all circumstances, ensure a dignified standard of living.

However, the withdrawal, even temporary, of the full set of material reception conditions or of material reception conditions relating to housing, food or clothing would be irreconcilable with the requirement to ensure a dignified standard of living for the applicant. Indeed, such a sanction would preclude the applicant from being allowed to meet his or her most basic needs. In addition, it would amount to a failure to comply with the proportionality requirement.

The Court added that Member States are required to guarantee continuously and without interruption a dignified standard of living and that the authorities responsible for the reception of applicants for international protection must ensure, under their guidance and responsibility, the

¹ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ 2013 L 180, p. 96).

provision of material reception conditions guaranteeing that standard of living. Accordingly, they cannot simply provide an applicant who has been excluded with a list of private centres for the homeless likely to host him or her, as envisaged by the competent Belgian authorities.

In the case of a sanction consisting in the reduction of material reception conditions, such as the withdrawal or reduction of the daily expenses allowance, the Court made clear that it is for the competent authorities to ensure under all circumstances that such a sanction, having regard to the particular situation of the applicant as well as all of the circumstances of that case, complies with the principle of proportionality and does not undermine the dignity of the applicant. In that regard, it recalled that Member States may, in the cases referred to in Article 20(4) of Directive 2013/33, provide for measures other than those relating to material reception conditions, such as holding the applicant in a separate part of the accommodation centre or transferring him or her to another accommodation centre. Furthermore, the competent authorities may decide to hold the applicant in detention, in compliance with the conditions specified by the directive.

Where the applicant is an unaccompanied minor, and therefore a vulnerable person within the meaning of Directive 2013/33, the national authorities must, when imposing sanctions pursuant to Article 20(4) thereof, take increased account of the particular situation of the minor and of the principle of proportionality. Those sanctions must, in the light, inter alia, of Article 24 of the Charter of Fundamental Rights, be determined by taking particular account of the best interests of the child. Moreover, Directive 2013/33 does not preclude those authorities from deciding to entrust the care of such a minor to child protection services or the judicial authorities responsible therefor.

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 European Union law or the validity of a European Union 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.

Unofficial document for media use, not binding on the Court of Justice.

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

Press contact: Jacques René Zammit ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106