Case C-63/24 [Galte] [i]

Request for a preliminary ruling

Date lodged:

26 January 2024

Referring court:

Lietuvos vyriausiasis administracinis teismas (Lithuania)

Date of the decision to refer:

24 January 2024

Applicant at first instance and appellant:

K.L.

Defendant at first instance and respondent:

Migracijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos

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[…]

LIETUVOS VYRIAUSIASIS ADMINISTRACINIS TEISMAS

(SUPREME ADMINISTRATIVE COURT OF LITHUANIA)

ORDER

24 January 2024
[…]

The Chamber, in extended composition, of the Supreme Administrative Court of Lithuania […] [composition of the court]

has examined, at a sitting of the court under the written appeal procedure, the administrative case concerning the appeal lodged by the appellant, K.L., against the judgment of the Vilniaus apygardos administracinis teismas (Regional Administrative Court, Vilnius, Lithuania) of 30 March 2023 in the administrative

[i] The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

case relating to the action brought by [that] appellant […] against the respondent, the Migracijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos (Migration Department under the Ministry of the Interior of the Republic of Lithuania), seeking the annulment of a decision and an order requiring the performance of acts.

The Chamber, in extended composition,

has established as follows:

I.

1 The present case concerns a dispute between the appellant, K.L., ('the appellant') and the respondent, the Migration Department under the Ministry of the Interior of the Republic of Lithuania, ('the respondent' or 'the Department') which relates to whether the part of the respondent's decision of 16 January 2023 […] ('the Decision') by which it was decided not to grant the appellant asylum in the Republic of Lithuania was lawful and well founded.

Legal context. International law.

2 The Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, Vol. 189, p. 150, No 2545 (1954)) ('the Geneva Convention'), entered into force on 22 April 1954. It was 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 ('the Protocol').

3 The preamble to the Geneva Convention notes that the United Nations High Commissioner for Refugees (UNHCR) is charged with the task of supervising international conventions providing for the protection of refugees and provides that the States commit to cooperating with the UNHCR in the exercise of its duties and in particular to facilitating its duty of supervising the application of those instruments.

4 Article 1F(b) of the Geneva Convention states that the provisions of that convention are not to apply to any person with respect to whom there are serious reasons for considering that he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission to that country as a refugee.

5 In accordance with Article 33(1) of the Geneva Convention, no Contracting State is to expel or return a refugee in any manner whatsoever to the frontiers of territories where his or her life or freedom would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion.

Legal context. European Union law.

6 Recital 4 of 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 ('Directive 2011/95/EU') states that the Geneva Convention and the Protocol provide the cornerstone of the international legal regime for the protection of refugees.

7 Recital 16 of Directive 2011/95/EU states that that directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, that directive seeks to ensure full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members and to promote the application of Articles 1, 7, 11, 14, 15, 16, 18, 21, 24, 34 and 35 of that Charter, and should therefore be implemented accordingly.

8 In accordance with Article 12(2)(b) of Directive 2011/95/EU, a third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes.

9 Article 21(1) of Directive 2011/95/EU provides that Member States are to respect the principle of non-refoulement in accordance with their international obligations.

10 Article 18 of the Charter of Fundamental Rights of the European Union states that the right to asylum is to be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union.

Legal context. National law.

11 Article 86(1) of the Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties (Law of the Republic of Lithuania on the legal status of foreign nationals) ('the Law') provides that 'refugee status shall be granted to an applicant for asylum who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the State of his or her nationality and who is unable or afraid to avail himself or herself of the protection of that State, or who, not having the nationality of any foreign State, is outside the State of his or her habitual residence and, for the reasons set out above, is unable or afraid to return there, provided that he or

she is not covered by the grounds of exclusion laid down in Article 88(1) and (2) of this Law'.

12 Point 3 of Article 88(2) of the Law states that 'an applicant for asylum who meets the criteria set out in Article 86(1) of this Law shall not be granted refugee status if there are serious reasons for considering that, prior to entering the Republic of Lithuania, he or she has committed a serious non-political crime (particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes) or has been found guilty of acts contrary to the purposes and principles of the United Nations, or has incited or otherwise participated in the commission of such crimes or such acts'.

13 Point 8 of Article 40(1) of the Law states that a temporary residence permit may be issued to, or renewed for, a foreign national, inter alia, if a foreign national cannot be returned to a foreign State or expelled from the Republic of Lithuania in the cases specified in Article 130(1), (2) and (4) of that law;

14 Article 130(1) of the Law prohibits the expulsion or return of a foreign national to a country where his or her life or freedom is threatened or where he or she may be persecuted on account of his or her race, religion, nationality, membership of a particular social group or political opinion, or to a country from which he or she may subsequently be sent to such country.

15 Pursuant to subparagraph 92.2.2. of the Prieglobsčio Lietuvos Respublikoje suteikimo ir panaikinimo tvarkos aprašas (Description of the procedures for granting and withdrawing asylum in the Republic of Lithuania), approved by Lietuvos Respublikos vidaus reikalų ministro 2016 m. vasario 24 d. įsakymas Nr. 1V-131 (Order No 1V-131 of the Minister for the Interior of the Republic of Lithuania of 24 February 2016 (the version relevant to the case is as last amended by Order No 1V-819 of 28 December 2022), an authorised civil servant of the Migration Department examining the application for asylum on its merits is to check the data on the applicant for asylum in the Register of suspects, accused persons and convicted persons, namely, whether the applicant for asylum (over 14 years of age) has not been found guilty, by a final judgment of a court, of committing a serious or very serious crime or of being an accomplice in the commission of such a crime.

Relevant facts.

16 In the present administrative [case], it has been established that on 17 February 2022, having illegally crossed the border between Lithuania and Belarus, the appellant submitted an application to the Department for the grant of asylum and a temporary residence permit in the Republic of Lithuania.

17 According to the appellant, he was wrongfully convicted three times by the authorities in *(data redacted)*, the real reason being that he was active in the *(data redacted)* opposition in *(data redacted)*. The appellant stated that he had fled from

(data redacted) because law enforcement officials in that country had begun to conduct interrogations *(data redacted)*, which the appellant interpreted as an attempt by the competent authorities to fabricate yet another criminal case against him. According to the appellant, he is being persecuted by the authorities of *(data redacted)* for two reasons: dissemination of political information and organisation of rallies.

18 Following an investigation, the Department identified the possible reason for the appellant's persecution as public criticism of the authorities of *(data redacted) (data redacted)*. According to the information gathered about the State of origin, persons who do not agree with *(data redacted)* in *(data redacted)* are very actively persecuted. Accordingly, the Department noted that, although the appellant's social media posts were not popular, the appellant's name had appeared on the *(data redacted)* list published by the authorities of *(data redacted)*, as well as in various *(data redacted)* media articles. In those circumstances, in the Department's assessment, it is highly likely that the appellant would be arrested in the country of origin and that his social media content would likely be checked after the arrest. This led the Department to conclude that the appellant was almost certainly at risk of criminal prosecution for publishing the abovementioned content, and that he could therefore be granted refugee status in the Republic of Lithuania.

19 *(data redacted)*.

20 After assessing the content, circumstances, consequences and sentencing of the appellant's criminal cases, the Department found that the charges against the appellant *(data redacted)* are substantiated […]. In other words, according to the Department's assessment, the appellant has committed acts that fall within the definition of a 'serious non-political crime' and, therefore, in accordance with point 3 of Article 88(2) of the Law, he is excluded from refugee status.

21 After finding that the appellant could not be granted international protection on the grounds provided for in Article 88 of the Law, the Department decided, however, on the basis of Article 130(1) of the Law, that it was prohibited to return the appellant to his country of origin, as he might be persecuted in *(data redacted)* on account of his political opinion. Accordingly, on the basis of point 8 of Article 40(1) of the Law, the Department issued a temporary residence permit to the appellant.

22 Since he disagreed with the part of the Decision refusing him asylum in the Republic of Lithuania, the appellant brought an action before the Regional Administrative Court, Vilnius. By judgment of 30 March 2023, that court dismissed the appellant's action as unfounded. The appellant brought an appeal against that judgment before the Supreme Administrative Court of Lithuania.

The Chamber, in extended composition,

finds as follows:

II.

23 The present case raises questions as to the interpretation of Article 12(2)(b) of 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, read in conjunction […] with Article 18 of the Charter of Fundamental Rights of the European Union. It is therefore necessary to refer to the Court of Justice for a preliminary ruling […] [reference to provisions of procedural law].

24 The appellant emphasises that he has already served a sentence for the crime for which the Department excluded him from refugee status. On the basis of sources published by the UNHCR, the appellant argues that the provision on exclusion from refugee status no longer applies in such situations. Accordingly, the appellant requests that the matter be referred to the Court of Justice of the European Union for the interpretation of Article 12(2)(b) of Directive 2011/95/EU.

25 The respondent points out that the Lithuanian legislature has not defined the concept of serious non-political crime. Nor is such a definition explicitly set out in Directive 2011/95/EU. Thus, in the appellant's case, use was made of the European Union Agency for Asylum Practical Guide on Exclusion for Serious (Non-Political) Crimes [1] ('the Practical Guide on Serious (Non-Political) Crimes'), which sets out the definition of serious non-political crimes and the assessment guidelines. In accordance with the criteria set out in that guide, the Department examined the crimes committed by the appellant and found that (one of) those crimes fell within the definition of a 'serious non-political crime'.

26 According to the respondent, there is currently a lack of case-law on the present issue, and there is a lack of consistency in the way that EU Member States define or assess the impact of having served a sentence on the decision not to grant asylum in the case of serious non-political crimes. The EUAA Practical Guide on Serious (Non-Political) Crimes does not address the assessment of cases where a person has served a sentence. However, the European Asylum Support Office Practical Guide 'EASO Practical Guide. Exclusion' explains that 'depending on national practice, the case officer could consider whether the applicant has already borne sufficient punishment for the excludable act(s) by taking into account: time that has been served in relation to what would be considered a reasonable time under EU standards; conduct of the individual since his or her participation in the act(s), including when in prison; whether the applicant has expressed remorse,

[1] European Union Agency for Asylum 'Practical Guide on Exclusion for Serious (Non-Political) Crimes': https://euaa.europa.eu/publications/practical-guide-exclusion-serious-non-political-crimes.

provided reparation and/or assumed responsibility for the act(s)'. [2] The respondent emphasises that the wording of that guide suggests that the case officer has discretion in that regard.

27 According to Article 2(d) of Directive 2011/95/EU, 'refugee' means a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 does not apply.

28 The crimes and acts that are the subject of Article 1F of the Geneva Convention or Article 12(2) of Directive 2011/95 seriously undermine both fundamental values such as respect for human dignity and human rights, on which, as stated in Article 2 TEU, the European Union is founded, and the peace which it is the Union's aim to promote, under Article 3 TEU (judgment of the Court of Justice (Grand Chamber) of 2 May 2018, *K.* v *Staatssecretaris van Veiligheid en Justitie* and *H.F.* v *Belgische Staat*, Joined Cases C-331/16 and C-366/16, EU:C:2018:296, paragraph 46).

29 Article 12(2)(b) of Directive 2011/95/EU provides that a third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes.

30 The judgment of the Court of Justice (Grand Chamber) in Joined Cases C-57/09 and C-101/09, *Bundesrepublik Deutschland* v *B and D*, highlights that exclusion from refugee status on one of the grounds laid down in Article 12(2)(b) or (c) of Directive 2004/83 is linked to the seriousness of the acts committed, which must be of such a degree that the person concerned cannot legitimately claim the protection attaching to refugee status under Article 2(d) of that directive. Accordingly, the competent authority is under an obligation to assess the seriousness of the acts committed and the individual responsibility of the person concerned. To that end, account must be taken of all the circumstances surrounding those acts and the situation of that person. Where such an assessment leads to the conclusion that Article 12(2) of Directive 2011/95/EU applies, there is no requirement to undertake an assessment of proportionality (judgment of the Court of Justice (Grand Chamber) of 9 November 2010, *Bundesrepublik*

[2] European Asylum Support Office 'EASO Practical Guide. Exclusion', p. 35, https://euaa.europa.eu/sites/default/files/publications/EASO_Practical_Guide_-_Exclusion_%28final_for_web%29.pdf.

Deutschland v *B and D*, Joined Cases C-57/09 and C-101/09, EU:C:2010:661, paragraphs 108 to 109).

31 In the view of the present Chamber, the judgment of the Court of Justice in *Ahmed* is relevant, *mutatis mutandis*, to the interpretation of the ground for exclusion from refugee status referred to in Article 12(2)(b) of Directive 2011/95/EU. In that judgment, the Court of Justice, examining the ground for exclusion from subsidiary protection laid down in Article 17(1)(b) of Directive 2011/95/EU, noted that, while the criterion of the penalty provided for under the criminal legislation of the Member State concerned is of particular importance when assessing the seriousness of the crime justifying exclusion from subsidiary protection pursuant to Article 17(1)(b) of Directive 2011/95, the competent authority of the Member State concerned may apply the ground for exclusion laid down by that provision only after undertaking, for each individual case, an assessment of the specific facts brought to its attention with a view to determining whether there are serious grounds for taking the view that the acts committed by the person in question, who otherwise satisfies the qualifying conditions for the status applied for, come within the scope of that particular ground for exclusion. That interpretation is supported by the report of the European Asylum Support Office (EASO) for the month of January 2016, entitled 'Exclusion: Articles 12 and 17 of the Qualification Directive (2011/95/EU)', which recommends, in paragraph 3.2.2 on Article 17(1)(b) of Directive 2011/95, that the seriousness of the crime that could result in a person being excluded from subsidiary protection be assessed in the light of a number of criteria such as, inter alia, the nature of the act at issue, the consequences of that act, the form of procedure used to prosecute the crime, the nature of the penalty provided and the taking into account of whether most jurisdictions also classify the act at issue as a serious crime. The Court of Justice also noted that similar recommendations are, furthermore, set out in paragraphs 155 to 157 of the Handbook on Procedures and Criteria for determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (see judgment of the Court of Justice of 13 September 2018, *Shajin Ahmed* v *Bevándorlási és Menekültügyi Hivatal*, Case C-369/17, EU:C:2018:713, paragraphs 55 to 57).

32 In that context, it should be noted that the question is raised in the present administrative case as to the assessment, in the context of Article 12(2)(b) of Directive 2011/95/EU, of the sentence served for a crime committed. In the view of the present Chamber, such a circumstance is, by its very nature, not related to the 'seriousness' of the act committed by the applicant for asylum or to that applicant's 'individual responsibility' for committing that act.

33 In that respect, the present Chamber observes that the Practical Guide on Exclusion for Serious (Non-Political) Crimes, referred to in paragraph 25 of the present order, does not identify the relevant circumstance in the present administrative case (the sentence served by the applicant for asylum) as being among the criteria for assessing the seriousness of the crime (or on the list, included in Annex A to that document, of circumstances that may be taken into

account in the individual analysis of the seriousness of the crime); it is true, however, that the list is neither definitive nor exhaustive. [3]

34 That circumstance is not referred to in Section 3.4 of the European Asylum Support Office Judicial analysis 'Exclusion: Articles 12 and 17 Qualification Directive. Second Edition', which examines the elements of a serious non-political crime under Article 12(2)(b) of Directive 2011/95/EU, or Section 3.6, which highlights the legal aspects relevant to the finding of individual responsibility. [4] It is true that Section 3.7 'Expiation' of that document states that 'the question whether the expiation of an excludable crime or act may indeed be a relevant consideration when assessing exclusion from refugee status was indirectly addressed by the CJEU in *B and D* in its response to two of the questions referred by the German federal administrative court'. In the view of the present Chamber, Section 3.7 of the European Asylum Support Office Judicial analysis in question does not set out a clear position on the issue under consideration, and, more significantly, the case-law of the Court of Justice has not interpreted or assessed circumstances of a similar nature for the purposes of Article 12(2)(b) of Directive 2011/95/EU.

35 However, according to paragraph 157 of the Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, to which the Court of Justice refers in the judgment in *Ahmed*, 'in evaluating the nature of the crime presumed to have been committed, … the fact that an applicant convicted of a serious non-political crime has already served his sentence or has been granted a pardon or has benefited from an amnesty is also relevant. In the latter case, there is a presumption that the exclusion clause is no longer applicable, unless it can be shown that, despite the pardon or amnesty, the applicant's criminal character still predominates'. [5]

36 In addition, the European Asylum Support Office Practical Guide 'EASO Practical Guide. Exclusion' provides a checklist of additional considerations, stating *expressis verbis* that 'the considerations below would be subject to national practice. When there are serious reasons for considering that the applicant incurs individual responsibility for the excludable act(s), depending on national practice, the case officer may continue to consider whether exclusion in this case would meet the purposes of the exclusion clauses. The more egregious the excludable

[3] European Union Agency for Asylum 'Practical Guide on Exclusion for Serious (Non-Political) Crimes', pp. 13 to 18; https://euaa.europa.eu/publications/practical-guide-exclusion-serious-non-political-crimes.

[4] European Asylum Support Office Judicial analysis 'Exclusion: Articles 12 and 17 Qualification Directive. Second edition'; https://euaa.europa.eu/sites/default/files/EASO_Exclusion_second_edition_JA_EN.pdf.

[5] Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, p. 36, paragraph 157; https://www.unhcr.org/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967.

act(s), the less relevant the following factors would be when taking the final decision'. [6] Those factors include: (i) served sentence for the (otherwise) excludable act; (ii) time since the criminal conduct; (iii) amnesty or a pardon.

37 In the light of the foregoing, the Chamber, in extended composition, takes the view that, in the context of all the relevant circumstances, in the assessment of the seriousness of the crime committed by the applicant for asylum and of the applicant's individual responsibility, the sentence already served by the applicant, the pardon or amnesty granted to the applicant, or any other circumstances of a similar nature, may be a relevant factor that results in the (non-)application of Article 12(2)(b) of Directive 2011/95/EU. However, it is not clear to the present Chamber whether a circumstance such as that at issue in the present case would *ipso facto* preclude the applicability of Article 12(2)(b) of Directive 2011/95/EU. In other words, the Chamber harbours doubts as to whether, in the assessment of whether the actions of a person who otherwise fulfils the criteria for the grant of refugee status are covered by the grounds for exclusion from refugee status set out in Article 12(2)(b) of Directive 2011/95/EU, there is an obligation to take into consideration the sentence already served by that person, the pardon or amnesty granted to that person, or any other circumstance of a similar nature.

38 In that context, it should be noted that under Article 18 of the Charter of Fundamental Rights of the European Union, the right to asylum is to be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union. Accordingly, the present Chamber considers it important to emphasise that the grounds for exclusion from refugee status laid down in Article 1F of the Geneva Convention and in Article 12(2) of Directive 2011/95 were established with the aim of excluding from that status individuals judged to be undeserving of the protection which refugee status entails (judgment of the Court of Justice of 2 May 2018, *K.* v *Staatssecretaris van Veiligheid en Justitie* and *H.F.* v *Belgische Staat*, Joined Cases C-331/16 and C-366/16, EU:C:2018:296, paragraph 50). Accordingly, in the view of the present Chamber, the obligation, in the context of applying Article 12(2)(b) of Directive 2011/95/EU, to take into consideration the sentence served, the pardon or amnesty granted or any other circumstance of a similar nature would mean, in part, that the assessment of the seriousness of the crime and of the individual responsibility of the applicant for asylum who committed the crime would no longer be decisive in the aforementioned circumstances and that, inter alia, all such persons would no longer be considered 'undeserving of the protection which refugee status entails'.

39 It is true that the grounds for exclusion deprive individuals whose need for international protection has been established of the guarantees laid down in the

[6] European Asylum Support Office 'EASO Practical Guide. Exclusion', p. 35; https://euaa.europa.eu/sites/default/files/publications/EASO_Practical_Guide_-_Exclusion_%28final_for_web%29.pdf.

1951 Geneva Convention and Directive 2011/95/EU, and, in that sense, constitute exceptions to or limitations upon the application of a provision of humanitarian law. Given the potential consequences of applying those grounds, a particularly cautious approach must be taken (see Opinion of Advocate General Paolo Mengozzi of 1 June 2010 in Joined Cases *B* (C-57/09) and *D* (C-101/09), EU:C:2010:302, point 46). The Note on the Exclusion Clauses, under No EC/47/SC/CRP.29, of the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR), commenting on Article 1F(b) of the Geneva Convention, argues that a 'balancing test' must be applied: this test ensures that exclusion does not result in greater harm to the offender than is warranted by the alleged crime. Thus, its seriousness should be weighed against the level of persecution likely to be faced by the offender in the country of origin. If the persecution feared is so severe as to endanger the offender's life or liberty, then only an extremely grave offence will justify the application of this exclusion clause.[7] In the view of the present Chamber, the requirement of the abovementioned 'balancing test' is, in principle, ensured by the principle of non-refoulement, which is guaranteed in respect of the applicant for asylum even when asylum is refused, as in the circumstances of the main proceedings.

III.

40 […] [obligation to make the request pursuant to the third paragraph of Article 267 TFEU]

41 In those circumstances, in order to dispel the doubts that have arisen as to the interpretation and application of the provision of EU law relevant to the legal relationships at issue in the present dispute, it is appropriate to request the Court of Justice to interpret Article 12(2)(b) of Directive 2011/95/EU, read in conjunction […] with Article 18 of the Charter of Fundamental Rights of the European Union. An answer to the question set out in the operative part of the present order is crucial for the present case, because it would also make it possible, while ensuring in particular the primacy of EU law, to guarantee uniform national case-law.

In the light of the foregoing considerations […] [reference to provisions of procedural law], the Chamber, in extended composition, of the Supreme Administrative Court of Lithuania […]

orders as follows:

[…] [standard procedural wording]

[7] Note on the Exclusion Clauses EC/47/SC/CRP.29 of the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR), paragraph 18; https://www.unhcr.org/publications/note-exclusion-clauses

The following question is referred to the Court of Justice of the European Union for a preliminary ruling:

‘Must Article 12(2)(b) of 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, read in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that, in the assessment of whether the actions of a person who otherwise fulfils the criteria for the grant of refugee status are covered by the grounds for exclusion from refugee status set out in Article 12(2)(b) of Directive 2011/95/EU, there is an obligation to take into consideration the sentence already served by that person, the pardon or amnesty granted to that person, or any other circumstance of a similar nature?’

[…]

[standard procedural wording and composition of the court]