JUDGMENT OF THE COURT (First Chamber)

24 June 2015 (*)

(Reference for a preliminary ruling — Area of freedom, security and justice — Borders, asylum and immigration — Directive 2004/83/EC — Article 24(1) — Minimum standards for granting refugee or subsidiary protection status — Revocation of residence permit — Conditions for revocation of residence permit — Concept of 'compelling reasons of national security or public order' — Participation of a person with refugee status in the activities of an organisation entered in the list of terrorist organisations drawn up by the European Union)

In Case C-373/13,

REQUEST for a preliminary ruling under Article 267 TFEU from the from the Verwaltungsgerichtshof Baden-Württemberg (Germany), made by decision of 27 May 2013, received at the Court on 2 July 2013, in the proceedings

H. T.

v

Land Baden-Württemberg,

THE COURT (First Chamber),

composed of A. Tizzano, President of the Chamber, S. Rodin, A. Borg Barthet, E. Levits and M. Berger (Rapporteur), Judges,

Advocate General: E. Sharpston,

Registrar: A. Impellizzeri, Administrator,

having regard to the written procedure and further to the hearing on 4 June 2014,

after considering the observations submitted on behalf of:

– T., by B. Pradel, Rechtsanwalt,

– the German Government, by T. Henze, A. Lippstreu and A. Wiedmann, acting as Agents,

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

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

– the European Commission, by M. Condou-Durande and W. Bogensberger, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 11 September 2014

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 21(2) and (3) and Article 24(1) and (2) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004 L 304, p. 12, and corrigenda OJ 2005 L 204, p. 24 and OJ 2011 L 278, p. 13).

2 The request has been made in the context of proceedings between Mr T. and the Land Baden-Württemberg concerning a decision ordering his expulsion from the Federal Republic of Germany and revoking his residence permit.

Legal context

International law

The Geneva Convention relating to the Status of Refugees

3 Article 28 of 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), and which entered into force on 22 April 1954 (‘the Geneva Convention’), as supplemented by the Protocol Relating to the Status of Refugees of 31 January 1967, which entered into force on 4 October 1967, provides, in paragraph 1, entitled ‘Travel documents’:

‘The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, …’

4 Article 32 of the Geneva Convention, entitled ‘Expulsion’, provides in paragraph 1:

‘The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.’

5 Article 33 of the Geneva Convention, entitled ‘Prohibition of expulsion or return (“refoulement”)’, provides:

1. No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

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

The United Nations Security Council resolutions

6 On 28 September 2001, the United Nations Security Council adopted Resolution 1373 (2001), the preamble to which reaffirms, inter alia, ‘the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts’.

7 In paragraph 5 of that resolution, the United Nations Security Council declares ‘that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations’.

8 Paragraph 5 of United Nations Security Council Resolution 1377 (2001) of 12 November 2001, concerning threats to international peace and security caused by terrorist acts, stresses ‘that acts of international terrorism are contrary to the purposes and principles of the Charter of the United Nations, and that the financing, planning and preparation of as well as any other form of support for acts of international terrorism are similarly contrary to the purposes and principles of the Charter of the United Nations’.

EU law

9 Recitals 3, 6, 10, 14, 22, 28 and 30 in the preamble to Directive 2004/83 state:

‘(3) The Geneva Convention and Protocol provide the cornerstone of the international legal regime for the protection of refugees.

…

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

…

(10) 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.

…

(14) The recognition of refugee status is a declaratory act.

…

(22) Acts contrary to the purposes and principles of the United Nations are set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations and are, amongst others, embodied in the United Nations Resolutions relating to measures combating terrorism, which declare that “acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations” and that “knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations”.

…

(28) The notion of national security and public order covers cases where a third country national belongs to an association which supports international terrorism or supports such an association.

…

(30) Within the limits set by their international obligations, Member States may lay down that the granting of benefits with regard to access to employment, social welfare, health care and access to integration facilities requires the prior issue of a residence permit.’

10 Article 13 of Directive 2004/83, entitled ‘Granting of refugee status’, provides:

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

11 According to Article 14 of that directive, entitled ‘Revocation of, ending of or refusal to renew refugee status’:

‘…

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

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

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

…

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

12 Article 21 of that directive, entitled ‘Protection from refoulement’, provides:

‘1. Member States shall respect the principle of non-refoulement in accordance with their international obligations.

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

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

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

3. Member States may revoke, end or refuse to renew or to grant the residence permit of (or to) a refugee to whom paragraph 2 applies.’

13 Article 24 of the directive, entitled ‘Residence permits’, reads as follows:

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

Without prejudice to Article 23(1), the residence permit to be issued to the family members of the beneficiaries of refugee status may be valid for less than three years and renewable.

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

14 Article 28 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004 L 158, p. 77, corrigenda OJ 2004 L 229, p. 35 and OJ 2005 L 197, p. 34), entitled 'Protection against expulsion', provides:

'1. Before taking an expulsion decision on grounds of public policy or public security, the host Member State shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host Member State and the extent of his/her links with the country of origin.

2. The host Member State may not take an expulsion decision against Union citizens or their family members, irrespective of nationality, who have the right of permanent residence on its territory, except on serious grounds of public policy or public security.

3. An expulsion decision may not be taken against Union citizens, except if the decision is based on imperative grounds of public security, as defined by Member States, if they:

(a) have resided in the host Member State for the previous 10 years; or

(b) are a minor, except if the expulsion is necessary for the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989.'

15 Article 9 of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents (OJ 2003 L 16, p. 44), entitled 'Withdrawal or loss of status', provides:

'1. Long-term residents shall no longer be entitled to maintain long-term resident status in the following cases:

…

(b) adoption of an expulsion measure under the conditions provided for in Article 12;

…'

German law

16 Paragraph 11 of the Law on residence, employment and integration of foreign nationals in the Federal Territory (Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet), of 30 July 2004 (BGBl. 2004 I, p. 1950), in the version applicable to the main proceedings ('the Aufenthaltsgesetz'), entitled 'Prohibition on entry and residence', provides in subparagraph 1:

'A foreign national who has been expelled, removed or deported may not re-enter the Federal territory and reside there. He shall not be issued with a residence permit even where the conditions of entitlement under this Law are fulfilled. …'

17 Paragraph 25 of the Aufenthaltsgesetz, entitled 'Residence on humanitarian grounds', provides:

'(1) A resident permit shall be granted to a foreign national whose right to asylum has been recognised by act not open to appeal. The present provision shall not apply if the foreign national has been expelled on serious grounds relating to national security and public order. Residence is deemed to be permitted up to the time the residence permit is granted. The residence permit entitles the holder to pursue an economic activity.

(2) A foreign national whose right to asylum has been recognised by act not open to appeal of the Federal Office for Migrations and Refugees pursuant to Article 4(3) of the Law on asylum procedure. Subparagraph 1, sentences 2 to 4 shall apply *mutatis mutandis*.

…

(5) By way of derogation from Paragraph 11(1), a foreign national required to leave the territory pursuant to an enforceable act may be granted a residence permit if his departure is impossible in fact or in law and the obstacles to his departure are not likely to disappear in the foreseeable future. The residence permit will be granted if expulsion is suspended for 18 months. …'

18 Paragraph 51 of the Aufenthaltsgesetz, entitled 'Ending of lawful residence; continuation of restrictions', provides in subparagraph 1:

'The residence permit is invalidated in the following cases:

…

5. Upon expulsion of the foreign national,

…’

19 Paragraph 54 of the Aufenthaltsgesetz, entitled ‘Principle of expulsion’, is worded as follows:

‘A foreign national shall, in principle, be expelled where

…

5. facts lead to the conclusion that he is or has been a member of an organisation which supports terrorism or supports or has supported such an organisation; expulsion may be based only on past membership or acts of support in so far as they create a present danger,

…’

20 Paragraph 54a of the Aufenthaltsgesetz, entitled ‘Surveillance, for reasons of internal security, of foreign nationals who have been subject to an expulsion order’, states:

‘(1) A foreign national against whom an enforceable expulsion decision under Paragraph 54, poin[t] 5, … shall be obliged to present himself at least once per week at the police service responsible for his place of residence, unless the foreign nationals authority stipulates otherwise. If a foreign national is required to leave the Federal territory pursuant to an enforceable act adopted for a reason other than the grounds for expulsion referred to in sentence 1, he may be required to present himself in accordance with sentence 1, if this is necessary to prevent a threat to national security and public order.

(2) His residence shall be restricted to the district covered by the foreigner nationals authority, unless the authority sets out different arrangements’.

21 Paragraph 55 of the Aufenthaltsgesetz, entitled ‘Expulsion at the discretion of the administration’, provides:

‘(1) A foreign national may be expelled where his residence endangers national security, public order or other important interests of the Federal Republic of Germany.

…

(3) In deciding whether to order expulsion, account shall be taken of

1. the length of the foreign national’s lawful residence and personal, economic and other connections in the Federal territory which deserve protection;

2. the consequences of expulsion for the foreign national's family members or partner lawfully residing in the Federal territory and who live with him together as a family unit or as a couple,

3. the conditions for suspending removal referred to in Article 60a(2) and (2b).'

22 Paragraph 56 of the Aufenthaltsgesetz, entitled 'Special protection against expulsion', provides in subparagraph 1:

'A foreign national who:

1. holds a permanent residence permit and has lawfully resided for at least five years in the Federal territory,

…

3. holds a residence permit, has lawfully resided for at least five years and lives, whether as a married couple or not, with a foreign national as referred to in points 1 and 2,

4. lives with a German family member or partner as a family unit or as a couple,

5. has been granted asylum, enjoys refugee status in the Federal territory or holds a travel document referred to in the Convention of 28 July 1951 relating to the Status of Refugees (BGBl. 1953 II, p. 559) and issued by an authority of the Federal Republic of Germany,

shall enjoy special protection against expulsion. He may be expelled only on serious grounds of national security or public policy. Serious grounds of national security or public policy are, in principle, the cases referred to in Paragraphs 53 and 54, subparagraphs 5 to 5b and 7. If the conditions laid down in Paragraph 53 are fulfilled, the foreign national shall, as a rule, be expelled. If the conditions laid down in Paragraph 54 are fulfilled, the decision as to his expulsion shall be at the discretion of the administration.'

23 Paragraph 60 of the Aufenthaltsgesetz, entitled 'Defence against expulsion', is worded as follows:

(1) In application of the Convention of 28 July 1951 relating to the Status of Refugees (BGBl. 1953 II, p. 559), a foreign national may not be expelled to a State in which his life or liberty is under threat on account of his race, religion, nationality, membership of a particular social group or political opinion. This provision shall also apply to persons granted asylum and to foreign nationals who have either been granted refugee status by act not open to appeal or who enjoy, for another reason, the foreign refugee status in the Federal territory, or who have been recognised outside of the Federal territory as foreign refugees in accordance with the [Geneva Convention]. …

…

(8) Subparagraph 1 shall not apply where, for serious reasons, the foreign national has to be regarded as a danger to the security of the Federal Republic of Germany or where, having been convicted with a custodial sentence equal to or longer than three years for a particularly serious criminal offence, he constitutes a danger to the community. The present provision also applies where the foreign national meets the conditions of Paragraph 3(2) of the Law on asylum procedure.

(9) In the cases referred to in subparagraph 8, a foreign national who has requested asylum may, by way of derogation from the provisions of the Law on asylum procedure, be served an expulsion order that can be executed. …

…'

24 Paragraph 60a of the Aufenthaltsgesetz, entitled 'Temporary suspension of expulsion (tolerance)', provides:

'…

(2) The expulsion of a foreign national shall be suspended for as long as that expulsion is impossible in fact and in law and no residence permit is granted. …

(3) The suspension of a foreign national's expulsion shall not affect his obligation to leave the territory.

…'

25 Paragraph 18 of the Law governing the public law of associations (Gesetz zur Regelung des öffentlichen Vereinsrechts), of 5 August 1964 (BGBl. 1964 I, p. 593), in the version applicable to the main proceedings ('the Vereinsgesetz'), entitled 'Territorial scope of prohibitions on associations', provides:

'Prohibitions on associations that have their headquarters outside the territory to which the present Law applies but with branches in that territory shall apply only to the latter. If the association has no branches in the territory to which the present Law applies, the prohibition (Paragraph 3(1)) shall apply to its activity in that territory.'

26 Paragraph 20 of the Vereinsgesetz, entitled 'Infringements of prohibitions', provides in subparagraph 1:

'Whoever, by an activity carried out in the territory to which the present Law applies,

…

4. contravenes an enforceable prohibition imposed pursuant to Paragraph 14(3), sentence 1, or Paragraph 18, second sentence,

…

will be punished with imprisonment for a maximum of one year or fined if the act is not punishable under Paragraphs 84, 85, 86a or 129 to 129b of the Criminal Code …

…'

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

27 Mr T., born in 1956, is a Turkish national of Kurdish origin. He has been living in Germany since 1989 with his wife, who is also a Turkish national, and their eight joint children, five of whom are German nationals.

28 Since 24 June 1993, Mr T. has been recognised as a refugee within the meaning of the Geneva Convention. That recognition was motivated by the political activities he carried out in exile in support of the 'Kurdistan Workers' Party' ('the PKK') and by the threat of political persecution he would face were he to return to Turkey.

29 Since 7 October 1993, Mr T. has been in possession of an indefinite residence permit in Germany.

30 By decision of 21 August 2006, the competent authorities revoked Mr T.'s refugee status on the grounds that the political situation in Turkey had changed and that he was therefore no longer considered to be at risk of persecution in that country.

31 That decision was annulled by judgment of the Verwaltungsgericht Karlsruhe (Administrative Court, Karlsruhe) of 30 November 2007, with the result that Mr T. retained his refugee status.

32 During the 1990s, Mr T. engaged, in various ways, in political activities for the PKK and organisations associated with it or which had succeeded it.

33 By decision of 22 November 1993, the Federal Ministry of the Interior prohibited the PKK and other organisations connected with that party from engaging in activities in Germany.

34 Pursuant to Paragraph 20 of the Vereinsgesetz, the competent authorities instituted criminal proceedings against Mr T. on account of support he had provided to the PKK, after having obtained documents in his possession during a search of his home. In the course of those proceedings, it was established that he had collected donations on behalf of the PKK and, on occasion, distributed the periodical *Serxwebûn*, published by the PKK.

35 By judgment of 3 December 2008, the Landgericht Karlsruhe (Regional Court, Karlsruhe) ordered Mr T. to pay a fine of EUR 3 000 for infringing a prohibition of activity in relation to the law of associations. The appeal against that judgment having been dismissed by the Bundesgerichtshof (Federal Court of Justice), it became definitive on 8 April 2009.

36 By decision of 27 March 2012, the Regierungspräsidium Karlsruhe (Karlsruhe Regional Government) ordered, in the name of the Land Baden-Württemberg, the expulsion of Mr T. from the Federal Republic of Germany ('the expulsion decision'). That decision, based on the combined provisions of Paragraph 54, subparagraphs 5, 55 and 56 of the Aufenthaltsgesetz, was motivated by the fact that Mr T. had carried out acts of support for the PPK until late in 2011 and that he therefore presented a 'present danger' within the meaning of Paragraph 54, subparagraph 5 of the Aufenthaltsgesetz. That decision also required the refugee, in accordance with Paragraph 54a of the Aufenthaltsgesetz, to present himself twice per week at the competent police service and restricted his freedom of movement to the territory of the town of Mannheim (Germany), where his home was located. Last, pursuant to Paragraph 51, subparagraph 1 of the Aufenthaltsgesetz, the decision resulted in the automatic invalidation of the residence permit that had been issued to Mr T.

37 However, given that Mr T. was living with his wife and minor children as a family unit and taking into account the indefinite residence permit he had been previously issued, the right of asylum he had been granted and the refugee status he had been afforded, the expulsion decision was taken in the form of a discretionary administrative decision on the basis of Paragraph 56, subparagraph 1 of the Aufenthaltsgesetz and the competent authority decided to suspend Mr T.'s expulsion. The appeal brought by Mr T. against that decision was dismissed by judgment of the Verwaltungsgericht Karlsruhe of 7 August 2012.

38 Mr T. filed an appeal against that judgment with the referring court and the court, by order of 28 November 2012, allowed the appeal. That court expresses doubts over the revocation of Mr T.'s residence permit and therefore questions whether the expulsion decision could be justified in the light of Articles 21(2) and (3) and 24 of Directive 2004/83. The Verwaltungsgerichtshof Baden-Württemberg (Higher Administrative Court, Baden-Württemberg) considers inter alia that the obligation imposed on Member States under the first subparagraph of Article 24(1) of that directive to issue to the beneficiaries of refugee status a residence permit valid for at least three years means that revoking that residence permit or an pre-existing permit is prohibited, where none of the reasons for which the grant of a residence permit may be refused outright are present.

39 In those circumstances the Verwaltungsgerichtshof Baden-Württemberg decided to stay proceedings and to refer the following questions to the Court for a preliminary ruling:

'1. (a) Must the rule contained in the first subparagraph of Article 24(1) of Directive 2004/83, concerning the obligation of Member States to issue a residence permit to

persons who have been granted refugee status, be observed even in the case of revocation of a previously issued residence permit?

(b) Must that rule therefore be interpreted as precluding the revocation or termination of the residence permit (by expulsion under national law, for example) of a beneficiary of refugee status in cases where the conditions laid down in Article 21(3) in conjunction with (2) of Directive 2004/83 are not fulfilled and there are no 'compelling reasons of national security or public order' within the meaning of the first subparagraph of Article 24(1) of Directive 2004/83?

2. If parts (a) and (b) of the first question are answered in the affirmative:

(a) How must the ground for exclusion of 'compelling reasons of national security or public order' in the first subparagraph of Article 24(1) of Directive 2004/83 be interpreted in relation to the risks represented by support for a terrorist association?

(b) Is it possible for 'compelling reasons of national security or public order' within the meaning of the first subparagraph of Article 24(1) of Directive 2004/83 to exist in the case where a beneficiary of refugee status has supported the PKK, in particular by collecting donations and regularly participating in PKK-related events, even if the conditions for non-compliance with the principle of non-refoulement laid down in Article 33(2) of the [Geneva Convention] and also, therefore, the conditions laid down in Article 21(2) of Directive 2004/83 are not fulfilled?

3. If part (a) of the first question is answered in the negative:

Is the revocation or termination of the residence permit issued to a beneficiary of refugee status (by expulsion under national law, for example) permissible under EU law only in cases where the conditions laid down in Article 21(3) in conjunction with (2) of the Directive 2004/83 (or the identically-worded provisions of its successor, 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]) are satisfied?'

Consideration of the questions referred for a preliminary ruling

The first and third questions

40 By its first and third questions, which should be dealt with together, the referring court is essentially asking whether and under what conditions Article 24(1) of Directive 2004/83 authorises a Member State to revoke the residence permit of a refugee, or to end that residence permit, when that provision, unlike Article 21(3) of that directive, does not specifically provide for that possibility. If that question is answered in the affirmative, it asks whether the revocation of such a residence permit is authorised solely by application

of Article 21(2) and (3) of that directive, where the refugee is no longer protected from refoulement, or also under Article 24(1) of the directive.

41 In order to answer those questions, the respective scope of Article 21(2) and (3) of Directive 2004/83 and of Article 24(1) of that directive, as well as the relationship that exists between those two provisions, must be examined.

42 According to Article 21(1) of Directive 2004/83, Member States must respect the principle of non-refoulement in accordance with their international obligations. Article 21(2) of that directive, whose wording essentially repeats that of Article 33(2) of the Geneva Convention, nevertheless provides for a derogation from that principle, allowing Member States the discretion to refoule a refugee where it is not prohibited by those international obligations and where there are reasonable grounds for considering that that refugee is a danger to the security of the Member State in which he is present or where, having been convicted by a final judgment of a particularly serious crime, he constitutes a danger to the community of that Member State. However, Article 21 of that directive is silent in relation to expelling a refugee where refoulement is not at issue.

43 In the event that a refugee's situation fulfils the conditions set out in Article 21(2) of Directive 2004/83, Member States, enjoying the discretion whether or not to refoule a refugee, have three options available to them. First, they may proceed with refoulement. Second, they may expel the refugee to a third country where he does not risk being persecuted or being the victim of serious harm within the meaning of Article 15 of that directive. Third, they may permit the refugee to remain in the territory.

44 Where refoulement is possible pursuant to Article 21(2) of Directive 2004/83, Member States have also the power, in accordance with Article 21(3) of that directive, to revoke, end or refuse to renew a residence permit. Once a refugee is subject to refoulement there is no need for him to be granted a residence permit, to continue to hold one or to have one renewed. Therefore, as the Advocate General observed in point 62 of her Opinion, where a refugee does not fall within the scope of Article 21(2) of that directive, Article 21(3) cannot apply. Thus, where a Member State brings proceedings against a refugee in circumstances such as those at issue in the main proceedings, but cannot refoule him because the conditions set out Article 21(2) of the directive are not met, that refugee's residence permit cannot be revoked under Article 21(3) of the same directive.

45 The question then is whether, in such circumstances, a Member State may, in any event, in a manner compatible with Directive 2004/83, revoke a refugee's residence permit under Article 24(1) of that directive.

46 In that regard, it should be stated that that provision explicitly provides only for the possibility of not issuing a residence permit, not of revoking or ending one. In particular, it obliges Member States to issue to the refugee, as early as possible, a residence permit valid for at least three years and renewable. That obligation can be derogated from only if compelling reasons of national security or public order so require.

47 Despite the lack of express provision authorising Member States, on the basis of Article 24(1) of Directive 2004/83, to revoke a residence permit issued to a refugee, a number of arguments support an interpretation whereby Member States are allowed to take such a measure.

48 In the first place, it should be pointed out that the wording of Article 24(1) of that directive does not explicitly rule out the possibility of revoking a residence permit.

49 In the second place, the revocation of a residence permit appears to be consistent with the aim of that provision. If Member States are authorised to refuse to issue or renew a residence permit, where compelling reasons of national security or public order justify it, they must even more so be authorised to revoke such a residence permit or to end it where reasons of that nature arise after it has been issued.

50 In the third place, that interpretation is also consistent with the scheme of Directive 2004/83. As correctly observed by the European Commission, Article 24(1) of the directive supplements Article 21(3), in that it implicitly but necessarily authorises the relevant Member State to revoke a residence permit, or to end one, even in the event that the conditions of Article 21(3) of the directive are not met, where that is justified by compelling reasons of national security or public order within the meaning of Article 24.

51 Accordingly, Member States may revoke a residence permit granted to a refugee, or end that permit, either on the basis of Article 21(3) of Directive 2004/83, provided that that refugee falls within the scope of Article 21(2) of that directive, or, where that is not the case, on the basis of Article 24(1) of that directive, provided that compelling reasons of national security or public order justify such a measure.

52 Moreover, as the Advocate General observes in point 68 of her Opinion, such an interpretation is supported by the *travaux préparatoires* of Directive 2004/83, which show that Article 24(1) of that directive was inserted, on the proposal of the Federal Republic of Germany, following the attacks in the United States of America on 11 September 2001. That provision was thus introduced in order to offer Member States the possibility to restrict, under certain specific conditions, the movement of third country nationals within the Schengen area, with the goal of combating terrorism and thus containing threats to national security and public order. It follows from those considerations that Article 24(1) implicitly makes it possible for Member States, as long as the conditions it prescribes are fulfilled, to revoke a residence permit granted previously.

53 Such an interpretation follows also from the obligation imposed by Article 24(1) of Directive 2004/83 on Member States to issue to the beneficiaries of refugee status a residence permit valid for at least three years, since a necessary corollary of that obligation is the possibility of revoking that residence permit. In that regard, it should be noted, by way of example, that Article 9(1)(b) of Directive 2003/109 expressly provides for the loss of long-term resident status following the adoption of an expulsion measure.

54 Last, in that context, the possibility for a Member State to revoke the residence permit previously granted to a refugee is clearly logical. It cannot be ruled out that, by mere chance, a Member State which granted a residence permit to a refugee might thereafter be informed of the existence of acts committed by him after the issue of the residence permit which, had they been known to that Member State in good time, would have impeded, for compelling reasons of national security or public order, the issue of that permit. It would be incompatible with the objective pursued by Directive 2004/83 if, in such a situation, there were no possibility to revoke a residence permit previously granted. That finding applies all the more where the acts attributed to the refugee concerned are committed after the grant of the residence permit in question.

55 Having regard to all the foregoing considerations, the answer to the first and third questions is that Directive 2004/183 must be interpreted as meaning that a residence permit, once granted to a refugee, may be revoked, either pursuant to Article 24(1) of that directive, where there are compelling reasons of national security or public order within the meaning of that provision, or pursuant to Article 21(3) of that directive, where there are reasons to apply the derogation from the principle of non-refoulement laid down in Article 21(2) of the same directive.

The second question

56 By its second question, the referring court is essentially asking whether support provided by a refugee to a terrorist organisation may constitute one of the 'compelling reasons of national security or public order' within the meaning of Article 24(1) of Directive 2004/83, even if that refugee does not fall within the scope of Article 21(2) of that directive.

57 In order to provide a helpful answer to the referring court's question, it should be stated, as a preliminary point, that the concept of 'serious reasons' contained in Article 21(2)(a) of Directive 2004/83 and that of 'compelling reasons of national security or public order' contained in Article 24(1) of that directive are not defined either by those provisions themselves or by any other provision of that directive.

58 In that context, the meaning and scope of those terms must be determined, in accordance with settled case-law, taking into account both the terms in which the provisions of EU law concerned are couched and their context, the objectives pursued by the legislation of which they form part (see, inter alia, judgments in *Lundberg*, C-317/12, EU:C:2013:631, paragraph 19, and *Bouman*, C-114/13, EU:C:2015:81, paragraph 31) and, in the circumstances of this case, the origins of that legislation (see, by analogy, judgment in *Pringle*, C-370/12, EU:C:2012:756, paragraph 135).

59 In relation to the wording of Articles 21(1)(a) and 24(1) of Directive 2004/83, it should be pointed out, as the Commission maintains in its observations, that that directive is characterised by differences in formulation between its various language versions — and thus by a measure of inconsistency — in relation to the conditions governing the derogations provided for by those provisions. This is compounded by the fact that the

German version of Article 21(1) of that directive uses different terms to those used in the German version of Article 33(2) of the Geneva Convention (‘stichhaltige Gründe’ instead of ‘schwerwiegende Gründe’), whereas the English and French versions of Article 21(1) of the directive each use the term used in the English and French versions of Article 33(2) of the Geneva Convention (‘reasonable grounds’ and ‘raisons sérieuses’).

60 In those circumstances, it is important to note that, according to settled case-law, where the language versions of a text differ, the provision in question must be interpreted and applied uniformly in the light of the versions existing in all EU languages (judgment in *M. and Others*, C-627/13 and C-2/14, EU:C:2015:59, paragraph 48 and the case-law cited).

61 The wording used in one language version of an EU law provision cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions in that regard. Such an approach would be incompatible with the requirement that EU law be applied uniformly (see, to that effect, *M. and Others*, C-627/13 and C-2/14, EU:C:2015:59, paragraph 48 and the case-law cited).

62 Therefore, where there is divergence between the various language versions of an EU legislative text, the provision in question must be interpreted by reference to its context and the objectives pursued by the rules of which it is part (see, to that effect, *M. and Others*, C-627/13 and C-2/14, EU:C:2015:59, paragraph 49 and the case-law cited).

63 In that regard, it should first be recalled that refugee status must be afforded to a person where he meets the minimum standards set by EU law. Pursuant to Article 13 of Directive 2004/83, Member States are to grant refugee status to all third country nationals or stateless persons who qualify as a refugee in accordance with Chapters II and III of that directive. It follows from recital 14 of the same directive, according to which the recognition of refugee status is a declaratory act, that Member States exercise no discretion in that respect.

64 Next, it follows from Article 78(1) TFEU that the common policy developed by the European Union on asylum is aimed at offering ‘appropriate status’ to any third country national ‘requiring international protection’ and ensuring ‘compliance with the principle of non-refoulement’.

65 It should also be noted that that principle of non-refoulement is guaranteed as a fundamental right by Articles 18 and 19(2) of the Charter of Fundamental Rights of the European Union.

66 Recital 10 of Directive 2004/83 specifies to that effect that that directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union by guaranteeing, in particular, full respect for human dignity and the right to asylum of applicants for asylum and their accompanying family members.

67 Accordingly, recital 6 of Directive 2004/83 states that the directive's main objective, other than ensuring that Member States apply common criteria for the identification of persons genuinely in need of international protection, is to ensure that a minimum level of benefits is available for those persons in all Member States.

68 Articles 21(2) and 24(1) of that directive constitute in that regard the implementation in positive law of the rights conferred on every person by EU law with a view to ensuring lasting protection for him or her against persecution. Those two provisions are, however, part of Chapter VII of the same directive, entitled 'Content of international protection', the purpose of which is to define the benefits which candidates for refugee or subsidiary protection status, whose claims have been upheld, may enjoy.

69 Even though, as has been found in paragraph 50 of this judgment, there is more than a little overlap between Article 21(2) and (3) of Directive 2004/83 and Article 24(1) of that directive, since both provisions concern the possibility offered to Member States to refuse to grant a residence permit, to revoke it, to end it or to refuse to renew it, but also complementarity between them, it is nevertheless settled that those provisions have distinct scopes and pertain to different legal regimes.

70 Article 21(1) of Directive 2004/83 lays down the principle that refugees are normally protected from refoulement. However, Article 21(2) of that directive provides a derogation from that principle, by permitting refoulement of a refugee, whether formally recognised or not, either, pursuant to Article 21(2)(a) of that directive, where there are reasonable grounds for considering him or her to be a danger to the security of the Member State in which he or she is present, or, pursuant to Article 21(2)(b) of that directive, where, he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State.

71 The refoulement of a refugee, while in principle authorised by the derogating provision Article 21(2) of Directive 2004/83, is only the last resort a Member State may use where no other measure is possible or is sufficient for dealing with the threat that that refugee poses to the security or to the public of that Member State. In the event that a Member State, pursuant to Article 14(4) of that directive, revokes, ends or refuses to renew the refugee status granted to a person, that person is entitled, in accordance with Article 14(6) of that directive, to rights set out inter alia in Articles 32 and 33 of the Geneva Convention.

72 The consequences for the refugee concerned of applying the derogation provided for in Article 21(2) of Directive 2004/83 are potentially very drastic, as the Advocate General noted in point 81 of her Opinion, since he might be returned to a country where he is at risk. It is for that reason that that provision subjects the practice of refoulement to rigorous conditions, since, in particular, only a refugee who has been convicted by a final judgment of a 'particularly serious crime' may be regarded as constituting a 'danger to the community of that Member State' within the meaning of that provision. Moreover, even where those conditions are satisfied, refoulement of the refugee concerned

constitutes only one option at the discretion of the Member States, the latter being free to opt for other, less rigorous, options.

73 However, Article 24(1) of Directive 2004/83, whose wording is more abstract than that of Article 21(2) of that directive, pertains only to the refusal to issue a residence permit to a refugee and to the revocation of that residence permit, and not to the refoulement of that refugee. That provision therefore concerns only situations where the threat posed by that refugee to the national security, public order or public of the Member State in question cannot justify loss of refugee status, let alone the refoulement of that refugee. That is why implementation of the derogation provided for in Article 24(1) of Directive 2004/83 does not presuppose the existence of a particularly serious crime.

74 The consequences, for the refugee, of revoking his residence permit pursuant to Article 24(1) of Directive 2004/83 are therefore less onerous, in so far as that measure cannot lead to the revocation of his refugee status and, even less, to his refoulement within the meaning of Article 21(2) of that directive.

75 It follows that the concept of 'compelling reasons' contained in Article 24(1) of Directive 2004/83 has a broader scope than the concept of 'serious reasons' contained in Article 21(2) of that directive, and that certain circumstances which do not exhibit the degree of seriousness authorising a Member State to use the derogation provided for in Article 21(2) of that directive and to take a refoulement decision can nevertheless permit that Member State, on the basis of Article 24(1) of the same directive, to deny the refugee concerned his residence permit.

76 That being said, with regard to the specific question, asked by the referring court, as to whether support for a terrorist organisation may constitute one of the 'compelling reasons of national security or public order' within the meaning of Article 24(1) of Directive 2004/83, it should be pointed out that the concepts of 'national security' or 'public order' are not defined by that provision.

77 However, the Court has already had an opportunity to interpret the concepts of 'public security' and 'public order' contained in Articles 27 and 28 of Directive 2004/38. While that directive pursues different objectives to those pursued by Directive 2004/83 and Member States retain the freedom to determine the requirements of public policy and public security in accordance with their national needs, which can vary from one Member State to another and from one era to another (judgment in *I.*, C-348/09, EU:C:2012:300, paragraph 23 and the case-law cited), the extent of the protection a company intends to afford to its fundamental interests cannot vary depending on the legal status of the person that undermines those interests.

78 Therefore, in order to interpret the concept of 'compelling reasons of national security or public order' contained in Article 24(1) of Directive 2004/83, it should first be taken into account that it has already been held that the concept of 'public security' contained in Article 28(3) of Directive 2004/38 covers both a Member State's internal and external security (see, inter alia, judgment in *Tsakouridis*, C-145/09, EU:C:2010:708,

paragraph 43 and the case-law cited) and that, consequently, a threat to the functioning of the institutions and essential public services and the survival of the population, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations, or a risk to military interests, may affect public security (judgment in *Tsakouridis*, C-145/09, EU:C:2010:708, paragraph 44). In addition, the Court has also held, in that context, that the concept of 'imperative grounds of public security' contained in Article 28(3) presupposes not only the existence of a threat to public security, but also that such a threat is of a particularly high degree of seriousness, as is reflected by the use of the words 'imperative reasons' (judgment in *Tsakouridis*, C-145/09, EU:C:2010:708, paragraph 41).

79 Next, it is important to note that the concept of 'public order' contained in Directive 2004/38, in particular in Articles 27 and 28 thereof, has been interpreted in the case-law of the Court as meaning that recourse to that concept presupposes, in any event, the existence, in addition to the perturbation of the social order which any infringement of the law involves, of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society (see, to that effect, judgment in *Byankov*, C-249/11, EU:C:2012:608, paragraph 40 and the case-law cited).

80 In that context, in relation to Directive 2004/83 specifically, it should be pointed out that, according to recital 28 thereof, the notions of 'national security' and 'public order' cover cases where a third country national belongs to an association which supports international terrorism or supports such an association.

81 In addition, it must be stated that Article 1(3) of Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism (OJ 2001 L 344, p. 93), in the version in force at the material date ('Common Position 2001/931'), defines what should be understood by 'terrorist act'; moreover, the PKK is specifically included on the list annexed to that common position.

82 It thus follows from the above considerations that support provided by a refugee to an organisation engaging in acts falling within the scope of Common Position 2001/931 constitute, in principle, a circumstance capable of establishing that the conditions for applying the derogation provided for in Article 24(1) of Directive 2004/83 are fulfilled.

83 The inclusion of an organisation on a list annexed to Common Position 2001/931 is thus, as the Advocate General observes in point 95 of her Opinion, a strong indication that it either is a terrorist organisation or is suspected to be such an organisation. Such a circumstance must thus necessarily be taken into account by the competent national authorities when they must, as a first step, determine whether the organisation in question has committed terrorist acts.

84 It is therefore important to verify, on a case by case basis, whether the acts of the organisation in question can endanger national security or public order within the meaning of Article 24(1) of Directive 2004/83. In that regard, the Court has held, in relation to Article 12(2)(b) of that directive, that terrorist acts, which are characterised by

their violence towards civilian populations, even if committed with a purportedly political objective, fall to be regarded as serious non-political crimes within the meaning of that provision (judgment in *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 81).

85 Furthermore, the Court has found that international terrorist acts are, generally speaking and irrespective of any State participation, contrary to the purposes and principles of the United Nations (judgment in *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 83). It follows that a Member State could, in the event of such acts, justifiably rely on the existence of compelling reasons of national security or public order within the meaning of Article 24(1) of Directive 2004/83 in order to apply the derogation provided for by that provision.

86 Once that verification is complete, the competent authorities must, as a second step, conduct an assessment of the specific facts known to it, so as to determine whether support for the organisation concerned in the form of assisting in the collection of funds and regular participation in the events organised by that organisation, which would seem to have been Mr. T.'s situation in the main proceedings, falls within the scope of Article 24(1) of Directive 2004/83.

87 Even if the acts committed by an organisation on the list forming the Annex to Common Position 2001/931 because of its involvement in terrorist acts fall within the ground for derogation laid down in Article 24(1) of Directive 2004/83, the mere fact that the refugee supported that organisation cannot automatically mean that that person's residence permit is revoked pursuant to that provision (see, by analogy, judgment in *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 88).

88 There is no direct relationship between Common Position 2001/931 and Directive 2004/83 in terms of their respective aims, and it is not justifiable for a competent authority, when considering whether to deny a person his residence permit pursuant to Article 24(1) of that directive, to base its decision solely on that person's support for an organisation which is on a list adopted outside the framework set up by Directive 2004/83 consistently with the Geneva Convention (see, to that effect, judgment in *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 89).

89 It follows, in regard to the case in the main proceedings, that the circumstances in which the organisation supported by Mr T. was placed on the list annexed to Common Position 2001/931 cannot be assimilated to the individual assessment of the specific facts that has to be carried out before any decision is taken to deny a person his residence permit pursuant to Article 24(1) of Directive 2004/83 (see, by analogy, judgment in *B and D*, C-57/09 and C-101/09, EU:C:2010:661, paragraph 91).

90 Accordingly, in the context of the judicial review of the assessment carried out by the competent authority, the referring court must examine the role that Mr T. actually played in supporting that organisation, by ascertaining in particular whether he himself has committed terrorist acts, whether and to what extent he was involved in planning, decision-making or directing other persons with a view to committing acts of that nature,

and whether and to what extent he financed such acts or procured for other persons the means to commit them.

91 In the present case, with regard to Mr T.'s acts of support for the PKK, it is apparent from the case-file that the refugee participated in legal meetings and manifestations such as the celebration of the Kurdish New Year and the collection of funds for that organisation. The fact that he carried out such acts does not necessarily mean that he supported the legitimacy of terrorist activities. Even more so, acts of that nature do not constitute, in themselves, terrorist acts.

92 In that context, the referring court is also obliged to assess the degree of seriousness of danger to national security or public order of the acts committed by Mr T. In particular, it must verify whether he may be charged on the basis of personal liability in the implementation of the PKK's actions. In that respect, while it is true that Mr T.'s criminal conviction by final judgment of 3 December 2008 must be taken into account, it is nevertheless for that court to ascertain, regard being had to the principle of proportionality that the measure to be taken was required to observe, whether the threat the refugee might possibly have constituted in the past for the national security or public order of the Federal Republic of Germany still existed at the date on which the decision at issue in the main proceedings was taken.

93 In that respect, it is also the national court's responsibility to take into account the fact that Mr T. was ordered to pay a fine and not sentenced to a term of imprisonment and to ascertain whether, in view of that fact and, if appropriate, of the nature of the acts he committed, there were 'compelling reasons of national security or public order', within the meaning of Article 24(1) of Directive 2004/83, justifying the revocation of Mr T.'s residence permit.

94 Those details having been provided, it is also necessary to add that the main consequence of a Member State implementing the derogation provided for in Article 24(1) of Directive 2004/83 is that the refugee in question loses his residence permit, even if he, as in the case at issue in the main proceedings, is authorised, on another legal basis, to remain lawfully in the territory of that Member State.

95 Nevertheless, it should be stated in that regard that the refugee whose residence permit is revoked pursuant to Article 24(1) of Directive 2004/83 retains his refugee status, at least until that status is actually ended. Therefore, even without his residence permit, the person concerned remains a refugee and as such remains entitled to the benefits guaranteed by Chapter VII of that directive to every refugee, including protection from refoulement, maintenance of family unity, the right to travel documents, access to employment, education, social welfare, healthcare and accommodation, freedom of movement within the Member State and access to integration facilities. In other words, a Member State has no discretion as to whether to continue to grant or to refuse to that refugee the substantive benefits guaranteed by the directive.

96 While it is true that recital 30 of Directive 2004/83 provides that Member States may, within the limits set by their international obligations, lay down that 'the granting of benefits with regard to access to employment, social welfare, health care and access to integration facilities requires the prior issue of a residence permit', the condition thus imposed nevertheless refers to processes purely administrative in nature, since the objective of Chapter VII of the directive is to guarantee refugees a minimum level of benefits in all Member States. Moreover, as that recital does not have a corresponding provision among the provisions of the directive, it cannot constitute a legal basis allowing Member States to reduce the benefits guaranteed by that Chapter VII where a residence permit is revoked.

97 As those rights conferred on refugees result from the granting of refugee status and not from the issue of the residence permit, the refugee, as long as he holds that status, must benefit from the rights guaranteed to him by Directive 2004/83 and they may be limited only in accordance with the conditions set by Chapter VII of that directive, since Member States are not entitled to add restrictions not already listed there.

98 Accordingly, in relation to the case at issue in the main proceedings, the fact that, as is apparent from the case-file submitted to the Court, the automatic revocation of Mr T.'s residence permit, which occurred as a result of the expulsion decision, has had an impact on his access to employment, vocational training and other social rights since, under German law, the enjoyment of those rights is linked to a residence permit being lawfully held, is incompatible with Directive 2004/83.

99 Having regard to all the foregoing considerations, the answer to the second question is that a refugee's support for a terrorist organisation included on the list annexed to Common Position 2001/931/CFSP may constitute one of the 'compelling reasons of national security or public order' within the meaning of Article 24(1) of Directive 2004/83, even if the conditions set out in Article 21(2) of that directive are not met. In order to be able to revoke, on the basis of Article 24(1) of that directive, a residence permit granted to a refugee on the ground that that refugee supports such a terrorist organisation, the competent authorities are nevertheless obliged to carry out, under the supervision of the national courts, an individual assessment of the specific facts concerning the actions of both the organisation and the refugee in question. Where a Member State decides to expel a refugee whose residence permit has been revoked, but suspends the implementation of that decision, it is incompatible with that directive to deny access to the benefits guaranteed by Chapter VII of the same directive, unless an exception expressly laid down in the directive applies.

Costs

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

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

1. **Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted must be interpreted as meaning that a residence permit, once granted to a refugee, may be revoked, either pursuant to Article 24(1) of that directive, where there are compelling reasons of national security or public order within the meaning of that provision, or pursuant to Article 21(3) of that directive, where there are reasons to apply the derogation from the principle of non-refoulement laid down in Article 21(2) of the same directive.**

2. **Support for a terrorist organisation included on the list annexed to Council Common Position 2001/931/CFSP of 27 December 2001 on the application of specific measures to combat terrorism, in the version in force at the material date, may constitute one of the 'compelling reasons of national security or public order' within the meaning of Article 24(1) of Directive 2004/83, even if the conditions set out in Article 21(2) of that directive are not met. In order to be able to revoke, on the basis of Article 24(1) of that directive, a residence permit granted to a refugee on the ground that that refugee supports such a terrorist organisation, the competent authorities are nevertheless obliged to carry out, under the supervision of the national courts, an individual assessment of the specific facts concerning the actions of both the organisation and the refugee in question. Where a Member State decides to expel a refugee whose residence permit has been revoked, but suspends the implementation of that decision, it is incompatible with that directive to deny access to the benefits guaranteed by Chapter VII of the same directive, unless an exception expressly laid down in the directive applies.**

[Signatures]

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* Language of the case: German.