

S.A. and R.J.

v

Ireland

and

The Attorney General

and

The Minister for Children, Equality, Disability, Integration and Youth

(Request for a preliminary ruling from the High Court)

Judgment of the Court (Third Chamber) of 1 August 2025

(Reference for a preliminary ruling – Liability of a Member State in the event of infringement of EU law – Sufficiently serious infringement – Asylum policy – Directive 2013/33/EU – Standards for the reception of applicants for international protection – Significant influx of applicants for temporary or international protection – No access to material reception conditions – Basic needs – Temporary exhaustion of housing capacity)

EU law – Rights conferred on individuals – Infringement by a Member State – Obligation to make good damage caused to individuals – Conditions – Sufficiently serious infringement – Member State which has not guaranteed, for a number of weeks, access by an applicant for international protection to material reception conditions – Infringement – Temporary exhaustion of housing capacity owing to a significant and sudden influx of third-country nationals seeking temporary or international protection – Irrelevant

(Charter of Fundamental Rights of the European Union, Art. 1; European Parliament and Council Directive 2013/33, Arts 2(g), 17 and 18)

(see paragraphs 27-47, operative part)

Résumé

Hearing a request for a preliminary ruling from the High Court (Ireland), the Court of Justice rules on the liability of a Member State under EU law in the context of the obligation, laid down by Directive 2013/33, ([1](#)) to guarantee applicants for international protection access to material reception conditions.

S.A. and R.J., who are third-country nationals, made applications for international protection in Ireland on 15 February and 20 March 2023 respectively. The Irish authorities issued each of them with a single voucher for EUR 25. By contrast, those authorities considered that they were not in a position to allocate housing to S.A. and R.J., because the reception centres for asylum seekers were full, notwithstanding the availability of individual temporary housing in Ireland. Without having accommodation in such a reception centre, S.A. and R.J. were not eligible for the daily expenses allowance for applicants for international protection provided for by Irish law.

S.A. and R.J. thus lived on the streets in very precarious conditions before being paid certain allowances in April 2023, and obtaining accommodation a few weeks later.

Subsequently, S.A. and R.J. brought actions before the referring court against the Minister for Children, Equality, Disability, Integration and Youth (Ireland) ('the Minister') and the Attorney General (Ireland), seeking compensation for the damage which they claimed had ensued for each of them as a result of a failure to provide material reception conditions meeting their basic needs. Before that court, the Minister and the Attorney General remark, inter alia, that housing capacity, in Ireland, for applicants for international protection had been exhausted following the sudden arrival in that Member State of an

unprecedented number of third-country nationals seeking temporary or international protection. As a result, for a period of four and a half months, non-vulnerable single adult men seeking international protection in that Member State had not received offers of accommodation.

In that context, the referring court seeks to ascertain whether a Member State which has not guaranteed, for a number of weeks, access by an applicant for international protection to the material reception conditions provided for by Directive 2013/33 may avoid liability under EU law by pleading temporary exhaustion of the housing capacity normally available in its territory for applicants for international protection, owing to an influx of third-country nationals seeking temporary or international protection; an influx which, because of its significant and sudden nature, was unforeseeable and unavoidable.

The Court answers that question in the negative.

Findings of the Court

As a preliminary point, the Court recalls that individuals who have been harmed by an infringement of EU law attributable to a Member State have a right to compensation where three conditions are met: the rule of EU law infringed must be intended to confer rights on them; the infringement of that rule must be sufficiently serious; and there must be a direct causal link between that infringement and the loss or damage sustained by those individuals. In this instance, as the first and third of those conditions are not disputed, the Court examines only the condition concerning the sufficiently serious nature of the infringement of EU law.

In that regard, the Court finds that it follows from the combination of rules set out in Articles 17 and 18 of Directive 2013/33 ([2](#)) that, in the event of temporary exhaustion of the housing capacity normally available in its territory for applicants for international protection, a Member State has a choice between two possible options.

First, provided that the conditions set out in paragraph 9 of Article 18 of that directive are satisfied, the Member State concerned may decide to provide housing in kind, without being required to comply with all the requirements set out in that article, but in any event covering the basic needs of the persons concerned. ([3](#)) Second, if that Member State no longer wishes to provide material reception conditions in kind or is no longer in a position to do so, it must provide those conditions in the form of financial allowances or vouchers in an amount sufficient to ensure that the basic needs of applicants for international protection, including a standard of living which is dignified and adequate for their health, are met and to ensure their subsistence.

It follows that, while the Member States have a certain discretion to determine the form and precise level of material reception conditions which they provide, they cannot, without manifestly and gravely exceeding that discretion and without acting in manifest breach of the case-law of the Court, fail to provide, even temporarily, material reception conditions covering the basic needs of an applicant for international protection who does not have sufficient means to have a standard of living suitable for his or her health and to be able to ensure his or her subsistence, including as regards his or her access to housing.

Consequently, such a failure appears to be such as to constitute a sufficiently serious infringement of EU law even when it occurs in a situation where the housing capacity normally available, in the territory of the Member State concerned, for applicants for international protection is temporarily exhausted.

Next, the Court specifies that the derogation system introduced by Article 18(9)(b) of Directive 2013/33 is applicable where the temporary exhaustion of the housing capacity normally available for applicants for international protection could not be objectively avoided by a reasonably diligent Member State. Accordingly, that derogation system applies, in particular, in cases where such exhaustion is the result of a significant and sudden influx of third-country nationals seeking temporary or international protection, where that situation is unforeseeable and unavoidable.

Accordingly, a Member State cannot, without disregarding the very purpose of the derogation system established in that provision and depriving it of its practical effect, justify a failure to apply the obligations deriving from that derogation system, and in particular the obligation to cover ‘in any event’ the basic needs of the persons concerned, by relying on the occurrence of the event to which the application of that derogation system is subject, namely the temporary exhaustion of the housing

capacity normally available for applicants for international protection, including where this is the result of a significant and sudden influx of third-country nationals seeking temporary or international protection, where that situation is unforeseeable and unavoidable.

Similarly, it cannot be accepted that pleading the occurrence of such an event enables it to be established that a failure to fulfil the obligations laid down by Directive 2013/33 is not sufficiently serious to be capable of giving rise to a right to compensation. Indeed, such a solution, by depriving applicants for international protection of a key element of their effective judicial protection, would impair the effectiveness of Article 18(9)(b) of that directive, and in particular the obligation as to the result to be obtained regarding the covering of those applicants' basic needs, which is laid down in that provision and which is intended to ensure respect for human dignity as guaranteed by Article 1 of the Charter of Fundamental Rights of the European Union.

([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](#)).

([2](#)) Under Article 17(1) of Directive 2013/33, Member States are to ensure that material reception conditions are available to applicants for international protection when they make their application. According to Article 2(g) of that directive, material reception conditions include housing, food and clothing provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance. Article 17(5) of Directive 2013/33 provides that, where Member States provide material reception conditions in the form of financial allowances or vouchers, the amount thereof is to be determined on the basis of the level or levels established by the Member State concerned to ensure adequate standards of living for nationals, on the understanding that the treatment granted to applicants for international protection may be less favourable than that granted to those nationals.

([3](#)) Article 18(9)(b) of Directive 2013/33 permits the Member States, exceptionally and in duly justified cases, to set modalities for material reception conditions different from those provided in that article, for a reasonable period which is to be as short as possible, when housing capacities normally available are temporarily exhausted. The last part of Article 18(9) of that directive requires however that those conditions in any event cover the basic needs of the persons concerned.