Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

4 October 2018 *

(Reference for a preliminary ruling — Common policy on asylum and subsidiary protection — Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection — Directive 2011/95/EU — Articles 3, 4, 10 and 23 — Applications for international protection lodged separately by family members — Individual assessment — Taking into account threats in respect of a family member in carrying out the individual assessment of the application for international protection of another family member — More favourable standards capable of being retained or introduced by the Member States for the purpose of extending the refugee or subsidiary protection status of a beneficiary of international protection to family members — Assessment of the reasons for persecution — Involvement of an Azerbaijani national in bringing a complaint against her country before the European Court of Human Rights — Common procedural standards — Directive 2013/32/EU — Article 46 — Right to an effective remedy — Full and *ex nunc* examination — Reasons for persecution or evidence withheld from the determining authority but invoked in the course of an action against the decision taken by that authority)

In Case C-652/16,

REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Sofia Administrative Court, Bulgaria), made by decision of 5 December 2016, received at the Court on 19 December 2016, in the proceedings

Nigyar Rauf Kaza Ahmedbekova,

Rauf Emin Ogla Ahmedbekov

v

Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite,

THE COURT (Second Chamber),

composed of M. Ilešič (Rapporteur), President of the Chamber, A. Rosas, C. Toader, A. Prechal and E. Jarašiūnas, Judges,

Advocate General: P. Mengozzi,

Registrar: A. Calot Escobar,

having regard to the written procedure,

* Language of the case: Bulgarian.

after considering the observations submitted on behalf of:

– the Czech Government, by M. Smolek and J. Vláčíl, acting as Agents,

– the Greek Government, by M. Michelogiannaki, acting as Agent,

– the Hungarian Government, by M.Z. Fehér, G. Koós and M.M. Tátrai, acting as Agents,

– the United Kingdom Government, by R. Fadoju and C. Crane, acting as Agents, and by D. Blundell, Barrister,

– the European Commission, by V. Soloveytchik and M. Condou-Durande, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 28 June 2018,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation 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) and 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).

2 The request has been made in proceedings between Mrs Nigyar Rauf Kaza Ahmedbekova and her son, Rauf Emin Ogla Ahmedbekov, and Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite (Deputy Chairperson of the State Agency for Refugees, Bulgaria) concerning the latter's rejection of the application for international protection lodged by Mrs Ahmedbekova.

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 and was supplemented and amended by the Protocol Relating to the Status of Refugees, concluded in New York on 31 January 1967, which entered into force on 4 October 1967 ('the Geneva Convention').

4 Article 1(A) of the Geneva Convention defines the term 'refugee' by referring, inter alia, to the risk of persecution.

European Union law

Directive 2011/95

5 Directive 2011/95 was adopted on the basis of Article 78(2)(a) and (b) TFEU, which provides as follows:

'For the purposes of [developing a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement], the European Parliament and the Council [of the European Union], acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

(a) a uniform status of asylum for nationals of third countries, valid throughout the [European] Union;

(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection'.

6 Recitals 14, 16, 18, 24 and 36 of that directive state:

'(14) Member States should have the power to introduce or maintain more favourable provisions than the standards laid down in this Directive for third-country nationals or stateless persons who request international protection from a Member State, where such a request is understood to be on the grounds that the person concerned is either a refugee within the meaning of Article 1(A) of the Geneva Convention, or a person eligible for subsidiary protection.

…

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

…

(18) The "best interests of the child" should be a primary consideration of Member States when implementing this Directive, in line with the 1989 United Nations Convention on the Rights of the Child. In assessing the best interests of the child, Member States should in particular take due account of the principle of family unity, the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity.

…

(24) It is necessary to introduce common criteria for recognising applicants for asylum as refugees within the meaning of Article 1 of the Geneva Convention.

…

(36) Family members, merely due to their relation to the refugee, will normally be vulnerable to acts of persecution in such a manner that could be the basis for refugee status.'

7 Article 2 of the directive provides:

'For the purposes of this Directive:

(a) "international protection" means refugee status and subsidiary protection status as defined in points (e) and (g);

…

(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;

(e) "refugee status" means the recognition by a Member State of a third-country national or a stateless person as a refugee;

(f) "person eligible for subsidiary protection" means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country;

(g) "subsidiary protection status" means the recognition by a Member State of a third-country national or a stateless person as a person eligible for subsidiary protection;

(h) "application for international protection" means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of this Directive, that can be applied for separately;

(i) "applicant" means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

(j) "family members" means, in so far as the family already existed in the country of origin, the following members of the family of the beneficiary of international protection who are present in the same Member State in relation to the application for international protection:

– the spouse of the beneficiary of international protection or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,

– the minor children of the couples referred to in the first indent or of the beneficiary of international protection, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,

– the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Member State concerned, when that beneficiary is a minor and unmarried;

(k) "minor" means a third-country national or stateless person below the age of 18 years;

…'

8 Article 3 of that directive reads:

'Member States may introduce or retain more favourable standards for determining who qualifies as a refugee or as a person eligible for subsidiary protection, and for determining the content of international protection, in so far as those standards are compatible with this Directive.'

9 Article 4 of Directive 2011/95, entitled 'Assessment of facts and circumstances' in Chapter II of that directive, entitled 'Assessment of applications for international protection', provides, in paragraphs 1 to 4:

'1. Member States may consider it the duty of the applicant to submit as soon as possible all the elements needed to substantiate the application for international protection. In cooperation with the applicant, it is the duty of the Member State to assess the relevant elements of the application.

2. The elements referred to in paragraph 1 consist of the applicant's statements and all the documentation at the applicant's disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes, travel documents and the reasons for applying for international protection.

3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;

(c) the individual position and personal circumstances of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;

…

4. The fact that an applicant has already been subject to persecution or serious harm or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.'

10 Under Article 10 of that directive, entitled 'Reasons for persecution' in Chapter III thereof, entitled 'Qualification for being a refugee':

'1. Member States shall take the following elements into account when assessing the reasons for persecution:

(a) the concept of race …

(b) the concept of religion …

(c) the concept of nationality …

(d) a group shall be considered to form a particular social group where in particular:

– members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and

– that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society.

Depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Member States. Gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

(e) the concept of political opinion shall, in particular, include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in Article 6 and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.

2. When assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.'

11 Article 12 of that directive states:

'1. A third-country national or a stateless person is excluded from being a refugee if:

(a) he or she falls within the scope of Article 1(D) of the Geneva Convention, …

…

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

(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(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; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;

(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.

3. Paragraph 2 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.'

12 Article 13 of the directive states:

'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.'

13 Under Article 15 of that directive, entitled 'Serious harm' in Chapter III thereof, entitled 'Qualification for subsidiary protection':

'Serious harm consists of:

(a) the death penalty or execution; or

(b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or

(c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.'

14 Article 18 of that directive provides:

'Member States shall grant subsidiary protection status to a third-country national or a stateless person eligible for subsidiary protection in accordance with Chapters II and V.'

15 Article 23 of that directive, entitled 'Maintaining family unity', states:

'1. Member States shall ensure that family unity can be maintained.

2. Member States shall ensure that family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to claim the benefits referred to in Articles 24 to 35, in accordance with national procedures and as far as is compatible with the personal legal status of the family member.

3. Paragraphs 1 and 2 are not applicable where the family member is or would be excluded from international protection pursuant to Chapters III and V.

4. 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.

…'

Directive 2013/32

16 Directive 2013/12 was adopted on the basis of Article 78(2)(d) TFEU. That provision provides for the establishment of common procedures for granting and withdrawing uniform refugee status or subsidiary protection.

17 Recitals 12 and 60 of that directive state:

'(12) The main objective of this Directive is to further develop the standards for procedures in Member States for granting and withdrawing international protection with a view to establishing a common asylum procedure in the Union.

…

(60) This Directive respects the fundamental rights and observes the principles recognised by the Charter [of Fundamental Rights]. In particular, this Directive seeks to ensure full respect for human dignity and to promote the application of Articles 1, 4, 18, 19, 21, 23, 24, and 47 of [that] Charter and has to be implemented accordingly.'

18 Article 1 of the directive provides:

'The purpose of this Directive is to establish common procedures for granting and withdrawing international protection pursuant to Directive [2011/95].'

19 Article 2 of the directive provides:

'For the purposes of this Directive:

…

(c) "applicant" means a third-country national or stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

…

(f) "determining authority" means any quasi-judicial or administrative body in a Member State responsible for examining applications for international protection competent to take decisions at first instance in such cases;

(g) "refugee" means a third-country national or a stateless person who fulfils the requirements of Article 2(d) of Directive [2011/95];

…

(l) "minor" means a third-country national or a stateless person below the age of 18 years;

…'

20 Article 7 of Directive 2013/32 provides:

'1. Member States shall ensure that each adult with legal capacity has the right to make an application for international protection on his or her own behalf.

2. Member States may provide that an application may be made by an applicant on behalf of his or her dependants. In such cases, Member States shall ensure that dependent adults consent to the lodging of the application on their behalf, failing which they shall have an opportunity to make an application on their own behalf.

Consent shall be requested at the time the application is lodged or, at the latest, when the personal interview with the dependent adult is conducted. Before consent is requested, each dependent adult shall be informed in private of the relevant procedural consequences of the lodging of the application on his or her behalf and of his or her right to make a separate application for international protection.

3. Member States shall ensure that a minor has the right to make an application for international protection either on his or her own behalf, if he or she has the legal capacity to act in procedures according to the law of the Member State concerned, or through his or her parents or other adult family members, or an adult responsible for him or her, whether by law or by the practice of the Member State concerned, or through a representative.

…'

21 Under Article 9(1) of that directive:

'Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III. That right to remain shall not constitute an entitlement to a residence permit.'

22 Article 10(2) of the directive states:

'When examining applications for international protection, the determining authority shall first determine whether the applicants qualify as refugees and, if not, determine whether the applicants are eligible for subsidiary protection.'

23 Article 13(1) of that directive provides:

'Member States shall impose upon applicants the obligation to cooperate with the competent authorities with a view to establishing their identity and other elements referred to in Article 4(2) of Directive [2011/95]. ...'

24 Article 31 of Directive 2013/32 provides:

'1. Member States shall process applications for international protection in an examination procedure in accordance with the basic principles and guarantees of Chapter II.

2. Member States shall ensure that the examination procedure is concluded as soon as possible, without prejudice to an adequate and complete examination.

…'

25 Article 33(2) of that directive provides:

Member States may consider an application for international protection as inadmissible … if:

…

(e) a dependant of the applicant lodges an application, after he or she has in accordance with Article 7(2) consented to have his or her case be part of an application lodged on his or her behalf, and there are no facts relating to the dependant's situation which justify a separate application.'

26 Under Article 40(1) of the directive:

'Where a person who has applied for international protection in a Member State makes further representations or a subsequent application in the same Member State, that Member State shall examine these further representations or the elements of the subsequent application in the framework of the examination of the previous application or in the framework of the examination of the decision under review or appeal, insofar as the competent authorities can take into account and consider all the elements underlying the further representations or subsequent application within this framework.'

27 Article 46 of that directive reads:

'1. Member States shall ensure that applicants have the right to an effective remedy before a court or tribunal, against the following:

(a) a decision taken on their application for international protection, including a decision:
(i) considering an application to be unfounded in relation to refugee status and/or subsidiary protection status;
(ii) considering an application to be inadmissible pursuant to Article 33(2);

…

3. In order to comply with paragraph 1, Member States shall ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law, including, where applicable, an examination of the international protection needs pursuant to Directive [2011/95], at least in appeals procedures before a court or tribunal of first instance.

…'

Directive 2013/33/EU

28 Recitals (9), (11) and (35) of 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) state:

'(9) In applying this Directive, Member States should seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the [Charter of Fundamental Rights], the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively.

…

(11) Standards for the reception of applicants that will suffice to ensure them a dignified standard of living and comparable living conditions in all Member States should be laid down.

…

(35) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter [of Fundamental Rights]. This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for human dignity and to promote the application of Articles 1, 4, 6, 7, 18, 21, 24 and 47 of [that] Charter and has to be implemented accordingly.'

29 Article 6(1) of that directive provides:

'Member States shall ensure that, within three days of the lodging of an application for international protection, the applicant is provided with a document issued in his or her own name certifying his or her status as an applicant or testifying that he or she is allowed to stay on the territory of the Member State while his or her application is pending or being examined.

…'

30 Under Article 12 of the directive:

'Member States shall take appropriate measures to maintain as far as possible family unity as present within their territory, if applicants are provided with housing by the Member State concerned. Such measures shall be implemented with the applicant's agreement.'

Bulgarian law

31 In Bulgaria, applications for international protection are examined in accordance with the Zakon za ubezhishteto i bezhantsite (Law on asylum and refugees, 'the ZUB').

32 Articles 8 and 9 of the ZUB substantively reproduce the conditions for granting international protection set out in Directive 2011/95.

33 Under Article 8(9) of the ZUB:

'The family members of a foreign national who has been granted refugee status shall … be regarded as refugees in so far as compatible with their personal status and in the absence of the circumstances referred to in Article 12(1).'

34 Article 12(1) and (2) of the ZUB lists the circumstances precluding the grant of international protection, which include the presence of a threat to national security.

35 Article 32, entitled 'Joined procedures', of the Administrativnoprotsesualen kodeks (Code of Administrative Procedure) provides:

'if, in proceedings in which the rights and obligations of the parties arise from a single factual situation and a single administrative authority is competent, a single procedure may be initiated and conducted in respect of several parties.'

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

36 Mrs Ahmedbekova and her son, Rauf Emin Ogla Ahmedbekov, born on 12 May 1975 and 5 October 2007 respectively, are Azerbaijani nationals.

37 On 19 November 2014, Mr Emin Ahmedbekov ('Mr Ahmedbekov'), the husband of Mrs Ahmedbekova and father of Rauf Emin Ogla Ahmedbekov, lodged an application for international protection with the Darzhavna agentsia za bezhantsite (State Agency for Refugees, Bulgaria) ('the DAB'), which was rejected by its Deputy Chairperson in a decision of 12 May 2015. Mr Ahmedbekov brought an action against that decision before the Administrativen sad Sofia-grad (Sofia Administrative Court, Bulgaria), which was dismissed on 2 November 2015. He also lodged an appeal on a point of law before the Varhoven administrativen sad (Supreme Administrative Court, Bulgaria), which, as is apparent from the referring court's answer to a request for clarification from the Court, was dismissed on 25 January 2017.

38 On 25 November 2014, Mrs Ahmedbekova lodged applications for international protection with the DAB, for herself and her son. Those applications were also rejected by the Deputy Chairperson of the DAB in a decision of 12 May 2015 on the ground that the conditions for granting international protection laid down in Articles 8 and 9 of the ZUB were not satisfied.

39 Mrs Ahmedbekova brought an action against that decision before the referring court, the Administrativen sad Sofia-grad (Administrative Court, Sofia).

40 In her action, she relies on both persecution of her husband by the Azerbaijani authorities and circumstances concerning her individually.

41 In the latter regard, Mrs Ahmedbekova claims that she risks being persecuted because of her political opinions and that she was sexually harassed at her workplace in Azerbaijan. Mrs Ahmedbekova considers that the risk of persecution on account of her political opinions is, in particular, demonstrated by her involvement in a complaint brought against Azerbaijan before the European Court of Human Rights and by her involvement in the defence of persons who have already been persecuted by the Azerbaijani authorities because of their activities in connection with defending human rights. She also claims to be actively involved in the television network 'Azerbaydzhanski chas', which is leading a campaign against the governing regime in Azerbaijan.

42 The referring court asks, in particular, how applications for international protection lodged separately by family members must be processed. It also raises the question whether the fact that the applicant for international protection was involved in bringing a complaint against her country of origin before the European Court of Human Rights is a relevant factor for the purpose of determining whether international protection must be granted.

43 In those circumstances, the Administrativen sad Sofia-grad (Administrative Court, Sofia) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does it follow from Article 78(1) and 78(2)(a), (d) and (f) [TFEU] and from recital 12 and Article 1 of Directive [2013/32] that the ground for the inadmissibility of applications for international protection provided for in Article 33(2)(e) of that directive constitutes a directly effective provision which the Member States may not disapply, for example by applying more favourable provisions of national law under which the initial application for international protection must be examined first from the point of view of whether the applicant fulfils the conditions for qualification as a refugee and then from the point of view of whether the person is eligible for subsidiary protection, in accordance with Article 10(2) of that directive?

(2) Does it follow from Article 33(2)(e) of Directive [2013/32], read in conjunction with Article 7(3) and Article 2(a), (c) and (g) and recital 60 of that directive, that, in the circumstances of the main proceedings, an application for international protection lodged by a parent on behalf of an

accompanied minor is inadmissible where the reason given for the application is that the child is a member of the family of a person who has applied for international protection on the ground that he is a refugee within the meaning of Article 1(A) of the Geneva Convention?

(3) Does it follow from Article 33(2)(e) of Directive [2013/32], read in conjunction with Article 7(1) and Article 2(a), (c) and (g) and recital 60 of that directive, that, in the circumstances of the main proceedings, an application for international protection lodged on behalf of an adult is inadmissible where the only reason given for the application in the proceedings before the relevant administrative authority is that the applicant is a member of the family of a person who has applied for international protection on the ground that he is a refugee within the meaning of Article 1(A) of the Geneva Convention and, at the time of lodging the application, the applicant has no right to carry on an economic activity?

(4) Does Article 4(4) of Directive [2011/95], read in conjunction with recital 36 of that directive, require that the assessment of whether there is a well-founded fear of persecution or a real risk of suffering serious harm be carried out solely on the basis of facts and circumstances relating to the applicant?

(5) Does Article 4 of Directive [2011/95], read in conjunction with recital 36 thereof and Article 31(1) of Directive [2013/32], permit national case-law in a Member State which:
   (a) obliges the competent authority to assess applications for international protection lodged by members of a single family in a single procedure in cases where the applications are based on the same facts, specifically the asserted refugee status of only one of the family members;
   (b) obliges the competent authority to stay proceedings relating to applications for international protection lodged by family members who do not personally meet the conditions for such protection until the conclusion of proceedings on an application lodged by the family member on the ground that he or she is a refugee within the meaning of Article 1(A) of the Geneva Convention;

   and is that case-law also permissible in the light of considerations relating to the best interests of the child, maintaining the family unit and the right to privacy and family life and the right to remain in the Member State pending the assessment of the application, that is to say, in the light of Articles 7, 18 and 47 of the Charter of Fundamental Rights of the European Union, recitals 12 and 60 and Article 9 of Directive [2013/32], recitals 16, 18 and 36 and Article 23 of Directive [2011/95] and recitals 9, 11 and 35 and Articles 6 and 12 of Directive [2013/33]?

(6) Does it follow from recitals 16, 18 and 36 and Article 3 of Directive [2011/95], read in conjunction with recital 24 and Article 2(d) and (j), Article 13 and Article 23(1) and (2) of that directive, that a provision of national law, such as Article 8(9) of the [ZUB], pursuant to which the family members of a foreign national who has been granted refugee status are also regarded as refugees in so far as that is compatible with their personal status and there are no reasons in national law for excluding the grant of refugee status, is permissible?

(7) Does it follow from the rules relating to the reasons for persecution contained in Article 10 of Directive [2011/95] that the bringing of a complaint before the European Court of Human Rights against the State of origin of the person concerned establishes that person's membership of a particular social group within the meaning of Article 10(1)(d) of that directive, or that the bringing of such a complaint is to be regarded as constituting a political opinion within the meaning of Article 10(1)(e) of the directive?

(8) Does it follow from Article 46(3) of Directive [2013/32] that the court is obliged to examine the substance of new grounds for the grant of international protection which are put forward in the course of court proceedings but which were not indicated in the application challenging the decision refusing international protection?

(9) Does it follow from Article 46(3) of Directive [2013/32] that the court is obliged to assess the admissibility of the application for international protection on the basis of Article 33(2)(e) of that directive in the court proceedings brought against the decision refusing international protection, in so far as, in reaching the contested decision, the application was, in accordance with Article 10(2) of that directive, assessed first from the point of view of whether the applicant met the conditions for qualification as a refugee and then from the point of view of whether that applicant was eligible for subsidiary protection?'

Consideration of the questions referred

The fourth question

44 The fourth question, which it is appropriate to consider in the first place, relates to whether the assessment of an application for international protection must be based 'solely on facts and circumstances relating to the applicant'.

45 As is clear from the order for reference, that question has arisen on account of the fact that Mrs Ahmedbekova relies, in particular, on the threat of persecution and of serious harm in respect of her husband.

46 Therefore, by its fourth question, the referring court asks, in essence, whether Article 4 of Directive 2011/95 must be interpreted as meaning that, in carrying out the assessment of an application for international protection on an individual basis, account must be taken of the threat of persecution and of serious harm in respect of a family member of the applicant.

47 For the purposes of answering that question, it should first of all be noted that it is clear from Articles 13 and 18 of Directive 2011/95, read in conjunction with the definitions of 'refugee' and 'person eligible for subsidiary protection' set out in Article 2(d) and (f) thereof, that the international protection referred to in that directive must, in principle, be granted to a third-country national or stateless person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, or faces a real risk of suffering serious harm, within the meaning of Article 15 of the directive.

48 Directive 2011/95 does not provide for the granting of refugee or subsidiary protection status to third-country nationals or stateless persons other than those mentioned in the preceding paragraph. It is, moreover, settled case-law that every decision on whether to grant refugee status or subsidiary protection status must be based on an individual assessment (judgment of 25 January 2018, *F*, C-473/16, EU:C:2018:36, paragraph 41 and the case-law cited), which aims to determine whether, in the light of the applicant's personal circumstances, the conditions for granting such a status are satisfied (judgment of 5 September 2012, *Y and Z*, C-71/11 and C-99/11, EU:C:2012:518, paragraph 68).

49 It thus follows from the system established by the EU legislature for granting the uniform asylum or subsidiary protection status that the assessment of an application for international protection, prescribed by Article 4 of Directive 2011/95, is intended to determine whether the applicant — or, where relevant, the person on whose behalf he has lodged an application — has a well-founded fear of being personally persecuted or personally faces a real risk of suffering serious harm.

50 Although it follows from the foregoing that an application for international protection cannot be granted as such on the ground that one of the applicant's family members has a well-founded fear of being persecuted or faces a real risk of suffering serious harm, by contrast, as the Advocate General stated in point 32 of his Opinion, account must be taken of such threats in respect of one of the applicant's family members for the purpose of determining whether the applicant is, because of his family tie to the person at risk, himself exposed to the threat of persecution or serious harm. In that regard, as stated in recital 36 of Directive 2011/95, family members of a person at risk will also normally be in a vulnerable situation themselves.

51 Therefore, the answer to the fourth question referred is that Article 4 of Directive 2011/95 must be interpreted as meaning that, in carrying out the assessment of an application for international protection on an individual basis, account must be taken of the threat of persecution and of serious harm in respect of a family member of the applicant for the purpose of determining whether the applicant is, because of his family tie to the person at risk, himself exposed to such a threat.

The fifth question

52 By its fifth question, the referring court asks, in essence, whether Directives 2011/95 and 2013/32, read in conjunction with Articles 7, 18 and 47 of the Charter of Fundamental Rights and taking into account the best interests of the child, must be interpreted as precluding applications for international protection lodged separately by members of a single family from being assessed in a single procedure or the assessment of one of those applications from being suspended until the conclusion of the examination procedure in respect of another of those applications.

53 Under Article 7(1) of Directive 2013/32, each adult with legal capacity has the right to make an application for international protection on his or her own behalf. For the purposes of that provision, 'adult' must, in the light of the definition of 'minor' in Article 2(l) of that directive, be understood as including third-country nationals and stateless persons who have reached the age of 18 years.

54 As regards minors, Article 7(3) of Directive 2013/32 provides that they must be able to make an application for international protection on their own behalf in the Member States which grant minors the legal capacity to act in procedures and they must, in all Member States bound by that directive, be able to make an application for international protection through an adult representative, such as a parent or another adult family member.

55 It follows from those provisions that EU legislation does not preclude several family members, such as, in the present case, Mrs Ahmedbekova and Mr Ahmedbekov, from each lodging an application for international protection, nor from one of them lodging his or her own application also on behalf of a minor family member, such as Rauf Emin Ogla Ahmedbekov.

56 Directives 2011/95 and 2013/32 do not specify how to treat the potential interaction between such applications for international protection, which may, in part, concern identical facts or circumstances. Failing specific provisions, the Member States have latitude in that regard.

57 However, first, Article 4(3) of Directive 2011/95 requires an individual assessment of each application, second, according to Article 23(1) of that directive, Member States are to ensure that family unity can be maintained and, third, Article 31(2) of Directive 2013/32 provides that each Member State is to ensure that the determining authority conduct and conclude an adequate and complete examination as soon as possible.

58 It follows from the requirements of an individual assessment and of an exhaustive examination of applications for international protection that applications lodged separately by members of a single family, although potentially subject to measures intended to address any interaction between applications, must be subject to an examination of the situation of each person concerned. Those applications cannot therefore be subject to a single assessment.

59 In particular, as to whether it is appropriate to process simultaneously procedures for assessing applications for international protection lodged separately by family members or whether it is, on the contrary, for the determining authority to suspend the assessment of an application until the conclusion of the examination procedure in respect of another of those applications, the Court considers, first, that in a case such as that at issue in the main proceedings, in which one family member relies, in particular, on threats in respect of another family member, it may be expedient to ascertain in the first place, in assessing the latter's application, whether those threats are grounded and to ascertain in the second place, where necessary, whether the spouse and the child of that person at risk are themselves, because of the family tie, also subject to the threats of persecution or serious harm.

60 Second, in the light of the rule laid down in Article 31(2) of Directive 2013/32 that every assessment of an application for international protection must be concluded as soon as possible, and of the aim of that directive to ensure that applications for international protection are processed as soon as possible (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 109), the assessment of a family member's application should not lead to suspension of the assessment of another family member's application such that the latter assessment cannot be conducted until the examination procedure of the first application has already been concluded through the adoption of a decision by the determining authority. On the contrary, in order to meet the objective of expediency and to facilitate maintaining family unity, decisions on related applications from members of a single family must be adopted promptly from one another.

61 The Court considers, in that regard, that, if the determining authority finds that a person has a well-founded fear of persecution or faces a real risk of serious harm, it must, in principle, be able to assess within a short period of time whether or not that person's family members are themselves also exposed to such a threat because of their family tie. That assessment should be concluded, or at least begun, before the adoption of a decision to grant international protection to that person.

62 If the determining authority finds that no family member has a well-founded fear of persecution, nor faces a real risk of serious harm, it must, in principle, be able to adopt its decisions to reject the applications for international protection on the same day.

63 It follows that, in the present case, the Deputy Chairperson of the DAB cannot be criticised for having adopted, on the same day, his decisions on the application lodged by Mrs Ahmedbekova and on the application lodged by Mr Ahmedbekov, provided that those applications were not subject to a single assessment, which is for the referring court to ascertain.

64 Lastly, as regards the referring court's question on the bearing of the best interests of the child and of Articles 7, 18 and 47 of the Charter of fundamental rights, suffice it to note that regard must be had to the fundamental rights set out in that Charter in implementing Directives 2011/95 and 2013/32, but that they do not, in respect of the answer to the present question referred, provide any further specific guidance.

65 In the light of the foregoing, the answer to the fifth question is that Directives 2011/95 and 2013/32 must be interpreted as not precluding applications for international protection lodged separately by members of a single family from being subject to measures intended to address any interaction

between applications, but as precluding those applications from being subject to a single assessment. They also preclude the assessment of one of those applications from being suspended until the conclusion of the examination procedure in respect of another of those applications.

The sixth question

66 By its sixth question, the referring court asks, in essence, whether Article 3 of Directive 2011/95 must be interpreted as permitting a Member State, when granting international protection to a family member, to provide for an extension of the scope of that protection to other family members.

67 It is clear from the order for reference that Article 8(9) of the ZUB provides for such an extension. It cannot be excluded that that provision may, in the present case, be applied in respect of Rauf Emin Ogla Ahmedbekov and Mr Ahmedbekov. If the referring court were to conclude that, on account of her individual circumstances, such as those mentioned in paragraph 41 above, Mrs Ahmedbekova has a well-founded fear of persecution, that finding should, in principle, lead to Mrs Ahmedbekova being granted refugee status. Accordingly, under Article 8(9) of the ZUB, that status would, in principle, be extended to her family members without there being any need to examine whether those family members have a well-founded fear of persecution.

68 It should be noted that Directive 2011/95 does not provide for the extension of refugee or subsidiary protection status to the family members of a person granted that status. It follows that Article 23 of that directive merely requires Member States to amend their national laws so that family members, within the meaning referred to in Article 2(j) of the directive, of the beneficiary of such a status are, if they are not individually eligible for the same status, entitled to certain benefits, which include, inter alia, a residence permit, access to employment or to education, which are intended to maintain family unity.

69 It should therefore be ascertained whether retaining a provision in force, such as Article 8(9) of the ZUB, is permitted by Article 3 of Directive 2011/95, which allows the Member States to introduce or retain 'more favourable standards for determining who qualifies as a refugee or as a person eligible for subsidiary protection, and for determining the content of international protection, in so far as those standards are compatible with this Directive'.

70 It is clear from that wording, read in conjunction with recital 14 of Directive 2011/95, that the more favourable standards referred to in Article 3 of that directive may, inter alia, consist in relaxing the conditions under which a third-country national or stateless person can enjoy refugee or subsidiary protection status.

71 The Court has previously held that the clarification contained in Article 3, according to which all more favourable standards must be compatible with Directive 2011/95, means that those standards must not compromise the general scheme or objectives of that directive. In particular, standards which are intended to grant refugee or subsidiary protection status to third-country nationals or stateless persons in situations which have no connection with the rationale of international protection are prohibited (see, in that regard, judgment of 18 December 2014, *M'Bodj*, C-542/13, EU:C:2014:2452, paragraphs 42 and 44). This thus applies, inter alia, to standards which grant such status to persons falling within the scope of a ground for exclusion laid down in Article 12 of that directive (judgment of 9 November 2010, *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 115).

72 As the Advocate General stated in point 58 of his Opinion, granting — automatically under national law — refugee status to family members of a person to whom that status was granted under the system established by Directive 2011/95, is not, a priori, without connection to the rationale of international protection.

73 In that regard, it must be found that, in the present case, the possibility of granting refugee status or subsidiary protection status to Mrs Ahmedbekova's son and husband on account of her refugee status would, due to the need to maintain the family unity of those concerned, be consistent with the rationale of international protection underlying the granting of that status.

74 In the light of the foregoing, the answer to the sixth question is that Article 3 of Directive 2011/95 must be interpreted as permitting a Member State, when granting international protection to a family member pursuant to the system established by that directive, to provide for an extension of the scope of that protection to other family members, provided that they do not fall within the scope of a ground for exclusion laid down in Article 12 of that directive and that their situation is, due to the need to maintain family unity, consistent with the rationale of international protection.

The second and third questions

75 By its second and third questions, which it is appropriate to answer together, the referring court asks, in essence, whether the ground of inadmissibility set out in Article 33(2)(e) of Directive 2013/32 covers a situation, such as that at issue in the main proceedings, in which an adult lodges, in her own name and on behalf of her minor child, an application for international protection which is based, inter alia, on a family tie with another person who has lodged a separate application for international protection.

76 As set out in paragraphs 53 to 55 above, it follows from Article 7(1) and (3) of Directive 2013/32 that family members are entitled to lodge applications for international protection separately and to include a minor of that family within one of those applications.

77 The ground of inadmissibility set out in Article 33(2)(e) of Directive 2013/32 concerns the specific situation in which a dependant of another person consents first, under Article 7(2) of that directive, to have an application for international protection lodged on his or her behalf, and then lodges his or her own application for international protection.

78 Subject to verification by the referring court, it is clear from the referring court's account of the case in the main proceedings that neither Mrs Ahmedbekova nor Rauf Emin Ogla Ahmedbekov are covered by that specific situation. The same also seems to apply to Mr Ahmedbekov.

79 In those circumstances, the ground of inadmissibility set out in Article 33(2)(e) of Directive 2013/32 cannot apply.

80 That finding is not undermined by the fact that one family member is relying on a family tie and refers in her application to certain facts which are also described in the application made by another family member. Such a situation is not covered by the case referred to in Article 33(2)(e) of Directive 2013/32 but must be assessed in the light of the principles which were set out and specified in answer to the fourth and fifth questions.

81 It follows that the answer to the second and third questions is that the ground of inadmissibility set out in Article 33(2)(e) of Directive 2013/32 does not cover a situation, such as that at issue in the main proceedings, in which an adult lodges, in her own name and on behalf of her minor child, an application for international protection which is based, inter alia, on a family tie with another person who has lodged a separate application for international protection.

The first and ninth questions

82 In view of the answers to the second and third questions, there is no need to answer the first and ninth questions.

83 By its first and ninth questions, the referring court asks, in essence, whether Article 33(2)(e) of Directive 2013/32 has direct effect and can be applied by the referring court to an action against a decision on an application for international protection even if that decision-maker did not assess the applicability of that provision. As is clear from the answer to the second and third questions, Article 33(2)(e) of Directive 2013/32 cannot, in any event, apply to a case such as that at issue in the main proceedings.

The seventh question

84 By its seventh question, the referring court asks, in essence, whether the involvement of an applicant for international protection in bringing a complaint against his country of origin before the European Court of Human Rights must be regarded, for the purposes of assessing the reasons for persecution referred to in Article 10 of Directive 2011/95, as proof of that applicant's membership of a 'particular social group', within the meaning of Article 10(1)(d) of that directive, or as a reason for persecution for 'political opinion', within the meaning of Article 10(1)(e) of the directive.

85 In that regard, it should be noted that Article 10(1) of Directive 2011/95 must be read in conjunction with Article 10(2) of that directive. According to Article 10(2) of Directive 2011/95, when assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.

86 Therefore, regardless of whether an Azerbaijani national's involvement in bringing a complaint against the European Court of Human Rights, for the purposes of supporting a finding that the governing regime disregards fundamental rights, conveys a 'political opinion' on the part of that national, it should be ascertained, in the course of the assessment of the reasons for persecution invoked in the application for international protection lodged by that national, whether there are valid grounds for fearing that that involvement would be perceived by the regime as an act of political dissent against which it might consider taking retaliatory action.

87 Where there are valid grounds to fear that such is the case, it must be concluded that an applicant is subject to a serious and proven threat of persecution for the expression of his opinions on the policies and methods of his country of origin. As is clear from the wording of Article 10(1)(e) of Directive 2011/95, the concept of 'political opinions' in that provision covers such a situation.

88 By contrast, the class of persons to which the applicant for international protection belongs, where such is the case, through her involvement in bringing a claim before the European Court of Human Rights, cannot in principle be regarded as a 'social group' within the meaning of Article 10(1)(d) of Directive 2011/95.

89 For it to be found that there is a 'social group', within the meaning of that provision, two cumulative conditions must be satisfied. First, members of that group must share an 'innate characteristic', or a 'common background that cannot be changed', or share a characteristic or belief that is 'so fundamental to identity or conscience that a person should not be forced to renounce it'. Second, that group must have a distinct identity in the relevant country, because it is perceived as being different by the surrounding society (judgment of 7 November 2013, *X and Others*, C-199/12 to C-201/12, EU:C:2013:720, paragraph 45). Subject to verification by the referring court, those cumulative conditions do not appear to be satisfied in the case in the main proceedings.

90 In the light of the foregoing, the answer to the seventh question is that the involvement of an applicant for international protection in bringing a complaint against his country of origin before the European Court of Human Rights cannot in principle be regarded, for the purposes of assessing the reasons for

persecution referred to in Article 10 of Directive 2011/95, as proof of that applicant's membership of a 'particular social group', within the meaning of Article 10(1)(d) of that directive, but must be regarded as a reason for persecution for 'political opinion', within the meaning of Article 10(1)(e) of the directive, if there are valid grounds for fearing that involvement in bringing that claim would be perceived by that country as an act of political dissent against which it might consider taking retaliatory action.

The eighth question

91 By its eighth question, the referring court asks, in essence, whether Article 46(3) of Directive 2013/32 must be interpreted as meaning that a court before which an action has been brought against a decision refusing international protection is required to examine grounds for granting international protection which, whilst relating to events or threats which allegedly took place before the adoption of that decision, or even before the application for international protection was lodged, have been relied on for the first time during those proceedings.

92 Article 46(3) of Directive 2013/32 defines the scope of the right to an effective remedy which applicants for international protection must enjoy, as provided for in Article 46(1) of that directive, against decisions concerning their application (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 105). That article states that the Member States bound by that directive are to ensure, at least at first instance, that the court or tribunal in which the decision on the application for international protection is contested provides for 'a full and *ex nunc* examination of both facts and points of law, including, where applicable, an examination of the international protection needs pursuant to Directive [2011/95]'.

93 In that regard, the expression '*ex nunc*' points to the court or tribunal's obligation to make an assessment that takes into account, should the need arise, new evidence which has come to light after the adoption of the decision under appeal. As for the word 'full', that adjective confirms that the court or tribunal is required to examine both the evidence which the determining authority took into account or could have taken into account and that which has arisen following the adoption of the decision by that authority (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, points 111 and 113).

94 Although it thus follows from Article 46(3) of Directive 2013/32 that the Member States are required to amend their national law in such a way that the processing of the appeals referred to includes an examination, by the court or tribunal, of all the facts and points of law necessary in order to make an up-to-date assessment of the case at hand (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 110), it does not follow, by contrast, that an applicant for international protection may, without it being subject to a further assessment by the determining authority, modify the ground for his application and, thereby, the configuration of the facts of the case by relying, in an appeal procedure, on a ground for international protection which, whilst relating to events or threats which allegedly took place before the adoption of that authority's decision, or even before the application was lodged, were not mentioned before that authority.

95 It should be recalled, in that regard, that according to Article 2(d) and (f) and of Articles 10 and 15 of Directive 2011/95, international protection can be granted due to a well-founded fear of persecution on the basis of race, religion, nationality, membership of a particular social group, or political opinion, each of those reasons being defined separately in Article 10, or due to one of the forms of serious harm listed in Article 15.

96 It must be stressed that the examination of the application for international protection by the determining authority, which is an administrative or quasi-judicial body with specific resources and specialised staff in this area, is a vital stage of the common procedures established by Directive

2013/32 and that the applicant's right to obtain a full and *ex nunc* examination before a court or tribunal, laid down in Article 46(3) of that directive, cannot be interpreted to the effect of diminishing the obligation on the part of that applicant to cooperate with that authority (see, to that effect, judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 116).

97 That vital stage before the determining authority would be circumvented if the applicant were, without any procedural consequences, allowed to rely, for the purposes of having a court annul or replace the decision of refusal adopted by that authority, on a ground of international protection which, whilst relating to allegedly antedated events or threats, was not raised before that authority and could not therefore be examined by it.

98 Accordingly, where one of the grounds for international protection referred to in paragraph 95 above is invoked for the first time in an appeal procedure and relates to alleged events or threats antedating the adoption of that decision, or even the lodging of the application for international protection, that ground must be regarded as a 'further representation', within the meaning of Article 40(1) of Directive 2013/32. As follows from that provision, such a characterisation means that the court before which the appeal has been brought is required to consider that ground in the course of its examination of the decision against which the appeal has been brought, provided nonetheless that each of the 'competent authorities', which includes not only that court but also the determining authority, has the opportunity to assess, in that framework, that further representation.

99 In order to determine whether that court itself is able to assess that further representation in the course of the action, it is for the court to ascertain, in accordance with the rules of procedure laid down by national law, whether the ground for international protection relied on for the first time before it has not been included in a later phase of the appeal procedure and has been presented in a sufficiently specific manner for it to be duly considered.

100 Provided that as a result of that finding the court is able to incorporate that ground in its assessment of the action, it is for the court to ask the determining authority within a period of time in keeping with the objective of expediency pursued by Directive 2013/32 (see, in that regard, judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 109) for an assessment of that ground, the result and underlying reasons of which must be provided to the applicant and to the court before the court has interviewed the applicant and considered the case.

101 In the present case, as noted by the Advocate General in point 74 of his Opinion, certain documents of the file before the Court suggest that the reason for a well-founded fear of persecution on the basis of political opinion, on which the referring court raised its questions, had already been invoked before the DAB, Mrs Ahmedbekova having, however, added during the appeal procedure, further evidence in support of that reason.

102 If, which it is for the referring court alone to ascertain, Mrs Ahmedbekova added during the appeal procedure not a ground of international protection but further evidence in support of a reason which was relied on before, and rejected by, the determining authority, in such a case, it is for the court before which the action has been brought to ascertain whether the evidence relied on for the first time before it is significant and does not overlap with the evidence which the determining authority was able to take into account. If so, the considerations set out in paragraphs 97 to 100 above, apply *mutatis mutandis*.

103 In the light of the foregoing, the answer to the eighth question is that Article 46(3) of Directive 2013/32 read in conjunction with the reference to the appeal procedure contained in Article 40(1) of that directive, must be interpreted as meaning that a court before which an action has been brought against a decision refusing international protection is, in principle, required to examine, as 'further representations' and having asked the determining authority for an assessment of those representations, grounds for granting international protection or evidence which, whilst relating to

events or threats which allegedly took place before the adoption of the decision of refusal, or even before the application for international protection was lodged, have been relied on for the first time during those proceedings. That court is not, however, required to do so if it finds that those grounds or evidence were relied on in a late stage of the appeal proceedings or are not presented in a sufficiently specific manner to be duly considered or, in respect of evidence, it finds that that evidence is not significant or insufficiently distinct from evidence which the determining authority was already able to take into account.

Costs

104 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 (Second Chamber) hereby rules:

1. **Article 4 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, must be interpreted as meaning that, in carrying out the assessment of an application for international protection on an individual basis, account must be taken of the threat of persecution and of serious harm in respect of a family member of the applicant for the purpose of determining whether the applicant is, because of his family tie to the person at risk, himself exposed to such a threat.**

2. **Directive 2011/95 and 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 must be interpreted as not precluding applications for international protection lodged separately by members of a single family from being subject to measures intended to address any interaction between applications, but as precluding those applications from being subject to a single assessment. They also preclude the assessment of one of those applications from being suspended until the conclusion of the examination procedure in respect of another of those applications.**

3. **Article 3 of Directive 2011/95 must be interpreted as permitting a Member State, when granting international protection to a family member pursuant to the system established by that directive, to provide for an extension of the scope of that protection to other family members, provided that they do not fall within the scope of a ground for exclusion laid down in Article 12 of that directive and that their situation is, due to the need to maintain family unity, consistent with the rationale of international protection.**

4. **Article 33(2)(e) of Directive 2013/32 does not cover a situation, such as that at issue in the main proceedings, in which an adult lodges, in her own name and on behalf of her minor child, an application for international protection which is based, inter alia, on a family tie with another person who has lodged a separate application for international protection.**

5. **The involvement of an applicant for international protection in bringing a complaint against his country of origin before the European Court of Human Rights cannot in principle be regarded, for the purposes of assessing the reasons for persecution referred to in Article 10 of Directive 2011/95, as proof of that applicant's membership of a 'particular social group', within the meaning of Article 10(1)(d) of that directive, but must be regarded as a reason for persecution for 'political opinion', within the meaning of Article 10(1)(e) of the directive, if**

there are valid grounds for fearing that involvement in bringing that claim would be perceived by that country as an act of political dissent against which it might consider taking retaliatory action.

6. **Article 46(3) of Directive 2013/32 read in conjunction with the reference to the appeal procedure contained in Article 40(1) of that directive, must be interpreted as meaning that a court before which an action has been brought against a decision refusing international protection is, in principle, required to examine, as 'further representations' and having asked the determining authority for an assessment of those representations, grounds for granting international protection or evidence which, whilst relating to events or threats which allegedly took place before the adoption of the decision of refusal, or even before the application for international protection was lodged, have been relied on for the first time during those proceedings. That court is not, however, required to do so if it finds that those grounds or evidence were relied on in a late stage of the appeal proceedings or are not presented in a sufficiently specific manner to be duly considered or, in respect of evidence, it finds that that evidence is not significant or insufficiently distinct from evidence which the determining authority was already able to take into account.**

[Signatures]