ECLI:EU:C:2023:542

JUDGMENT OF THE COURT (First Chamber)

6 July 2023 (*)

(Reference for a preliminary ruling – Directive 2011/95/EU – Standards for granting refugee status or subsidiary protection status – Article 14(4)(b) – Revocation of refugee status – Third-country national convicted by a final judgment of a particularly serious crime – Danger to the community – Proportionality test)

In Case C-8/22,

REQUEST for a preliminary ruling under Article 267 TFEU from the Conseil d'État (Council of State, Belgium), made by decision of 2 December 2021, received at the Court on 5 January 2022, in the proceedings

XXX

v

Commissaire général aux réfugiés et aux apatrides,

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, L. Bay Larsen (Rapporteur), Vice-President of the Court, P.G. Xuereb, T. von Danwitz and A. Kumin, Judges,

Advocate General: J. Richard de la Tour,

Registrar: M. Krausenböck, Administrator,

having regard to the written procedure and further to the hearing on 10 November 2022,

after considering the observations submitted on behalf of:

– XXX, by J. Hardy, avocat,

– the Belgian Government, by M. Jacobs, C. Pochet, A. Van Baelen and M. Van Regemorter, acting as Agents,

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

– the European Commission, by A. Azema and L. Grønfeldt, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 16 February 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 14(4)(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 (OJ 2011 L 337, p. 9).

2 The request has been made in proceedings between XXX, a third-country national, and the Commissaire général aux réfugiés et aux apatrides (Commissioner General for Refugees and Stateless Persons, Belgium; 'the Commissioner General'), concerning the decision adopted by the latter to withdraw refugee status from XXX.

Legal context

International law

3 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)), entered into force on 22 April 1954. It was supplemented and amended by the Protocol Relating to the Status of Refugees, concluded in New York on 31 January 1967 ('the Geneva Convention').

4 Article 1, Section F, of that convention is worded as follows:

'The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

…

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

…'

5 Article 33(2) of that convention provides:

'The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.'

European Union law

Directive 2004/38/EC

6 Article 27(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77, and corrigenda OJ 2004 L 229, p. 35), states:

'Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall not in themselves constitute grounds for taking such measures.

The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted.'

Directive 2011/95

7 Recital 12 of Directive 2011/95 is worded as follows:

'The main objective of this Directive is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for those persons in all Member States.'

8 Article 1 of that directive states:

'The purpose of this Directive is to lay down 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.'

9 Article 2(d) of that directive states:

'For the purposes of this Directive the following definitions shall apply:

…

(d) "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'.

10 Article 12(2)(b) of that directive states:

'A third-country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:

…

(b) 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 …'

11 Article 13 of Directive 2011/95 provides:

'Member States shall grant refugee status to a third-country national or a stateless person who qualifies as a refugee in accordance with Chapters II and III.'

12 Article 14(4) and (6) of that directive states:

'4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when:

(a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;

(b) he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State.

…

6. Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.'

13 Article 17(1)(b) and (d) of that directive states:

'A third-country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:

…

(b) he or she has committed a serious crime;

…

(d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present.'

14 Article 21(2)(b) of that directive is worded as follows:

'Where not prohibited by the international obligations mentioned in paragraph 1, Member States may refoule a refugee, whether formally recognised or not, when:

…

(b) he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State.'

15 Article 23(4) of Directive 2011/95 reads as follows:

'Notwithstanding paragraphs 1 and 2, Member States may refuse, reduce or withdraw the benefits referred to therein for reasons of national security or public order.'

16 Article 24 of that directive provides:

'1. 'As soon as possible after international protection has been granted, Member States shall issue to beneficiaries of refugee status a residence permit which must be valid for at least 3 years and renewable, unless compelling reasons of national security or public order otherwise require, and without prejudice to Article 21(3).

…

2. As soon as possible after international protection has been granted, Member States shall issue to beneficiaries of subsidiary protection status and their family members a renewable residence permit which must be valid for at least 1 year and, in case of renewal, for at least 2 years, unless compelling reasons of national security or public order otherwise require.'

17 Article 25 of that directive provides:

'1. Member States shall issue to beneficiaries of refugee status travel documents, in the form set out in the Schedule to the Geneva Convention, for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require.

2. Member States shall issue to beneficiaries of subsidiary protection status who are unable to obtain a national passport, documents which enable them to travel outside their territory, unless compelling reasons of national security or public order otherwise require.'

Directive 2013/32/EU

18 Article 45(1) and (3) of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60), states:

'1. Member States shall ensure that, where the competent authority is considering withdrawing international protection from a third-country national or stateless person …, the person concerned enjoys the following guarantees:

…

(b) to be given the opportunity to submit, in a personal interview …, reasons as to why his or her international protection should not be withdrawn.

…

3. Member States shall ensure that the decision of the competent authority to withdraw international protection is given in writing. The reasons in fact and in law shall be stated in the decision and information on how to challenge the decision shall be given in writing.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

19 By decision of the Commissioner General of 23 February 2007, XXX was granted refugee status.

20 By judgment of 20 December 2010, the Cour d'assises de Bruxelles (Brussels Assize Court, Belgium) sentenced XXX to 25 years' imprisonment. According to the information in the observations submitted by the Belgian Government, that conviction related, in particular, to the commission, jointly with others, of aggravated theft of multiple moveable objects and intentional homicide with a view to facilitating that theft or ensuring impunity.

21 By decision of 4 May 2016, the Commissioner General withdrew refugee status from XXX.

22 XXX brought an appeal against that decision before the Conseil du contentieux des étrangers (Council for asylum and immigration proceedings, Belgium).

23 By judgment of 26 August 2019, that court dismissed the appeal. It found that the danger that XXX represents to the community stems from his conviction for a particularly serious crime. In those circumstances, it did not consider that it was for the Commissioner General to demonstrate that XXX constitutes a genuine, present and sufficiently serious danger to the community. On the contrary, it was for XXX to prove that he no longer constitutes a danger to the community, despite his conviction for a particularly serious crime.

24 On 26 September 2019, XXX brought an appeal on a point of law against that judgment before the Conseil d'État (Council of State, Belgium), which is the referring court.

25 In support of his appeal, he argues, in essence, that it is for the Commissioner General to prove that there is a genuine, present and sufficiently serious danger to the community and that a proportionality test should be conducted in order to determine whether the danger which he constitutes justifies the withdrawal of his refugee status.

26 In those circumstances, the Conseil d'État (Council of State, Belgium) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must Article 14[(4)(b)] of Directive [2011/95] be interpreted as providing that danger to the community is established by the mere fact that the beneficiary of refugee status has been convicted by a final judgment of a particularly serious crime or must it be interpreted as providing that a conviction by a final judgment for a particularly serious crime is not, on its own, sufficient to establish the existence of a danger to the community?

(2) If a conviction by final judgment for a particularly serious crime is not, on its own, sufficient to establish the existence of a danger to the community, must Article 14[(4)(b)] of Directive [2011/95] be interpreted as requiring the Member State to establish that, since his or her conviction, the applicant continues to constitute a danger to the community? Must the Member State establish that the danger is genuine and present or is the existence of a potential threat sufficient? Must Article 14[(4)(b)] of Directive [2011/95], taken alone or in conjunction with the principle of proportionality, be interpreted as allowing revocation of refugee status only if that revocation is proportionate and the danger represented by the beneficiary of that status sufficiently serious to justify that revocation?

(3) If the Member State does not have to establish that, since his or her conviction, the applicant continues to constitute a danger to the community and that the threat is genuine, present and sufficiently serious to justify the revocation of refugee status, must Article 14[(4)(b)] of Directive

[2011/95] be interpreted as meaning that danger to the community is established, in principle, by the fact that the beneficiary of refugee status has been convicted by a final judgment of a particularly serious crime but that he or she may establish that he or she does not constitute, or no longer constitutes, such a danger?'

Consideration of the questions referred

The first question

27 By its first question, the referring court asks, in essence, whether Article 14(4)(b) of Directive 2011/95 must be interpreted as meaning that the existence of a danger to the community of the Member State in which the third-country national concerned is present may be regarded as established by the mere fact that he or she has been convicted by a final judgment of a particularly serious crime.

28 Article 14(4)(b) of Directive 2011/95 provides that Member States may revoke the status granted to a refugee when he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the Member State in which he or she is present.

29 In accordance with the Court's settled case-law, in interpreting a provision of EU law, it is necessary to consider its wording, the context in which it occurs and the objectives pursued by the rules of which it is part (judgment of 20 October 2022, *Centre public d'action sociale de Liège (Withdrawal or suspension of a return decision)*, C-825/21, EU:C:2022:810, paragraph 41 and the case-law cited).

30 As regards, first of all, the wording of Article 14(4)(b) of Directive 2011/95, it should be noted that that provision refers to two distinct criteria relating to the existence of, first, a conviction by a final judgment of a particularly serious crime and, secondly, a danger to the community of the Member State in which the third-party national concerned is present.

31 While the precise relationship between those two criteria is not explicitly specified, they appear, as the Advocate General observed in point 63 of his Opinion, in all of the language versions of Article 14(4)(b) of Directive 2011/95, even though it was open to the EU legislature to refer solely to the existence of such a conviction had it intended for that to be sufficient to justify the adoption of a measure referred to in that provision.

32 As regards, next, the context of Article 14(4)(b) of Directive 2011/95, it should be pointed out, in the first place, that that provision constitutes a derogation from the rule, laid down in Article 13 of that directive, that Member States are to grant refugee status to a third-country national who qualifies as a refugee. That provision must therefore be interpreted strictly (see, by analogy, judgment of 13 September 2018, *Ahmed*, C-369/17, EU:C:2018:713, paragraph 52).

33 In the second place, the EU legislature's decision to refer, in Article 14(4)(b) of Directive 2011/95, to the existence of both a criminal conviction and a danger to the community, rather than to only the first of those conditions, cannot be overlooked, since it opted, in Article 12(2)(b) of that directive, for a different formulation, expressly providing that a third-country national is to be excluded from being a refugee where he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee, without requiring that he or she represents a danger to the community of the Member State in which he or she is present.

34 In that regard, the difference in wording between Article 12(2)(b) and Article 14(4)(b) of Directive 2011/95 reflects, in essence, the distinction between Article 1, Section F, and Article 33(2) of the Geneva Convention, which constitutes the cornerstone of the international legal regime for the protection of refugees (see, to that effect, judgment of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraph 81 and the case-law cited).

35 The Court has, moreover, previously held that the circumstances referred to in Article 14(4) of that directive, in which Member States may revoke or refuse to grant refugee status, correspond, in essence, to those in which Member States may refoule a refugee under Article 33(2) of the Geneva Convention (see, to that effect, judgment of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraph 93).

36 Article 33(2) of the Geneva Convention is generally interpreted, as the Advocate General observed in point 73 of his Opinion, as requiring two cumulative conditions to be satisfied, relating to the existence of a conviction by a final judgment of a particularly serious crime and a danger to the community of the country in which the person concerned is present.

37 In the third place, it must also be pointed out that, as regards the grant of subsidiary protection, which can offer more limited protection than refugee status, Article 17(1) of Directive 2011/95 refers, in (b), to the commission of a serious crime and, in (d), to the existence of a danger to the community, and those criteria are expressly presented as alternative conditions each of which, taken in isolation, entails the exclusion from eligibility for subsidiary protection.

38 In the fourth place, since the EU legislature decided to use the same terms in Article 14(4)(b) and Article 21(2)(b) of Directive 2011/95, those provisions must be interpreted consistently.

39 It is clear from the Court's case-law relating to Article 21(2)(b) of that directive that the application of that provision is subject to two separate conditions being satisfied (see, to that effect, judgment of 24 June 2015, *T.*, C-373/13, EU:C:2015:413, paragraph 72).

40 In the fifth place, it cannot be held, contrary to the Belgian Government's submission, that interpreting Article 14(4)(b) of Directive 2011/95 as requiring two separate conditions to be satisfied would render that provision redundant, on the ground that Article 14(4)(a) of that directive already allows refugee status to be withdrawn from a third-country national who constitutes a danger, even where he or she has not been convicted by a final judgment of a particularly serious crime.

41 It is evident from a comparison of those two provisions that Article 14(4)(a) of that directive refers to a danger to the security of the Member State in which the third-country national concerned is present, whereas Article 14(4)(b) of that directive refers to a danger to the community of that Member State. Accordingly, those two provisions concern two different types of danger.

42 Lastly, the main objective of Directive 2011/95, as clear from Article 1 and recital 12 of that directive, namely to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection and to ensure that a minimum level of benefits is available for those persons in all Member States, also militates in favour of a strict interpretation of Article 14(4)(b) of that directive.

43 It follows from all of the above considerations that the application of the latter provision is subject to two separate conditions being satisfied, namely, first, that the third-country national

concerned has been convicted by a final judgment of a particularly serious crime and, secondly, that it has been established that that third-country national constitutes a danger to the community of the Member State in which he or she is present.

44 Therefore, it cannot be held, without disregarding the choice thus made by the EU legislature, that the fact that one of those two conditions has been satisfied is sufficient to establish that the other has also been satisfied.

45 Consequently, the answer to the first question is that Article 14(4)(b) of Directive 2011/95 must be interpreted as meaning that the existence of a danger to the community of the Member State in which the third-country national concerned is present cannot be regarded as established by the mere fact that he or she has been convicted by a final judgment of a particularly serious crime.

The second and third questions

46 By its second and third questions, which it is appropriate to consider together, the referring court asks, in essence, whether Article 14(4)(b) of Directive 2011/95 must be interpreted as meaning that the application of that provision is subject to the competent authority establishing that the danger which the third-country national concerned represents to the community of the Member State in which he or she is present is genuine, present and serious and that the revocation of refugee status constitutes a measure that is proportionate to that danger.

47 As stated in paragraph 43 above, refugee status can be revoked under Article 14(4)(b) of Directive 2011/95 only where two conditions are satisfied, the second of which requires that it be established that the third-country national concerned constitutes a danger to the community of the Member State in which he or she is present.

48 With a view to determining, in the first place, the scope of the concept of ‘danger to the community’, within the meaning of that provision, it should be noted that it is apparent from the Court’s settled case-law that a Union citizen who has exercised his or her right to free movement and certain members of that citizen’s family can be regarded as posing a threat to public policy only if their individual conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of the society of the Member State concerned (judgment of 12 December 2019, *G.S. and V.G. (Threat to public policy)*, C-381/18 and C-382/18, EU:C:2019:1072, paragraph 53 and the case-law cited).

49 Since the referring court considers that the concept of ‘danger to the community’, within the meaning of Article 14(4)(b) of Directive 2011/95, may be defined on the basis of the standard established by that case-law, it must be stated that not every reference to a threat to public policy or to the community is to be understood as referring exclusively to individual conduct representing a genuine, present and sufficiently serious threat affecting one of the fundamental interests of the society of the Member State concerned (see, to that effect, judgment of 12 December 2019, *G.S. and V.G. (Threat to public policy)*, C-381/18 and C-382/18, EU:C:2019:1072, paragraph 54 and the case-law cited).

50 It is thus necessary, in order to define the scope of the concept of ‘danger to the community’, within the meaning of Article 14(4)(b) of Directive 2011/95, to take into account the wording of those provisions, their context and the objectives pursued by the legislation of which they form part (see, to that effect, judgment of 12 December 2019, *G.S. and V.G. (Threat to public policy)*, C-381/18 and C-382/18, EU:C:2019:1072, paragraph 55 and the case-law cited).

51 As regards, in the first place, the wording of Article 14(4) of Directive 2011/95, it should be noted that, unlike, inter alia, the second subparagraph of Article 27(2) of Directive 2004/38, it does not expressly require that the conduct of the third-party national concerned represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society in order for that third-country national to be regarded as a danger to the community.

52 Nevertheless, first, it is clear from the very wording of Article 14(4)(b) of Directive 2011/95 that that provision is applicable only where the third-country national concerned 'constitutes' a danger to the community of the Member State in which he or she is present, which suggests that that danger must be genuine and present.

53 Secondly, as the Advocate General observed in point 86 of his Opinion, the explicit requirement that that third-country national 'constitutes' such a danger would be largely redundant if a potential danger to the community of that Member State were to be regarded as sufficient for Article 14(4)(b) to apply. The existence of a conviction by a final judgment for a particularly serious crime, which is also required by Article 14(4)(b), will typically be sufficient in itself to establish, at the very least, the existence of such a potential danger.

54 As regards, next, the context of Article 14(4) of Directive 2011/95, it is indeed true that, unlike Article 14(4)(b) of that directive, Article 23(4) and Articles 24 and 25 directly refer to the concept of 'public order', to which the case-law referred to in paragraph 48 above relates.

55 It is clear from the Court's case-law that, in the light of that wording in particular, Article 24(1) of that directive may allow the refusal to issue a residence permit for compelling reasons of public order only where the third-country national concerned constitutes a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society (see, to that effect, judgment of 24 June 2015, *T.*, C-373/13, EU:C:2015:413, paragraphs 77 to 79).

56 Nonetheless, it cannot be considered that the use of the expression 'danger to the community' rather than a reference to 'public order' conveys a choice to lay down a standard that is substantially different from that adopted in the case-law referred to in paragraph 48 above, since the terms used in both Article 14(4) and Article 21(2) of Directive 2011/95 reflect, as pointed out in paragraph 34 above, those used in Article 33(2) of the Geneva Convention.

57 On the contrary, it follows from the Court's case-law that the application of Article 21(2) of that directive – which must, as is clear from paragraph 38 above, be interpreted consistently with Article 14(4) of that directive – is subject to rigorous conditions that are more onerous than those for the application of Article 24(1) of the directive (see, to that effect, judgment of 24 June 2015, *T.*, C-373/13, EU:C:2015:413, paragraphs 72, 74 and 75).

58 Furthermore, it is apparent from the Court's case-law that, within the general scheme of Directive 2011/95, serious crimes committed by a third-country national before being admitted as a refugee justify the application of the exclusion clause provided for in Article 12(2)(b) of that directive, while Article 14(4) and Article 21(2) of that directive allow the present danger represented by the third-country national to be taken into consideration (see, by analogy, judgment of 9 November 2010, *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 101).

59 Lastly, as is clear from paragraph 42 above, the main objective of Directive 2011/95 means that Article 14(4)(b) of that directive is to be interpreted strictly.

60 It follows from all of those considerations that a measure referred to in Article 14(4)(b) of Directive 2011/95 may be adopted only where the third-country national concerned constitutes a genuine, present and sufficiently serious threat to one of the fundamental interests of the society of the Member State in which he or she is present.

61 As regards, in the second place, the respective roles of the competent authority and the third-country national concerned in the assessment of whether such a threat exists, it follows from the Court's case-law that it is for the competent authority, when applying that provision, to undertake, for each individual case, an assessment of all the circumstances of the case concerned (see, to that effect, judgments of 13 September 2018, *Ahmed*, C-369/17, EU:C:2018:713, paragraphs 48 and 50, and of 22 September 2022, *Országos Idegenrendészeti Főigazgatóság and Others*, C-159/21, EU:C:2022:708, paragraphs 72 and 92).

62 In that context, and given, in particular, that Article 45(3) of Directive 2013/32 provides that the decision of the competent authority to withdraw international protection is to state the reasons in fact and in law on which that decision is based, the competent authority must have available to it all the relevant information and, in the light of that information, carry out its own assessment of all the circumstances of the case concerned, with a view to determining the tenor of its decision and providing a full statement of reasons for that decision (see, to that effect, judgment of 22 September 2022, *Országos Idegenrendészeti Főigazgatóság and Others*, C-159/21, EU:C:2022:708, paragraph 80).

63 Among the circumstances to be taken into account in assessing the existence of a danger to the community, it is also possible – even though, in general, the finding of a genuine, present and sufficiently serious threat to one of the fundamental interests of society implies a propensity in the individual concerned to repeat the conduct constituting such a threat in the future – that past conduct alone may constitute such a danger (see, to that effect, judgment of 2 May 2018, *K. and H.F. (Right of residence and alleged war crimes)*, C-331/16 and C-366/16, EU:C:2018:296, paragraph 56). The fact that the third-country national concerned has been convicted by a final judgment of a particularly serious crime is of particular significance, since the EU legislature specifically referred to the existence of such a conviction and that conviction may, depending on the circumstances surrounding the commission of that crime, help to establish the existence of a genuine and sufficiently serious threat affecting one of the fundamental interests of the society of the Member State concerned.

64 However, as regards, in particular, whether such a danger is present, it follows from both the answer to the first question and the Court's case-law that it cannot be inferred automatically from the criminal record of the third-country national concerned that that person may be the subject of the measure referred to in Article 14(4)(b) of Directive 2011/95 (see, to that effect, judgment of 13 September 2016, *CS*, C-304/14, EU:C:2016:674, paragraph 41). Accordingly, the later a decision under that provision is taken after a final conviction for a particularly serious crime, the more it is incumbent on the competent authority to take into consideration, inter alia, developments subsequent to the commission of such a crime in order to determine whether a genuine and sufficiently serious threat exists on the day on which it is to decide on the potential revocation of refugee status.

65 From that perspective, given that Article 45(1)(b) of Directive 2013/32 provides only that the third-country national from whom the competent authority is contemplating withdrawing international protection must have the 'opportunity' to submit reasons why that protection should not be withdrawn, it cannot be held that, in the absence of information from that third-country national as to why he or she no longer constitutes a danger to the community, the competent

authority may presume that it follows from the existence of a final conviction for a particularly serious crime that the third-country national in question constitutes a genuine, present and sufficiently serious threat affecting one of the fundamental interests of the society of the Member State in which he or she is present.

66 In the third place, it must be noted that, in a situation where the Member State concerned has established that the two conditions referred to in Article 14(4)(b) of Directive 2011/95 are satisfied, that Member State has the option of adopting the measure provided for in that provision, without, however, being required to exercise that option (see, by analogy, judgments of 24 June 2015, *T.*, C-373/13, EU:C:2015:413, paragraph 72, and of 22 September 2022, *Országos Idegenrendészeti Főigazgatóság and Others*, C-159/21, EU:C:2022:708, paragraph 81).

67 That option is to be exercised in observance of, in particular, the principle of proportionality, which entails that the threat that the third-country national concerned represents to the society of the Member State in which he or she is present, on the one hand, must be weighed against the rights which must be guaranteed in accordance with that directive to persons satisfying the substantive conditions of Article 2(d) of that directive, on the other (see, to that effect, judgments of 2 May 2018, *K. and H.F. (Right of residence and alleged war crimes)*, C-331/16 and C-366/16, EU:C:2018:296, paragraph 62; of 12 December 2019, *G.S. and V.G. (Threat to public policy)*, C-381/18 and C-382/18, EU:C:2019:1072, paragraph 64; and of 9 February 2023, *Staatssecretaris van Justitie en Veiligheid and Others (Withdrawal of the right of residence of a Turkish worker)*, C-402/21, EU:C:2023:77, paragraph 72).

68 In that assessment, the competent authority must also take into account the fundamental rights guaranteed by EU law and, in particular, determine whether it is possible to adopt other measures less prejudicial to the rights guaranteed to refugees and to fundamental rights which would have been equally effective to ensure the protection of society in the Member State in which the third-country national concerned is present (see, to that effect, judgment of 2 May 2018, *K. and H.F. (Right of residence and alleged war crimes)*, C-331/16 and C-366/16, EU:C:2018:296, paragraphs 63 and 64).

69 For the purposes of that assessment, the competent authority must take into consideration the fact that, in the event that refugee status is revoked, the third-country nationals concerned will be denied that status and thus will no longer be entitled to all the rights and benefits provided for by Directive 2011/95, but that they will continue to be entitled, in accordance with Article 14(6) of that directive, to a certain number of rights laid down by the Geneva Convention (see, to that effect, judgment of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraph 99).

70 Thus, Article 14(6) of Directive 2011/95 must, in accordance with Article 78(1) TFEU and Article 18 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that a Member State which uses the power provided for in Article 14(4) of that directive must grant a refugee covered by one of the scenarios referred to in that provision and present in the territory of that Member State, as a minimum, the rights enshrined in the Geneva Convention expressly referred to in Article 14(6) of that directive and the rights provided for by that convention which do not require a lawful stay, without prejudice to any reservations which may be made by that Member State (see, to that effect, judgment of 14 May 2019, *M and Others (Revocation of refugee status)*, C-391/16, C-77/17 and C-78/17, EU:C:2019:403, paragraph 107).

71 Consequently, the answer to the second and third questions is that Article 14(4)(b) of Directive 2011/95 must be interpreted as meaning that the application of that provision is subject to

the competent authority establishing that the threat which the third-country national concerned represents to one of the fundamental interests of the society of the Member State in which he or she is present is genuine, present and sufficiently serious and that the revocation of refugee status constitutes a measure that is proportionate to that threat.

Costs

72 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 (First Chamber) hereby rules:

1. **Article 14(4)(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**

must be interpreted as meaning that the existence of a danger to the community of the Member State in which the third-country national concerned is present cannot be regarded as established by the mere fact that he or she has been convicted by a final judgment of a particularly serious crime.

2. **Article 14(4)(b) of Directive 2011/95 must be interpreted as meaning that the application of that provision is subject to the competent authority establishing that the threat which the third-country national concerned represents to one of the fundamental interests of the society of the Member State in which he or she is present is genuine, present and sufficiently serious and that the revocation of refugee status constitutes a measure that is proportionate to that threat.**

[Signatures]

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* Language of the case: French.