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

K.L.

v

Migracijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos

(Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas)

Judgment of the Court (Third Chamber) of 30 April 2025

(Reference for a preliminary ruling – Asylum policy – Refugee status or subsidiary protection status – Directive 2011/95/EU – Article 12(2)(b) – Article 18 of the Charter of Fundamental Rights of the European Union – Exclusion from being a refugee – Grounds – Commission of a serious non-political crime outside the country of refuge prior to his or her admission as a refugee – Effect of the fact that the sentence has been served)

1. *Border controls, asylum and immigration – Asylum policy – Refugee status or subsidiary protection status – Directive 2011/95 – Exclusion from being a refugee – Grounds – Commission of a serious non-political crime outside the country of refuge prior to his or her admission as a refugee – Sentence served – Effect*

   (Charter of Fundamental Rights of the European Union, Art. 18; European Parliament and Council Directive 2011/95, recital 4 and Art. 12(2)(b))

   (see paragraphs 29-45, 47, operative part)

2. *Border controls, asylum and immigration – Asylum policy – Refugee status or subsidiary protection status – Directive 2011/95 – Exclusion from being a refugee – No position taken on the removal to the country of origin*

   (European Parliament and Council Directive 2011/95, Art. 12(2))

   (see paragraph 46)

Résumé

Ruling on a request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Supreme Administrative Court of Lithuania), the Court of Justice provides clarification relating to the elements which the competent authorities and the competent courts of the Member State concerned must take into account when examining whether the actions of an applicant for international protection are covered by the ground for exclusion from refugee status set out in Article 12(2)(b) of Directive 2011/95 (1) on account of the commission of a serious non-political crime outside the country of refuge.

In February 2022, K.L., a third-country national, submitted an application for asylum and for a temporary residence permit in Lithuania, after having illegally crossed the border between that Member State and Belarus. He stated that he had been wrongfully convicted three times by the authorities of his country of origin, the real reason for those convictions being his activities as part of the political opposition.

The Migracijos departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos (Migration Department under the Ministry of the Interior of the Republic of Lithuania) found that, although K.L. could be subject to persecution in his country of origin on account of his political opinions and therefore was eligible for refugee status in Lithuania, he had, however, committed acts which had to be classified as a ‘serious non-political crime’ within the meaning of Lithuanian law. (2)

Consequently, that department rejected K.L.'s application for international protection, while at the same time issuing him with a temporary residence permit, on the ground that his removal to his country of origin, where he may be persecuted, was prohibited.

Since the action against that decision was dismissed, K.L. brought an appeal before the referring court. That court asks whether the competent authorities and the competent courts of the Member State concerned must take into consideration the fact that an applicant for international protection has served the sentence imposed on him or her for the acts he or she committed when examining whether those acts are covered by the ground for exclusion from refugee status set out in Article 12(2)(b) of Directive 2011/95.

Findings of the Court

The Court notes that, since the terms 'serious crime' are not defined by Directive 2011/95, they must be interpreted in accordance with their usual meaning in everyday language, while also taking into consideration the context in which they are used and the objectives pursued by the rules of which they are part.

Thus, in the first place, in accordance with the usual meaning of those terms, although the word 'crime' refers to factual circumstances which have been fixed in the past, namely the point in time when that crime was committed, the qualifying adjective 'serious' adds an element of assessment which may, by contrast, change over time. Consequently, it cannot be ruled out that the assessment of the seriousness of an offence may be different at the time when it was committed and at the time an application for international protection is examined.

In the second place, as regards the contextual interpretation, 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, inter alia, the rules of the Geneva Convention, ([3]) which provides the cornerstone of the international legal regime for the protection of refugees, as stated in recital 4 of Directive 2011/95. Accordingly, the provisions of that directive must be interpreted not only in the light of its general scheme but also in compliance with that convention. In the light of the role conferred on the United Nations High Commissioner for Refugees (UNHCR) by that convention, the documents issued by the UNHCR, according to which the fact that an applicant convicted of a serious non-political crime has already served his or her sentence must be taken into account, are particularly relevant. ([4])

In the third place, the taking into account of the fact that the applicant for international protection has served the sentence imposed on him or her for the acts he or she committed does not run counter to the dual objective pursued by Article 12(2)(b) of Directive 2011/95. On the one hand, the exclusion from refugee status of a person who has already served his or her sentence cannot be justified by the objective of preventing that person from escaping criminal liability for the crime concerned. On the other hand, as regards the objective of excluding from refugee status individuals deemed to be undeserving of the protection which that status entails, the commission of serious acts at a certain point in a person's life cannot permanently render that person necessarily unworthy of international protection, without taking into consideration, in particular, his or her possible rehabilitation.

It follows that the fact that the applicant for international protection has served his or her sentence must necessarily be taken into account by the competent authority of the Member State concerned in its assessment of all the specific circumstances of the individual case in question. That said, that circumstance in no way precludes, in itself, the application of Article 12(2)(b) of Directive 2011/95.

The fact that the applicant for international protection has served his or her sentence is only one of a number of circumstances which must be taken into account in order to determine whether that applicant is covered by that ground for exclusion. In order to assess the seriousness of the offence in question, the competent authority will have to examine, inter alia, the type of act at issue, the sentence provided for and imposed, the period which has elapsed since the criminal conduct, the conduct of the person concerned during that period and the remorse, if any, expressed.

The Court concludes that, when examining whether the actions of an applicant for international protection who otherwise fulfils the criteria for the grant of refugee status are covered by the ground for exclusion from that status set out in Article 12(2)(b) of Directive 2011/95, the competent authorities and the competent courts of the Member State concerned must take account of the fact that that applicant

has served the sentence imposed on him or her for the acts he or she committed, but that fact however does not, in itself, prevent that applicant from being excluded from refugee status under that provision.

(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.

(1) 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). Under Article 12(2)(b) of Directive 2011/95, 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.

(2) Point 3 of Article 88(2) of the Lietuvos Respublikos įstatymas dėl užsieniečių teisinės padėties Nr. IX-2206 (Law No IX-2206 of the Republic of Lithuania on the legal status of foreign nationals) of 29 April 2004 (Žin., 2004, No 73-2539), in the version applicable to the dispute in the main proceedings.

(3) 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)).

(4) Paragraph 157 of UNHCR Document HCR/1P/4/ENG/REV.4 of February 2019, entitled ‘Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol relating to the Status Refugees’, as regards Article 1(F)(b) of the Geneva Convention, the wording of which is similar to that of Article 12(2)(b) of Directive 2011/95.