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Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

24 November 2020 (*)

(References for a preliminary ruling – Area of freedom, security and justice – Community Code on Visas – Regulation (EC) No 810/2009 – Article 32(1) to (3) – Decision to refuse a visa – Annex VI – Standard form – Statement of reasons – Threat to public policy, internal security or public health, or to the international relations of any of the Member States – Article 22 – Procedure of prior consultation of central authorities of other Member States – Objection to the issuing of a visa – Appeal against a decision to refuse a visa – Scope of judicial review – Article 47 of the Charter of Fundamental Rights of the European Union – Right to an effective remedy)

In Joined Cases C-225/19 and C-226/19,

TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Rechtbank Den Haag, zittingsplaats Haarlem (District Court, The Hague, sitting in Haarlem, Netherlands), made by decisions of 5 March 2019, received at the Court on 14 March 2019, in the proceedings

R.N.N.S. (C-225/19),

K.A. (C-226/19)

v

Minister van Buitenlandse Zaken,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, R. Silva de Lapuerta (Rapporteur), Vice-President, J.-C. Bonichot, A. Arabadjiev, E. Regan, L. Bay Larsen, N. Piçarra and A. Kumin, Presidents of Chambers, T. von Danwitz, C. Toader, M. Safjan, D. Šváby, C. Lycourgos, P.G. Xuereb and I. Jarukaitis, Judges,

Advocate General: P. Pikamäe,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– R.N.N.S., by E. Schoneveld and I. Vennik, advocaten,

– the Netherlands Government, by M. K. Bulterman, M. H.S. Gijzen and C.S. Schillemans, acting as Agents,

– the Czech Government, by M. Smolek, J. Vláčil, A. Brabcová, A. Pagáčová, acting as Agents,

– the German Government, by R. Kanitz and J. Möller, acting as Agents,

– the Italian Government, by G. Palmieri, acting as Agent, and by P. Pucciariello, avvocato dello Stato,

– the Lithuanian Government, by K. Dieninis and K. Juodelytė, acting as Agents,

– the Polish Government, by B. Majczyna, acting as Agent,

– the European Commission, by G. Wils and C. Cattabriga, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 9 September 2020,

gives the following

Judgment

1 These requests for a preliminary ruling concern the interpretation of Article 32(1) to (3) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (OJ 2009 L 243, p. 1), as amended by Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 (OJ 2013 L 182, p. 1) (‘the Visa Code’), read in the light of Articles 41 and 47 of the Charter of Fundamental Rights of the European Union (‘the Charter’).

2 The requests have been made in two sets of proceedings between, respectively, R.N.N.S. (Case C-225/19) and K.A. (Case C-226/19) and the Minister van Buitenlandse Zaken (Minister for Foreign Affairs, Netherlands, ‘the Minister’), concerning the latter’s refusal to issue a visa to R.N.N.S. or K.A.

Legal context

3 Recital 29 of the Visa Code states:

‘This Regulation respects fundamental rights and observes the principles recognised in particular by the Council of Europe’s [European] Convention for the Protection of Human Rights and Fundamental Freedoms[, signed in Rome on 4 November 1950,] and by the [Charter].’

4 Article 1(1) of that code is worded as follows:

‘This Regulation establishes the procedures and conditions for issuing visas for intended stays on the territory of the Member States not exceeding 90 days in any 180-day period.’

5 Article 21(3) of that code states:

‘While checking whether the applicant fulfils the entry conditions, the consulate shall verify:

…

(d) that the applicant is not considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of [Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2006 L 105, p. 1)] or to the international relations of any of the Member States, in particular where no alert has been issued in Member States’ national databases for the purpose of refusing entry on the same grounds;

…’

6 Article 22 of that code, entitled ‘Prior consultation of central authorities of other Member States’, provides:

‘1. A Member State may require the central authorities of other Member States to consult its central authorities during the examination of applications lodged by nationals of specific third countries or specific categories of such nationals. Such consultation shall not apply to applications for airport transit visas.

2. The central authorities consulted shall reply definitively within seven calendar days after being consulted. The absence of a reply within this deadline shall mean that they have no grounds for objecting to the issuing of the visa.

…’

7 Article 25 of the Visa Code is worded as follows:

‘1. A visa with limited territorial validity shall be issued exceptionally, in the following cases:

(a) when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations:

(i) to derogate from the principle that the entry conditions laid down in Article 5(1)(a), (c), (d) and (e) of the Schengen Borders Code must be fulfilled;

(ii) to issue a visa despite an objection by the Member State consulted in accordance with Article 22 to the issuing of a uniform visa; or

(iii) to issue a visa for reasons of urgency, although the prior consultation in accordance with Article 22 has not been carried out;

or

(b) when for reasons deemed justified by the consulate, a new visa is issued for a stay during the same 180-day period to an applicant who, over this 180-day period, has already used a uniform visa or a visa with limited territorial validity allowing for a stay of 90 days.

2. A visa with limited territorial validity shall be valid for the territory of the issuing Member State. It may exceptionally be valid for the territory of more than one Member State, subject to the consent of each such Member State.

…'

8 Article 32 of that code, entitled 'Refusal of a visa', provides:

'1. Without prejudice to Article 25(1), a visa shall be refused:

(a) if the applicant:

…

(vi) is considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of the Schengen Borders Code or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds, …

…

2. A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex VI.

3. Applicants who have been refused a visa shall have the right to appeal. Appeals shall be conducted against the Member State that has taken the final decision on the application and in accordance with the national law of that Member State. Member States shall provide applicants with information regarding the procedure to be followed in the event of an appeal, as specified in Annex VI.

…

5. Information on a refused visa shall be entered into the [Visa Information System (VIS)] in accordance with Article 12 of [Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ 2008 L 218, p. 60)].'

9 Annex VI to the Visa Code is the 'Standard form for notifying and motivating refusal, annulment or revocation of a visa' ('the standard form'). That form contains inter alia, under the sentence 'This decision is based on the following reason(s):', 11 boxes, to be ticked by the competent authority, each corresponding to one or more predefined grounds for refusing, annulling or revoking a visa. The sixth box corresponds to the following grounds for refusal:

'one or more Member State(s) consider you to be a threat to public policy, internal security, public health as defined in Article 2(19) of [Regulation No 562/2006] or the international relations of one or more of the Member States.'

10 The standard form also includes a section entitled ‘Remarks’, followed by a space which may be completed by the competent authority.

11 As indicated in recital 1 thereof, Regulation (EU) 2016/399 of the European Parliament and of the Council, of 9 March 2016, on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ 2016 L 77, p. 1) codified Regulation No 562/2006. As a result of that codification, Article 2(19) of Regulation No 562/2006, referred to in paragraphs 5, 8 and 9 above, became Article 2(21) of the Schengen Borders Code.

The disputes in the main proceedings, the questions referred for a preliminary ruling and the procedure before the Court

12 In Case C-225/19, R.N.N.S. is an Egyptian national who lives in Egypt. He married a Netherlands national on 28 August 2017.

13 On 7 June 2017, he applied to the Minister for a visa in order to visit his parents-in-law, who live in the Netherlands.

14 By decision of 19 June 2017, the Minister rejected that application, on the ground that one or more Member States had considered R.N.N.S. to be a threat to public order, internal security or public health, as defined in Article 2(21) of the Schengen Borders Code, or to the international relations of one of the Member States. In the context of the prior consultation procedure referred to in Article 22 of the Visa Code, Hungary had objected to the issue of a visa to R.N.N.S.

15 That decision was notified to R.N.N.S. by means of the standard form. While the sixth box of that form was ticked, the form mentioned neither the identity of the Member State that had objected to the issuing of a visa nor the reasons for that objection.

16 On 30 June 2017, R.N.N.S. submitted a complaint against that decision to the Minister, who, by decision of 31 October 2017, rejected that complaint.

17 On 22 November 2017, R.N.N.S. brought an action against that latter decision before the referring court, the Rechtbank Den Haag, zittingsplaats Haarlem (District Court, The Hague, sitting in Haarlem, Netherlands), arguing, inter alia, that he was deprived of effective judicial protection since he was not able to challenge the Minister’s decision of 19 June 2017 as to its substance. The Minister contends that, under Dutch law, where a Member State objects to the issuing of a visa, the reasons for that objection cannot be reviewed as to their substance; the applicant must bring proceedings to that end before the courts of the Member State which raised that objection.

18 In the course of the proceedings before the referring court, the Minister notified R.N.N.S. of the identity of the Member State that had objected to the issuing of a visa to him. In 2018, R.N.N.S. contacted Hungary’s diplomatic representatives in several countries, seeking clarifications as to the reasons for the objection raised by that Member State. He did not obtain any clarifications through those inquiries, nor was he informed of the identity of the authority that had raised that objection in Hungary.

19 In Case C-226/19, K.A. is a Syrian national who lives in Saudi Arabia.

20 On 2 January 2018, K.A. applied to the Minister for a visa in order to visit her children living in the Netherlands.

21 By decision of 15 January 2018, the Minister refused to issue a visa, on the ground that one or more Member States had considered her to be a threat to public order, internal security or public health, as defined in Article 2(21) of the Schengen Borders Code, or to the international relations of one of the Member States. In the context of the prior consultation procedure referred to in Article 22 of the Visa Code, the Federal Republic of Germany had objected to the issuing of a visa to K.A.

22 That decision was notified to K.A. by means of the standard form. While the sixth box of that form was ticked, the form mentioned neither the identity of the Member State that had objected to the issuing of a visa nor the reasons for that objection.

23 On 23 January 2018, K.A. submitted a complaint against that decision to the Minister. In that complaint, surmising that the Federal Republic of Germany might have objected to the issuing of a visa to her, K.A. asked the Minister to seek information from the German authorities concerning the reason she had been considered a threat to public order, internal security or public health. By decision of 14 May 2018, the Minister rejected that complaint.

24 On 28 May 2018, K.A. brought an action against the latter decision before the referring court, arguing, inter alia, that she was deprived of effective judicial protection since she was not able to challenge the Minister's decision of 15 January 2018 as to its substance. She submits, in particular, that the ground for refusal given in that decision is expressed in an excessively broad manner and that the Minister should have requested the German authorities to communicate the reasons for their objection to the issuing of her visa. According to the Minister, under the Visa Code, he is required neither to ask the German authorities for the reasons underlying their objection to the issuing of a visa to K.A. nor to inform her of those reasons.

25 The referring court notes that no alert for the purpose of refusing a visa has been issued in the VIS concerning either R.N.N.S. or K.A., with the result that they cannot bring an action or lodge a complaint on the basis of the VIS Regulation in order to have inaccurate information that may have had an impact on the processing of their visa applications corrected or deleted.

26 The referring court also indicates that neither R.N.N.S. nor K.A. were aware of any decision concerning them in relation to public policy, internal security, public health or the international relations of any of the Member States that might have been adopted by the competent authorities of the Member States that objected to the issuing of their visas. In addition, that court emphasises that, even if such decisions had been adopted, it is not possible, on the basis of the information in the main proceedings, to verify whether R.N.N.S. and K.A. had effective remedies against those decisions in those Member States.

27 Furthermore, according to the referring court, in the decisions of 19 June 2017 and 15 January 2018, the Minister did not provide R.N.N.S. and K.A. with any information concerning the possibility of bringing proceedings against those decisions in the Member States which objected to the issuing of their respective visas.

28 In that context, the referring court questions, in essence, whether the ground for refusal referred to in Article 32(1)(a)(vi) of the Visa Code is amenable to judicial review in the context of the appeal against a final decision refusing a visa provided for in Article 32(3) of that code and, if so, how that review should be carried out in order to satisfy the requirements stemming from Article 47 of the Charter.

29 Furthermore, in the event that R.N.N.S. and K.A. were to bring proceedings in the Member States which objected to the issuing of their visas, in order to challenge the ground for refusal

referred to in Article 32(1)(a)(vi) of the Visa Code, the referring court is unsure whether, in the context of the appeal provided for in Article 32(3) of that code, it is necessary to await the outcome of any proceedings brought by the applicants in those Member States.

30 In those circumstances, the Rechtbank Den Haag, zittingsplaats Haarlem (District Court of The Hague, sitting in Haarlem) decided to stay the proceedings and to refer the following questions, worded identically in each of the joined cases, to the Court of Justice for a preliminary ruling:

'(1) In the case of an appeal as referred to in Article 32(3) of the Visa Code against a final decision refusing a visa on the ground referred to in Article 32(1)(a)(vi) of the Visa Code, can it be said that there is an effective remedy within the meaning of Article 47 of the [Charter] under the following circumstances:

– where, in its reasons for the decision, the Member State merely stated: "you are regarded by one or more Member States as a threat to public policy, internal security, public health as defined in Article 2(19) or 2(21) of the Schengen Borders Code, or to the international relations of one or more Member States";

– where, in the decision or in the appeal, the Member State does not state which specific ground or grounds of those four grounds set out in Article 32(1)(a)(vi) of the Visa Code is being invoked;

– where, in the appeal, the Member State does not provide any further substantive information or substantiation of the ground or grounds on which the objection of the other Member State (or Member States) is based?

(2) In the circumstances outlined in [the first question], can there be said to be good administration within the meaning of Article 41 of the Charter, in particular as far as the duty of the public administration to give reasons for its decisions is concerned?

(3) (a) Should [the first and second questions] be answered differently if, in the final decision on the visa, the Member State refers to an actual and sufficiently clearly specified possibility of appeal in the other Member State against the specifically named authority responsible in that other Member State (or Member States) that has (or have) raised the objection referred to in Article 32(1)(a)(vi) of the Visa Code, in which that ground for refusal can be examined?

(b) Does an affirmative answer to [the first question] in connection with [part (a) of the third question] require that the decision in the appeal in and against the Member State that made the final decision be suspended until the applicant has had the opportunity to make use of the option of appealing in the other Member State (or Member States) and, if the applicant does make use of that option, until the (final) decision on that appeal has been obtained?

(4) For the purpose of answering the questions, does it matter whether (the authority in) the Member State (or Member States) that has (or have) objected to the issuing of the visa can be given the opportunity, in the appeal against the final decision on the visa, to act as second defendant and on that basis to be given the opportunity to introduce a substantiation of the ground or grounds on which the objection is based?'

31 As a result of the health crisis linked to the spread of the coronavirus, the Grand Chamber of the Court, by decision of 28 April 2020, cancelled the oral hearing that had initially been scheduled in the present cases and converted into questions to be answered in writing the questions that had been addressed to the parties and to the interested parties referred to in Article 23 of the Statute of

the Court of Justice of the European Union which had submitted written observations. R.N.N.S., K.A., the Netherlands, German and Polish Governments and the European Commission submitted their replies to those questions to the Court.

Consideration of the questions referred

32 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 32(2) and (3) of the Visa Code, read in the light of Article 47 of the Charter, must be interpreted as meaning, first, that a Member State which has adopted a final decision refusing to issue a visa on the basis of Article 32(1)(a)(vi) of that code because another Member State objected to the issuing of that visa is required to indicate, in that decision, the identity of the Member State which raised that objection, the specific ground for refusal based on that objection and the remedies available against that objection and, secondly, that, where an appeal is lodged against that decision on the basis of Article 32(3) of that code, the courts of the Member State which adopted that decision must be able to examine the substantive legality of the objection raised by that other Member State to the issuing of the visa.

33 As a preliminary point, it should be noted that Article 41 of the Charter, which is mentioned by the referring court, is not relevant for the resolution of the disputes in the main proceedings. It is clear from the wording of that provision that it is addressed not to the Member States but solely to the institutions, bodies, offices and agencies of the European Union (see, to that effect, judgment of 26 March 2020, *Hungeod and Others*, C-496/18 and C-497/18, EU:C:2020:240, paragraph 63 and the case-law cited).

34 However, since the referring court has doubts concerning, inter alia, the scope of the statement of reasons that must accompany a final decision refusing to issue a visa on the basis of Article 32(1)(a)(vi) of the Visa Code, it should be pointed out that Article 41 of the Charter reflects a general principle of EU law, which is applicable to Member States when they are implementing that law, to the effect that the right to good administration encompasses the obligation of the administration to give reasons for its decisions (see, to that effect, judgment of 8 May 2019, *PI*, C-230/18, EU:C:2019:383, paragraph 57 and the case-law cited).

35 In order to answer the questions referred, it must be noted that the system established by the Visa Code presupposes that the conditions for the issue of uniform visas are harmonised, which precludes any differences between the Member States as regards the determination of the grounds for refusal of such visas. The competent authorities of the Member States cannot therefore refuse to issue a uniform visa by relying on a ground not provided for in that code (see, to that effect, judgment of 19 December 2013, *Koushkaki*, C-84/12, EU:C:2013:862, paragraphs 45 and 47).

36 In accordance with Article 32(1)(a)(vi) of the Visa Code, a visa is to be refused if the applicant is considered to be a threat to public policy, internal security or public health as defined in Article 2(21) of the Schengen Borders Code or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds. It follows from the express wording of that provision, which refers to a threat to any of the Member States, that the existence of such a threat is a ground for refusing a visa, irrespective of whether it concerns the Member State of the competent consulate or another Member State.

37 It is for the competent consulate, while checking whether the applicant fulfils the entry conditions, to verify inter alia, under Article 21(3)(d) of that code, that the applicant is not considered to be such a threat and, in particular, that no alert concerning the applicant has been

issued in Member States' national databases for the purpose of refusing entry on those grounds. To that end, the central authorities of the Member State examining the visa application may also have to consult the central authorities of other Member States, in the context of the prior consultation procedure described in Article 22(1) and (2) of that code, so as to allow them to raise objections they may have to the issuing of the visa on the same grounds.

38 Under Article 32(2) of the Visa Code, the decision on refusal of a visa and the reasons on which it is based are to be notified to the applicant by means of the standard form. As noted in paragraph 9 above, the standard form contains 11 boxes, each corresponding to one or more grounds set out in that code for refusing, annulling or revoking a visa, which the competent national authorities are to tick with a view to informing the visa applicant of the reasons for the decision refusing a visa.

39 In particular, next to the sixth box on the standard form it is indicated that 'one or more Member State(s) consider' the applicant to be a threat for one of the reasons for refusal referred to in Article 32(1)(a)(vi) of the Visa Code. Although the wording of the statement of reasons corresponding to that box does not allow the competent national authority to identify the Member State which objected to the issuing of a visa or to provide further reasoning for its decision, inter alia by indicating the specific ground justifying that decision, out of all those mentioned in an undifferentiated manner in that provision, such clarifications may nevertheless be provided by that authority in the section of the standard form entitled 'Remarks'.

40 In that regard, in accordance with Article 32(3) of the Visa Code, applicants who have been refused a visa have the right to an appeal against that decision, which must be introduced against the Member State that has taken the final decision on the visa application and in accordance with the national law of that Member State.

41 The Court has held that the provisions of the Visa Code, including the right to appeal set out in Article 32(3) of that code, must be interpreted, as is clear from recital 29 thereof, in accordance with the fundamental rights and principles recognised by the Charter, which is applicable where a Member State adopts a decision refusing to issue a visa under Article 32(1) of that code (see, to that effect, judgments of 13 December 2017, *El Hassani*, C-403/16, EU:C:2017:960, paragraphs 32 and 37, and of 29 July 2019, *Vethanayagam and Others*, C-680/17, EU:C:2019:627, paragraph 79).

42 The characteristics of the appeal provided for in Article 32(3) of the Visa Code must therefore be determined in accordance with Article 47 of the Charter, which provides that everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in that article.

43 In that respect, it is settled case-law that if the judicial review guaranteed by Article 47 of the Charter is to be effective, the person concerned must be able to ascertain the reasons upon which the decision taken in relation to him or her is based, either by reading the decision itself or by requesting and obtaining notification of those reasons, without prejudice to the power of the court with jurisdiction to require the authority concerned to provide that information, so as to make it possible for him or her to defend his or her rights in the best possible conditions and to decide, with full knowledge of the relevant facts, whether there is any point in applying to the court with jurisdiction, and in order to put the latter fully in a position in which it may carry out the review of the lawfulness of the national decision in question (see, to that effect, judgments of 15 October 1987, *Heylens and Others*, 222/86, EU:C:1987:442, paragraph 15, and of 4 June 2013, *ZZ*, C-300/11, EU:C:2013:363, paragraph 53).

44 In the present case, it is clear from the documents before the court that, as a result of objections raised by Hungary and by the Federal Republic of Germany to the issuing of visas to R.N.N.S. and to K.A., respectively, the Minister rejected their visa applications on the basis of Article 32(1)(a)(vi) of the Visa Code. The Minister provided reasons for that refusal by means of the standard form, by ticking the sixth box of that form, corresponding to the predefined statement of reasons according to which one or more Member States considers the applicant to be a threat to public policy, internal security or public health as defined in Article 2(21) of the Schengen Borders Code or to the international relations of one or more of the Member States.

45 In the light of the case-law set out in paragraphs 34 and 43 above, it must be pointed out that it follows from the right to an effective remedy laid down in Article 47 of the Charter that an applicant who is refused a visa because of an objection raised by a Member State on one of the grounds referred to in Article 32(1)(a)(vi) of the Visa Code must be able to ascertain the specific ground for refusal underlying that decision as well as the identity of the Member State which objected to the issuing of that visa.

46 Accordingly, even though, as can be seen from paragraph 39 above, the statement of reasons corresponding to the sixth box of the standard form is predefined, if the competent national authority applies the ground for refusal referred to in Article 32(1)(a)(vi) of the Visa Code, it must indicate, in the section of the standard form entitled ‘Remarks’, the identity of the Member State or Member States that objected to the issuing of a visa and the specific ground for refusal based on that objection accompanied, where appropriate, by the essence of the reasons for that objection.

47 In addition, as the Advocate General pointed out in point 87 of his Opinion, Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 (OJ 2019 L 188, p. 25) provides for a new standard form which the competent authorities are required to use in order to state reasons for their decisions refusing visas and in which the various grounds for refusal referred to in Article 32(1)(a)(vi) of the Visa Code are now set out separately.

48 As regards the question of the scope of the judicial review required in the context of the appeal provided for in Article 32(3) of the Visa Code, it should be noted that the obligation for Member States to guarantee a right to an effective remedy, within the meaning of Article 47 of the Charter, against a decision refusing a visa means that the judicial review of that decision cannot be limited to a formal examination of the grounds set out in Article 32(1) of the Visa Code. Accordingly, that review must also cover the legality of that decision, taking into account all of the elements in the file, both factual and legal, on which the competent national authority based that decision.

49 In that respect, the competent national authorities have a broad discretion, in examining a visa application, as regards the conditions for applying the grounds of refusal laid down by the Visa Code and the evaluation of the relevant facts (see, to that effect, judgments of 19 December 2013, *Koushkaki*, C-84/12, EU:C:2013:862, paragraph 60, and of 13 December 2017, *El Hassani*, C-403/16, EU:C:2017:960, paragraph 36). The judicial review of that discretion is limited, therefore, to ascertaining whether the contested decision is based on a sufficiently solid factual basis and verifying that it is not vitiated by a manifest error (see, by analogy, judgment of 4 April 2017, *Fahimian*, C-544/15, EU:C:2017:255, paragraphs 45 and 46).

50 However, a distinction must be drawn between, on the one hand, the review carried out by the courts of the Member State which adopted the final decision refusing a visa, which concerns the examination of the legality of that decision, in accordance with Article 32(3) of the Visa Code, and,

on the other hand, the review of the merits of the objection to the issuing of a visa raised by another Member State in the context of the prior consultation procedure provided for in Article 22 of that code, which is for the national courts of that other Member State or Member States to carry out.

51 In that regard, the courts of the Member State which adopted a final decision refusing a visa, because of an objection to the issuing of that visa raised by another Member State or by several other Member States, must be able to verify that the procedure of prior consultation of central authorities of other Member States described in Article 22 of the Visa Code has been applied correctly, in particular by checking whether the applicant was correctly identified as the subject of the objection at issue, and that the procedural guarantees, such as the obligation to state reasons referred to in paragraph 46 above, have been respected in the case in question.

52 However, the substantive legality of an objection raised by a Member State to the issuing of a visa cannot be reviewed by those courts. In order to enable the visa applicant to exercise, in accordance with Article 47 of the Charter, his or her right to challenge such an objection, it is for the competent authorities of the Member State which adopted the final decision refusing a visa to indicate the authority which the applicant may contact in order to ascertain the remedies available to that end in that other Member State.

53 It should also be noted that the EU legislature left to the Member States the task of deciding the nature and specific conditions of the remedies available to visa applicants, provided however that in doing so they respect the principles of equivalence and of effectiveness (see, to that effect, judgment of 13 December 2017, *El Hassani*, C-403/16, EU:C:2017:960, paragraphs 25 and 26).

54 Accordingly, it is for the Member State which adopts a final decision refusing a visa to establish procedural rules which help to ensure that the rights of defence and the right to an effective remedy of visa applicants are guaranteed, such as a request for information to the competent authorities of the Member States that objected to the issuing of a visa, the possibility for those authorities to intervene in the appeal procedure under Article 32(3) of the Visa Code or any other mechanism ensuring that the appeal brought by those applicants cannot be dismissed definitively without their having had the practical possibility of exercising their rights.

55 It should be added that, in any event, the Member State concerned may issue a visa with limited territorial validity in accordance with Article 25 of the Visa Code.

56 In the light of all the foregoing considerations, the answer to the questions referred is that Article 32(2) and (3) of the Visa Code, read in the light of Article 47 of the Charter, must be interpreted as meaning, first, that a Member State which has adopted a final decision refusing to issue a visa on the basis of Article 32(1)(a)(vi) of that code because another Member State objected to the issuing of that visa is required to indicate, in that decision, the identity of the Member State which raised that objection, the specific ground for refusal based on that objection, accompanied, where appropriate, by the essence of the reasons for that objection, and the authority which the visa applicant may contact in order to ascertain the remedies available in that other Member State and, secondly, that, where an appeal is lodged against that decision on the basis of Article 32(3) of that code, the courts of the Member State which adopted that decision cannot examine the substantive legality of the objection raised by another Member State to the issuing of the visa.

Costs

57 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

Article 32(2) and (3) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas, as amended by Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning, first, that a Member State which has adopted a final decision refusing to issue a visa on the basis of Article 32(1)(a)(vi) of Regulation No 810/2009, as amended by Regulation No 610/2013, because another Member State objected to the issuing of that visa is required to indicate, in that decision, the identity of the Member State which raised that objection, the specific ground for refusal based on that objection, accompanied, where appropriate, by the essence of the reasons for that objection, and the authority which the visa applicant may contact in order to ascertain the remedies available in that other Member State and, secondly, that, where an appeal is lodged against that decision on the basis of Article 32(3) of Regulation No 810/2009, as amended by Regulation No 610/2013, the courts of the Member State which adopted that decision cannot examine the substantive legality of the objection raised by another Member State to the issuing of the visa.

[Signatures]

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* Language of the case: Dutch.