ECLI:EU:C:2019:956

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

12 November 2019 (*)

(Reference for a preliminary ruling — Applicants for international protection — Directive 2013/33/EU — Article 20(4) and (5) — Serious breach of the rules of the accommodation centres as well as seriously violent behaviour — Scope of the Member States' right to determine the sanctions applicable — Unaccompanied minor — Reduction or withdrawal of material reception conditions)

In Case C-233/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the arbeidshof te Brussel (Higher Labour Court, Brussels, Belgium), made by decision of 22 March 2018, received at the Court on 29 March 2018, in the proceedings

**Zubair Haqbin**

v

**Federaal Agentschap voor de opvang van asielzoekers,**

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, R. Silva de Lapuerta, Vice-President, J.–C. Bonichot, M. Vilaras (Rapporteur), M. Safjan and S. Rodin, Presidents of Chambers, L. Bay Larsen, T. von Danwitz, C. Toader, D. Šváby, F. Biltgen, K. Jürimäe and C. Lycourgos, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: M.-A. Gaudissart, Deputy Registrar,

having regard to the written procedure and further to the hearing on 11 March 2019,

after considering the observations submitted on behalf of:

– M. Haqbin, by B. Dhont and K. Verstrepen, advocaten,

– the Belgian Government, by C. Van Lul, C. Pochet and P. Cottin, acting as Agents, and by S. Ishaque and A. Detheux, advocaten,

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

– the Netherlands Government, by M.K. Bulterman and P. Huurnink, acting as Agents,

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

– the European Commission, by M. Condou-Durande and G. Wils, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 6 June 2019,

gives the following

**Judgment**

1 This request for a preliminary ruling concerns the interpretation of Article 20 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).

2 The request has been made in proceedings between Mr Zubair Haqbin and the Federaal Agentschap voor de opvang van asielzoekers (Federal agency for the reception of asylum seekers, Belgium) ('Fedasil'), concerning a claim for compensation brought by Mr Haqbin against Fedasil, following two decisions of the latter that temporarily excluded him from material reception conditions.

**Legal context**

***EU law***

*Directive 2013/33*

3 According to Article 32 of Directive 2013/33, the directive, for the Member States bound by it, repealed and replaced Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ 2003 L 31, p. 18).

4 Recitals 7, 25 and 35 of Directive 2013/33 are worded as follows:

'(7) In the light of the results of the evaluations undertaken of the implementation of the first-phase instruments, it is appropriate, at this stage, to confirm the principles underlying Directive [2003/9] with a view to ensuring improved reception conditions for applicants for international protection ("applicants").

…

(25) The possibility of abuse of the reception system should be restricted by specifying the circumstances in which material reception conditions for applicants may be reduced or withdrawn while at the same time ensuring a dignified standard of living for all applicants.

…

(35) 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 the Charter and has to be implemented accordingly.'

5 As set out in Article 1 of Directive 2013/33, the purpose of the directive is to lay down standards for the reception of applicants in Member States.

6 Article 2 of the directive, entitled 'Definitions', provides:

'For the purposes of this directive:

…

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

(e) "unaccompanied minor": means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States;

(f) "reception conditions": means the full set of measures that Member States grant to applicants in accordance with this directive;

(g) "material reception conditions": means the reception conditions that include housing, food and clothing provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance;

…

(i) "accommodation centre": means any place used for the collective housing of applicants;

…'

7 Article 8(3) of Directive 2013/33, that article being entitled 'Detention', states:

'An applicant may be detained only:

…

(e) when protection of national security or public order so requires;

…'

8 Article 14 of the directive, under the heading ‘Schooling and education of minors’, provides:

‘1. Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under similar conditions as their own nationals for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres.

The Member State concerned may stipulate that such access must be confined to the State education system.

Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.

2. Access to the education system shall not be postponed for more than 3 months from the date on which the application for international protection was lodged by or on behalf of the minor.

Preparatory classes, including language classes, shall be provided to minors where it is necessary to facilitate their access to and participation in the education system as set out in paragraph 1.

3. Where access to the education system as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State concerned shall offer other education arrangements in accordance with its national law and practice.’

9 Article 17(1) and (4) of the directive, that article being entitled ‘General rules on material reception conditions and health care’, provides:

‘1. Member States shall ensure that material reception conditions are available to applicants when they make their application for international protection.

2. Member States shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health.

Member States shall ensure that that standard of living is met in the specific situation of vulnerable persons, in accordance with Article 21, as well as in relation to the situation of persons who are in detention.

3. Member States may make the provision of all or some of the material reception conditions and health care subject to the condition that applicants do not have sufficient means to have a standard of living adequate for their health and to enable their subsistence.

4. Member States may require applicants to cover or contribute to the cost of the material reception conditions and of the health care provided for in this directive, pursuant to the provision of paragraph 3, if the applicants have sufficient resources, for example if they have been working for a reasonable period of time.

If it transpires that an applicant had sufficient means to cover material reception conditions and health care at the time when those basic needs were being covered, Member States may ask the applicant for a refund.’

10 Article 18(1) of the directive, that article being entitled ‘Modalities for material reception conditions’, provides:

‘Where housing is provided in kind, it should take one or a combination of the following forms:

(a) premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones;

(b) accommodation centres which guarantee an adequate standard of living;

(c) private houses, flats, hotels or other premises adapted for housing applicants.’

11 Article 20 of Directive 2013/33, the only provision in Chapter III thereof, is entitled ‘Reduction or withdrawal of material reception conditions’. That article is worded as follows:

‘1. Member States may reduce or, in exceptional and duly justified cases, withdraw material reception conditions where an applicant:

(a) abandons the place of residence determined by the competent authority without informing it or, if requested, without permission; or

(b) does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure during a reasonable period laid down in national law; or

(c) has lodged a subsequent application as defined in Article 2(q) 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)].

In relation to cases (a) and (b), when the applicant is traced or voluntarily reports to the competent authority, a duly motivated decision, based on the reasons for the disappearance, shall be taken on the reinstallation of the grant of some or all of the material reception conditions withdrawn or reduced.

2. Member States may also reduce material reception conditions when they can establish that the applicant, for no justifiable reason, has not lodged an application for international protection as soon as reasonably practicable after arrival in that Member State.

3. Member States may reduce or withdraw material reception conditions where an applicant has concealed financial resources, and has therefore unduly benefited from material reception conditions.

4. Member States may determine sanctions applicable to serious breaches of the rules of the accommodation centres as well as to seriously violent behaviour.

5. Decisions for reduction or withdrawal of material reception conditions or sanctions referred to in paragraphs 1, 2, 3 and 4 of this article shall be taken individually, objectively and impartially and reasons shall be given. Decisions shall be based on the particular situation of the person concerned, especially with regard to persons covered by Article 21, taking into account the principle of proportionality. Member States shall under all circumstances ensure access to health care in accordance with Article 19 and shall ensure a dignified standard of living for all applicants.

6. Member States shall ensure that material reception conditions are not withdrawn or reduced before a decision is taken in accordance with paragraph 5.'

12 Article 21 of Directive 2013/33, entitled 'General principle', provides that, in their national law transposing that directive, Member States are to take into account the specific situation of vulnerable persons, in particular minors and unaccompanied minors.

13 Article 22(1) and (3) of the directive, that article being entitled 'Assessment of the special reception needs of vulnerable persons', provides:

'1. …

Member States shall ensure that the support provided to applicants with special reception needs in accordance with this directive takes into account their special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.

…

3. Only vulnerable persons in accordance with Article 21 may be considered to have special reception needs and thus benefit from the specific support provided in accordance with this directive.'

14 Article 23 of Directive 2013/33, on minors, states:

'1. The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this directive that involve minors. …

2. In assessing the best interests of the child, Member States shall in particular take due account of the following factors:

…

(b) the minor's well-being and social development, taking into particular consideration the minor's background;

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;

…'

15 Article 24(2) of the directive, that article being on unaccompanied minors, provides:

'Unaccompanied minors who make an application for international protection shall, from the moment they are admitted to the territory until the moment when they are obliged to leave the Member State in which the application for international protection was made or is being examined, be placed:

…

(c) in accommodation centres with special provisions for minors;

(d) in other accommodation suitable for minors.

…’

*Directive 2013/32*

16 ‘Subsequent application’ is defined in Article 2(q) of Directive 2013/32 as a further application for international protection made after a final decision has been taken on a previous application, including cases where the applicant has explicitly withdrawn his or her application and cases where the determining authority has rejected an application following its implicit withdrawal in accordance with Article 28(1) of that directive.

***Belgian law***

17 Article 45 of the Wet betreffende de opvang van asielzoekers en van bepaalde andere categorieën van vreemdelingen (Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreign nationals) (*Moniteur belge* of 7 May 2007, p. 24027), in the version applicable to the events in the main proceedings (‘the Law on reception’), provided:

‘A sanction may be imposed on the beneficiary of the reception in the event of a serious breach of the operating regulations and rules applicable to the reception facilities referred to in Article 19. When choosing the sanction, it is necessary to take into account the nature and the importance of the breach and also the actual circumstances in which it was committed.

Only the following sanctions may be imposed:

…

(7) temporary exclusion from material support in a reception facility for a maximum period of 1 month.

The sanctions shall be imposed by the director or responsible officer of the reception facility. The sanction referred to in subparagraph 2(7) must be confirmed by the director-general of [Fedasil] within three working days of the adoption of the sanction by the director or the manager of the reception facility. Where it is not confirmed within that period, the sanction of temporary exclusion shall automatically be lifted.

Sanctions may, while they are being implemented, be reduced or lifted by the authority which imposed them.

The decision imposing a sanction shall be adopted objectively and impartially and shall state the reasons on which it is based.

With the exception of the sanction referred to in subparagraph 2(7), in no case shall the enforcement of a sanction have the effect of completely cancelling the material support granted under this law, or of reducing access to medical support. The sanction referred to in subparagraph 2(7) shall have the effect that the person on whom it is imposed is unable to benefit from any other form of reception apart from access to medical support, as referred to in Articles 24 and 25 of the [Law on reception].

The sanction referred to in subparagraph 2(7) may be imposed only in the event of a very serious breach of the internal regulations of the reception facility endangering the staff or other residents of

the reception facility or giving rise to serious risks for security or respect for public order in the reception facility.

The person on whom the sanction of temporary exclusion is imposed must be heard before the sanction is adopted.

…'

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

18 Mr Haqbin, of Afghan nationality, arrived in Belgium as an unaccompanied minor and lodged an application for international protection on 23 December 2015. A guardian was appointed for him and he was hosted at the Sugny reception centre and subsequently at the Broechem reception centre. In that last centre, on 18 April 2016, he was involved in a brawl between residents of various ethnic origins. The police had to intervene to put an end to the disturbance and arrested Mr Haqbin on the ground that he was allegedly one of the instigators of the brawl. Mr Haqbin was released the following day.

19 By decision of the director of the Broechem reception centre of 19 April 2016, confirmed by decision of the director-general of Fedasil of 21 April 2016, Mr Haqbin was excluded, for a period of 15 days, from material support in a reception facility, pursuant to subparagraph 2(7) of Article 45 of the Law on reception.

20 According to his own statements and those of his guardian, Mr Haqbin spent the nights from 19 to 21 April and from 24 April to 1 May 2016 in a park in Brussels and stayed with friends or acquaintances on the other nights.

21 On 25 April 2016, Mr Haqbin's guardian lodged before the arbeidsrechtbank te Antwerpen (Labour Court, Antwerp, Belgium) an application to suspend the exclusion measure imposed by the decisions referred to in paragraph 19 above. That application was dismissed for lack of extreme urgency, since Mr Haqbin had failed to show that he was homeless.

22 From 4 May 2016 Mr Haqbin was assigned to a different reception centre.

23 Mr Haqbin's guardian brought an action before the Nederlandstalige arbeidsrechtbank te Brussel (Dutch-speaking Labour Court, Brussels, Belgium), seeking cancellation of the decisions of 19 and 21 April 2016 and compensation for the damage suffered. By judgment of that court on 21 February 2017 the action was dismissed as unfounded.

24 On 27 March 2017 Mr Haqbin's guardian brought an appeal against that judgment before the referring court, the arbeidshof te Brussel (Higher Labour Court, Brussels, Belgium). On 11 December 2017 Mr Haqbin, who had reached his majority in the meantime, continued the proceedings in his own name.

25 The referring court considers that Article 20 of Directive 2013/33 raises an issue of interpretation. It notes that the Contact Committee set up with the European Commission to assist Member States with the transposition of Directive 2013/33 stated at the meeting of 12 September 2013 that, in its opinion, Article 20(4) of the directive provided for sanctions of a type other than measures involving the reduction or withdrawal of material reception conditions. In the committee's opinion, that interpretation follows from the exhaustive nature of the reasons, set out in Article 20(1) to (3) of the directive, justifying the reduction or withdrawal of material reception

conditions. However, in the opinion the Raad van State (Council of State, Belgium) gave in the context of the drafting history of the Law of 6 July 2016 amending the Law on reception (*Moniteur belge* of 5 August 2016, p. 47647), which was adopted for the purposes of the partial transposition of Directive 2013/33, the Raad van State (Council of State) considered that that was not the only conceivable reading of Article 20 of Directive 2013/33, in the light of the drafting and the interaction of Article 20(4) to (6) of the directive.

26 According to the referring court, the answer to be given to the question of interpretation referred to in the previous paragraph is relevant to the resolution of the dispute before it since, if Article 20 of Directive 2013/33 were to be interpreted as meaning that exclusion from material reception conditions is permissible only in the cases set out in Article 20(1) to (3) of the directive and is not permissible in the context of a sanction pursuant to Article 20(4) thereof, that would be sufficient for a ruling that the decisions of 19 and 21 April 2016 are unlawful and that Fedasil erred in imposing a sanction contrary to the law.

27 Moreover, the referring court takes the view that the practical application of the requirement to ensure a dignified standard of living for all applicants, which is incumbent upon Member States under Article 20(5) and (6) of Directive 2013/33, also raises questions. In that regard, it notes in particular that it is apparent from the drafting history of the Law of 6 July 2016 amending the Law on reception, referred to in paragraph 25 above, and, specifically, from the explanatory memorandum to the draft legislation that, according to the competent ministers, the objective of Directive 2013/33 can be achieved by the possibility afforded to applicants who are temporarily or definitively excluded from material reception conditions to approach one of the private centres for the homeless, a list of which is said to be provided to them.

28 According to the referring court, the question arises as to whether, in order to ensure a dignified standard of living for applicants, the public authority responsible for their reception must have adopted the necessary measures to make sure that an asylum seeker who has been excluded from material reception conditions by way of sanction nevertheless enjoys a dignified standard of living or whether it may simply rely on private assistance and intervene only if the latter is unable to ensure such a standard of living for the person concerned.

29 Lastly, if it were to be considered that the sanctions referred to in Article 20(4) of Directive 2013/33 may take the form of exclusion from material reception conditions, the referring court asks whether such sanctions may be imposed on a minor and, in particular, an unaccompanied minor.

30 In those circumstances, the arbeidshof te Brussel (Higher Labour Court, Brussels) decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

‘1. Must Article 20(1) to (3) of Directive [2013/33] be interpreted as enumerating exhaustively the cases in which material reception conditions may be reduced or withdrawn, or does it follow from Article 20(4) and (5) thereof that withdrawal of the right to material reception conditions may also occur by means of sanctions for serious breaches of the rules relating to reception centres and serious acts of violence?

2. Must Article 20(5) and (6) [of that directive] be interpreted as meaning that Member States, before taking a decision on the reduction or withdrawal of material reception conditions or on the imposition of sanctions, must, in the context of those decisions, lay down the measures necessary for guaranteeing the right to a dignified standard of living during the period of exclusion, or can those provisions be complied with by a system whereby, after the decision to reduce or withdraw the material reception conditions, an examination is carried out as to whether the person who is the

subject of the decision enjoys a dignified living standard and, if necessary, remedial measures are taken at that point?

3. Must Article 20(4) to (6) [of the directive], read in conjunction with Articles 14 [and 21 to 24 thereof] and [with Articles 1, 3, 4 and 24] of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that a measure or sanction of temporary (or definitive) exclusion from the right to material reception conditions is possible, or impossible, in respect of a minor, specifically in respect of an unaccompanied minor?'

**Consideration of the questions referred**

31 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 20(4) of Directive 2013/33 must be interpreted as meaning that a Member State can, among the sanctions that may be imposed on an applicant in the event of serious breaches of the rules of the accommodation centres as well as seriously violent behaviour, provide for the withdrawal or reduction of material reception conditions within the meaning of Article 2(f) and (g) of the directive and, if so, under which conditions such a sanction may be imposed, in particular where it concerns a minor and, specifically, an unaccompanied minor within the meaning of Article 2(d) and (e).

32 In that regard, it must be noted that, as is apparent from the definitions in Article 2(f) and (g) of Directive 2013/33, 'material reception conditions' means the full set of measures that Member States, in accordance with the directive, grant to applicants and include housing, food and clothing provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance.

33 Under Article 17(1) and (2) of Directive 2013/33, Member States must ensure that material reception conditions are available to applicants when they make their application for international protection and that the measures adopted for those purposes provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health.

34 In the specific situation of 'vulnerable persons' within the meaning of Article 21 of the directive, which include unaccompanied minors such as Mr Haqbin at the time when he was the subject of the sanction at issue in the main proceedings, the second subparagraph of Article 17(2) of the directive states that Member States must ensure that such a standard of living is 'met'.

35 However, the requirement for Member States to ensure that material reception conditions are available to applicants is not absolute. The EU legislature laid down, in Article 20 of Directive 2013/33, which is in Chapter III thereof, both of which are entitled 'Reduction or withdrawal of material reception conditions', the circumstances in which those conditions may be reduced or withdrawn.

36 As noted by the referring court, the first three paragraphs of that article refer explicitly to 'material reception conditions'.

37 In that regard, Article 20(1) of the directive provides that Member States may reduce or, in exceptional and duly justified cases, withdraw material reception conditions where an applicant abandons the place of residence determined by the competent authority of the Member State concerned without informing it or without permission, does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum

procedure, or has lodged a ‘subsequent application’ within the meaning of Article 2(q) of Directive 2013/32.

38 Article 20(2) of Directive 2013/33 states that material reception conditions may be reduced when it is established that the applicant, for no justifiable reason, has not lodged an application for international protection as soon as reasonably practicable after arrival in that Member State.

39 Moreover, as provided in Article 20(3) of Directive 2013/33, Member States may reduce or withdraw material reception conditions where an applicant has concealed financial resources, and has therefore unduly benefited from those conditions.

40 Article 20(4) of Directive 2013/33 states that Member States may determine ‘sanctions’ applicable to serious breaches, by the applicant, of the rules of the accommodation centres as well as to seriously violent behaviour of the applicant.

41 Since the concept of ‘sanction’ referred to, in particular, in Article 20(4) of Directive 2013/33 is not defined in the directive and since the nature of the sanctions that may be imposed on an applicant under that provision is not specified, Member States are given some latitude in determining those sanctions.

42 Since the wording of Article 20(4) of Directive 2013/33 does not in itself settle the questions referred by the referring court, as reworded in paragraph 31 above, it is necessary, for the purpose of interpreting that provision, to have regard to the general scheme and the aim of that directive (see, by analogy, judgment of 16 July 2015, *CHEZ Razpredelenie Bulgaria*, C-83/14, EU:C:2015:480, paragraph 55 and the case-law cited).

43 In particular, with regard to the question whether a ‘sanction’ within the meaning of Article 20(4) of Directive 2013/33 may relate to ‘material reception conditions’, it is appropriate to note, first, that a measure for reduction or withdrawal of material reception conditions in respect of an applicant on account of serious breaches of the rules of the accommodation centres or seriously violent behaviour constitutes, in the light of the aim and the detrimental consequences thereof for the applicant, a ‘sanction’ in the ordinary meaning of that word and, secondly, that that provision is included in Chapter III of the directive, which is dedicated to the reduction and withdrawal of such conditions. It follows that the sanctions envisaged in the directive may, in principle, concern material reception conditions.

44 It is true that the possibility for Member States to reduce or withdraw, as the case may be, material reception conditions is explicitly provided for only in Article 20(1) to (3) of Directive 2013/33, which, as is apparent from recital 25 of the directive, concerns essentially the possibility of abuse, by applicants, of the reception system established by the directive. However, Article 20(4) of the directive does not explicitly preclude a sanction from concerning material reception conditions. Furthermore, as submitted by the Commission, inter alia, if Member States can adopt measures concerning those conditions in order to protect themselves against the possibility of abuse of the reception system, they must also be able to do so in the event of serious breaches of the rules of the accommodation centres or seriously violent behaviour, since they are capable of disrupting public order and the safety of persons and property.

45 That being said, it should be observed that, in accordance with Article 20(5) of Directive 2013/33, any sanction within the meaning of Article 20(4) thereof must be objective, impartial, reasoned and proportionate to the particular situation of the applicant and must, under all circumstances, ensure access to health care and a dignified standard of living for the applicant.

46 With regard specifically to the requirement to ensure a dignified standard of living, it is apparent from recital 35 of Directive 2013/33 that the directive seeks to ensure full respect for human dignity and to promote the application, inter alia, of Article 1 of the Charter of Fundamental Rights and has to be implemented accordingly. In that regard, respect for human dignity within the meaning of that article requires the person concerned not finding himself or herself in a situation of extreme material poverty that does not allow that person to meet his or her most basic needs such as a place to live, food, clothing and personal hygiene, and that undermines his or her physical or mental health or puts that person in a state of degradation incompatible with human dignity (see, to that effect, judgment of 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218, paragraph 92 and the case-law cited).

47 A sanction that is imposed exclusively on the basis of one of the reasons mentioned in Article 20(4) of Directive 2013/33 and consists in the withdrawal, even if only a temporary one, of the full set of material reception conditions or of material reception conditions relating to housing, food or clothing would be irreconcilable with the requirement, arising from the third sentence of Article 20(5) of the directive, to ensure a dignified standard of living for the applicant, since it would preclude the applicant from being allowed to meet his or her most basic needs such as those mentioned in the previous paragraph.

48 Such a sanction would also amount to a failure to comply with the proportionality requirement under the second sentence of Article 20(5) of Directive 2013/33, in so far as even the most stringent sanctions, whose objective is to punish, in criminal law, the breaches or behaviour referred to in Article 20(4) of the directive, cannot deprive the applicant of the possibility of meeting his or her most basic needs.

49 That consideration is not called into question by the fact, mentioned by the referring court, that an applicant excluded by way of sanction from an accommodation centre in Belgium is said to be provided, upon the imposition of that sanction, with a list of private centres for the homeless likely to host him or her. Indeed, the competent authorities of a Member State cannot do no more than provide an applicant who is excluded from an accommodation centre following a sanction imposed upon him or her with a list of reception facilities which the applicant might approach in order to benefit from material reception conditions equivalent to those that have been withdrawn from him or her.

50 On the contrary, first, the obligation to ensure a dignified standard of living, provided for in Article 20(5) of Directive 2013/33, requires Member States, by the very fact that the verb ‘ensure’ is used therein, to guarantee such a standard of living continuously and without interruption. Secondly, it is for the authorities of the Member States to ensure, under their supervision and under their own responsibility, the provision of material reception conditions guaranteeing such a standard of living, including when they have recourse, where appropriate, to private natural or legal persons in order to carry out, under their authority, that obligation.

51 In the case of a sanction based on a reason set out in Article 20(4) of Directive 2013/33 and consisting in the reduction of material reception conditions, including the withdrawal or reduction of the daily expenses allowance, it is for the competent authorities to ensure under all circumstances that, in accordance with Article 20(5) of the directive, such a sanction, having regard to the particular situation of the applicant as well as all of the circumstances of that case, complies with the principle of proportionality and does not undermine the dignity of the applicant.

52 It should also be made clear that in the cases envisaged in Article 20(4) of Directive 2013/33, depending on the circumstances of the case and subject to the requirements set out in Article 20(5)

of the directive, Member States may impose sanctions that do not have the effect of depriving the applicant of material reception conditions, such as being held in a separate part of the accommodation centre as well as being prohibited from contacting certain residents of the centre or being transferred to another accommodation centre or to other housing within the meaning of Article 18(1)(c) of the directive. Similarly, Article 20(4) and (5) of Directive 2013/33 does not preclude a measure to hold the applicant in detention pursuant to Article 8(3)(e) of the directive in so far as the conditions laid down in Articles 8 to 11 thereof are satisfied.

53 Lastly, it is important to note that, where the applicant, as in the main proceedings, is an unaccompanied minor, that is to say a 'vulnerable person' within the meaning of Article 21 of Directive 2013/33, the authorities of the Member States, when imposing sanctions pursuant to Article 20(4) of the directive, must especially take into account, according to the second sentence of Article 20(5) thereof, of the particular situation of the minor and of the principle of proportionality.

54 Moreover, according to Article 23(1) of Directive 2013/33 the best interests of the child are a primary consideration for Member States when implementing the provisions of the directive that involve minors. Under Article 23(2) of the directive, in assessing those best interests, Member States must in particular take due account of factors such as the minor's well-being and social development, taking into particular consideration the minor's background, such as safety and security considerations. Recital 35 of the directive also underlines that the latter seeks to promote the application, inter alia, of Article 24 of the Charter of Fundamental Rights and has to be implemented accordingly.

55 In that context, beyond the general considerations set out in paragraphs 47 to 52 above, the minor's situation must, under all circumstances, be taken into particular consideration when a sanction is imposed pursuant to Article 20(4) of Directive 2013/33, read in conjunction with Article 20(5) thereof. Furthermore, neither of those provisions precludes the authorities of a Member State from deciding to entrust the care of the minor concerned to child protection services or to the judicial authorities responsible therefor.

56 In the light of all of the foregoing, the answer to the questions referred is that Article 20(4) and (5) of Directive 2013/33, read in the light of Article 1 of the Charter of Fundamental Rights, must be interpreted as meaning that a Member State cannot, among the sanctions that may be imposed on an applicant for serious breaches of the rules of the accommodation centres as well as seriously violent behaviour, provide for a sanction consisting in the withdrawal, even temporary, of material reception conditions, within the meaning of Article 2(f) and (g) of the directive, relating to housing, food or clothing, in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs. The imposition of other sanctions under Article 20(4) of the directive must, under all circumstances, comply with the conditions laid down in Article 20(5) thereof, including those concerning the principle of proportionality and respect for human dignity. In the case of an unaccompanied minor, those sanctions must, in the light, inter alia, of Article 24 of the Charter of Fundamental Rights, be determined by taking particular account of the best interests of the child.

**Costs**

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

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

**Article 20(4) and (5) 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, read in the light of Article 1 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that a Member State cannot, among the sanctions that may be imposed on an applicant for serious breaches of the rules of the accommodation centres as well as seriously violent behaviour, provide for a sanction consisting in the withdrawal, even temporary, of material reception conditions, within the meaning of Article 2(f) and (g) of the directive, relating to housing, food or clothing, in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs. The imposition of other sanctions under Article 20(4) of the directive must, under all circumstances, comply with the conditions laid down in Article 20(5) thereof, including those concerning the principle of proportionality and respect for human dignity. In the case of an unaccompanied minor, those sanctions must, in the light, inter alia, of Article 24 of the Charter of Fundamental Rights, be determined by taking particular account of the best interests of the child.**

[Signatures]

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* Language of the case: Dutch.