ECLI:EU:C:2022:603

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

1 August 2022(*)

(Reference for a preliminary ruling – Common policy on asylum – Criteria and mechanisms for determining the Member State responsible for examining an application for international protection – Regulation (EU) No 604/2013 (Dublin III) – Application for international protection lodged by a minor in his or her Member State of birth – Parents of that minor who have previously obtained refugee status in another Member State – Article 3(2) – Article 9 – Article 20(3) – Directive 2013/32/EU – Article 33(2)(a) – Admissibility of the application for international protection and responsibility for examining it)

In Case C-720/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgericht Cottbus (Administrative Court, Cottbus, Germany), made by decision of 14 December 2020, received at the Court on 24 December 2020, in the proceedings

RO, legally represented,

v

Bundesrepublik Deutschland,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, L. Bay Larsen, Vice-President, A. Arabadjiev, A. Prechal, K. Jürimäe, S. Rodin, I. Ziemele and J. Passer (Rapporteur), Presidents of Chambers, M. Ilešič, M. Safjan, D. Gratsias, M.L. Arastey Sahún, M. Gavalec, Z. Csehi and O. Spineanu-Matei, Judges,

Advocate General: J. Richard de la Tour,

Registrar: D. Dittert, Head of Unit,

having regard to the written procedure and further to the hearing on 14 December 2021,

after considering the observations submitted on behalf of:

– RO, legally represented, by V. Gerloff, Rechtsanwalt,

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

– the Belgian Government, by M. Jacobs and M. Van Regemorter, acting as Agents,

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

– the Netherlands Government, by M.K. Bulterman, A. Hanje, M.J. Langer and M.A.M. de Ree, acting as Agents,

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

– the European Commission, by C. Cattabriga, L. Grønfeldt and C. Ladenburger, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 24 March 2022,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31) ('the Dublin III Regulation'), and, in particular, of Article 20(3) of that regulation, and of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60) ('the Procedures Directive') and, in particular, Article 33(2)(a) of that directive.

2 The request has been made in proceedings between RO, a minor, legally represented, and the Bundesrepublik Deutschland (Federal Republic of Germany) concerning the rejection as inadmissible of the application for international protection of that minor, who was born in that Member State and whose parents and five siblings obtained, prior to her birth, international protection in another Member State.

Legal context

European Union law

Regulation (EC) No 343/2003

3 Article 16(1)(c) of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum

application lodged in one of the Member States by a third-country national (OJ 2003 L 50, p. 1) provided as follows:

‘The Member State responsible for examining an application for asylum under this Regulation shall be obliged to … take back, under the conditions laid down in Article 20, an applicant whose application is under examination and who is in the territory of another Member State without permission’.

4 Regulation No 343/2003 was repealed and replaced by the Dublin III Regulation.

The Dublin III Regulation

5 Recitals 4, 5 and 14 of the Dublin III Regulation state:

‘(4) The Tampere conclusions … stated that the [Common European Asylum System (CEAS)] should include, in the short term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.

…

(14) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms [signed in Rome on 4 November 1950] and with the Charter of Fundamental Rights of the European Union, respect for family life should be a primary consideration of Member States when applying this Regulation.’

6 According to Article 1 of the Dublin III Regulation, the latter lays down ‘the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person’.

7 Article 2 of that regulation, headed ‘Definitions’, provides:

‘For the purposes of this Regulation:

…

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

…

(f) “beneficiary of international protection” means a third-country national or a stateless person who has been granted international protection as defined in Article 2(a) of Directive 2011/95/EU [of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a

uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9)];

(g) "family members" means, in so far as the family already existed in the country of origin, the following members of the applicant's family who are present on the territory of the Member States:

…

– when the applicant is a minor and unmarried, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,

…'

8 Chapter II of that regulation, headed 'General principles and safeguards', contains Article 3, among others, which itself is headed 'Access to the procedure for examining an application for international protection', paragraph 1 and the first subparagraph of paragraph 2 of which provide:

'1. Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, … The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III indicate is responsible.

2. Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the first Member State in which the application for international protection was lodged shall be responsible for examining it.

…'

9 Chapter III of the Dublin III Regulation, headed 'Criteria for determining the Member State responsible', contains, inter alia, Articles 7, 9 and 10 of that regulation.

10 Article 7 of that regulation, headed 'Hierarchy of criteria', provides, in paragraph 1:

'The criteria for determining the Member State responsible shall be applied in the order in which they are set out in this Chapter.'

11 Article 9 of the Dublin III Regulation, headed 'Family members who are beneficiaries of international protection', provides:

'Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.'

12 Article 10 of the regulation, headed 'Family members who are applicants for international protection', states:

'If the applicant has a family member in a Member State whose application for international protection in that Member State has not yet been the subject of a first decision regarding the substance, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.'

13 Chapter IV of that regulation, headed ‘Dependent persons and discretionary clauses’, contains Article 17, among others, which itself is headed ‘Discretionary clauses’, paragraph 2 of which provides:

‘The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible, or the Member State responsible, may, at any time before a first decision regarding the substance is taken, request another Member State to take charge of an applicant in order to bring together any family relations, on humanitarian grounds based in particular on family or cultural considerations, even where that other Member State is not responsible under the criteria laid down in Articles 8 to 11 and 16. The persons concerned must express their consent in writing.

…’

14 Chapter VI of that regulation, headed ‘Procedures for taking charge and taking back’, contains, in Section I, which is headed ‘Start of the procedure’, Article 20, the heading of which is identical to that section and which provides:

‘1. The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State.

2. An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short as possible.

3. For the purposes of this Regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member shall be indissociable from that of his or her family member and shall be a matter for the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, provided that it is in the minor’s best interests. The same treatment shall be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them.

…’

15 Section II of Chapter VI, headed ‘Procedures for take charge requests’, contains, inter alia, Article 21, which is itself headed ‘Submitting a take charge request’, which provides, in the first subparagraph of paragraph 1:

‘Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any event within three months of the date on which the application was lodged within the meaning of Article 20(2), request that other Member State to take charge of the applicant.’

The Procedures Directive

16 Under recital 43 of the Procedures Directive:

‘Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies for international protection in accordance with [Directive 2011/95], except where this Directive provides otherwise, in particular where it can reasonably be assumed that another country would do the examination or provide sufficient protection. In particular, Member States should not be obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status or otherwise sufficient protection and the applicant will be readmitted to that country.’

17 Article 33 of that directive, headed ‘Inadmissible applications’, provides:

‘1. In addition to cases in which an application is not examined in accordance with [the Dublin III Regulation], Member States are not required to examine whether the applicant qualifies for international protection in accordance with [Directive 2011/95] where an application is considered inadmissible pursuant to this Article.

2. Member States may consider an application for international protection as inadmissible only if:

(a) another Member State has granted international protection;

…’

German law

18 Paragraph 29(1)(1)(a) of the Asylgesetz (Law on asylum) of 26 June 1992 (BGBl. 1992 I, p. 1126), in the version published on 2 September 2008 (BGBl. 2008 I, p. 1798), headed ‘Inadmissible applications’, provides as follows:

‘(1) An application for asylum is inadmissible if:

1. another country,

(a) in accordance with [the Dublin III Regulation], …

is responsible for conducting the asylum procedure,

…’

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

19 On 19 March 2012, the parents and five siblings of the applicant in the main proceedings, who are nationals of the Russian Federation, were granted refugee status in Poland.

20 In December 2012, they left the territory of that Member State and went to Germany where they made applications for international protection.

21 On 25 April 2013, the Federal Republic of Germany requested the Republic of Poland to take back those persons on the basis of Article 16(1)(c) of Regulation No 343/2003.

22 On 3 May 2013, the Republic of Poland refused to allow that request on the ground that those persons already enjoyed international protection on its territory.

23 By decision of 2 October 2013, the Federal Republic of Germany rejected the applications for international protection of those persons as being inadmissible on account of the refugee status which they had already obtained in Poland and ordered them to leave German territory, failing which they would be removed.

24 On 7 November 2014, that decision was annulled only as regards the order to leave German territory, failing which they would be removed.

25 On 7 March 2018, the applicant in the main proceedings, who was born in Germany on 21 December 2015 and is, like her parents and five siblings, a national of the Russian Federation, lodged an application for international protection with the German authorities.

26 By two decisions of the Bundesamt für Migration und Flüchtlinge (Federal Office for Migration and Refugees, Germany) ('the Office') adopted on 14 February 2019 and 19 March 2019 respectively, the parents and siblings of the applicant in the main proceedings were the subject of a further order to leave German territory, failing which they would be removed, on account of the international protection they already enjoyed in Poland. The action brought against those decisions is still pending.

27 By decision of 20 March 2019, the Office rejected the application for international protection lodged by the applicant in the main proceedings as inadmissible, on the basis of Paragraph 29(1)(1)(a) of the Law on asylum, read in conjunction with the second sentence of Article 20(3) of the Dublin III Regulation.

28 The applicant in the main proceedings brought an action against that decision before the referring court. According to that court, no procedure for determining the Member State responsible, in accordance with the Dublin III Regulation, was initiated in respect of the application for international protection lodged by the applicant in the main proceedings. In those circumstances, the referring court is uncertain whether, under the Dublin III Regulation, the Federal Republic of Germany is the Member State responsible for examining the application for international protection of the applicant in the main proceedings and whether, if so, that Member State is nevertheless entitled to reject that application as inadmissible.

29 It was in those circumstances that the Verwaltungsgericht Cottbus (Administrative Court, Cottbus, Germany) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) In the light of the objective of EU law to avoid secondary movements and the principle of family unity expressed in that regulation, must Article 20(3) of [the Dublin III Regulation] be applied by analogy in a situation where a minor child and her parents lodge applications for international protection in the same Member State, but the parents already enjoy international protection in another Member State, whereas the child was born in the Member State in which she lodged the application for international protection?

(2) If the question is answered in the affirmative, should the minor child's application for international protection under [the Dublin III Regulation] not be examined and should a transfer decision under Article 26 of the regulation be adopted, having regard to the fact that, for instance, the Member State in which that minor child's parents enjoy international protection is responsible for examining the minor child's application for international protection?

(3) If the previous question is answered in the affirmative, is Article 20(3) of [the Dublin III Regulation] also applicable by analogy in so far as, under the second sentence thereof, it is not necessary to initiate the procedure for taking charge of a child born subsequently, despite the fact that there is then a risk that the host Member State has no knowledge of the possible need to take charge of the minor child or that, in accordance with its administrative practice, it refuses to apply Article 20(3) of [the Dublin III Regulation] by analogy and, consequently, there is a risk that the minor child will become a "refugee in orbit"?

(4) If Questions 2 and 3 are answered in the negative, can a decision on inadmissibility under Article 33(2)(a) of [the Procedures Directive] be adopted by analogy in respect of a minor child who has lodged an application for international protection in a Member State even if it is not the child herself but her parents who enjoy international protection in another Member State?'

Consideration of the questions referred

The first question

30 By its first question, the referring court asks, in essence, whether, in the light of the objective of the Dublin III Regulation to prevent secondary movements and uphold the fundamental right to respect for the family life of applicants for international protection and, in particular, family unity, Article 20(3) of that regulation must be interpreted as meaning that it is applicable by analogy to a situation in which a minor and his or her parents lodge applications for international protection in the Member State in which that minor was born, although his or her parents are already the beneficiaries of international protection in another Member State.

31 In that regard, it must be recalled that Article 20 of the Dublin III Regulation, which is headed 'Start of the procedure' and forms part of Chapter VI of that regulation, which itself is headed 'Procedures for taking charge and taking back', provides, in the first sentence of paragraph 3 thereof, that, for the purposes of that regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member is to be indissociable from that of his or her family member and is to be a matter for the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, provided that it is in the minor's best interests. The second sentence of Article 20(3) specifies that the same treatment is to be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them.

32 It follows from the clear wording of Article 20(3) of the Dublin III Regulation that that provision presupposes that the minor's family members still have the status of 'applicant' within the meaning of Article 2(c) of that regulation and that, therefore, it does not govern the situation of a minor who was born after those family members obtained international protection in a Member State other than that in which the minor was born and resides with his or her family.

33 Moreover, contrary to the submissions of the German Government, it is irrelevant in that regard whether those family members lodged a new application for international protection in the latter Member State and whether that Member State rejected such applications as inadmissible before or after the birth of the minor concerned. A Member State cannot properly make a request of another Member State that it take charge of or take back, within the procedures set out by that regulation, a third-country national who has submitted an application for international protection in the former Member State after having been granted international protection by the latter Member

State (see, to that effect, judgment of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 78).

34 As regards the question whether Article 20(3) of the Dublin III Regulation may nevertheless be applied by analogy to a situation such as that at issue in the main proceedings, it must be pointed out that, as the Advocate General stated, in essence, in point 28 of his Opinion, the situation of a minor whose family members are applicants for international protection and that of a minor whose family members are already beneficiaries of such protection are not comparable in the context of the scheme established by the Dublin III Regulation, since the concept of an 'applicant' and that of a 'beneficiary of international protection', defined in points (c) and (f) of Article 2 of that regulation respectively, cover separate legal statuses governed by different provisions of that regulation.

35 In that regard, and as the Advocate General noted in the same point of his Opinion, the EU legislature thus made a particular distinction between the situation of a minor whose family members are already beneficiaries of international protection in a Member State, referred to in Article 9 of the Dublin III Regulation, and that of a minor whose family members are applicants for international protection, referred to in Article 10 and Article 20(3) of that regulation.

36 In the first of those situations, which corresponds to the situation at issue in the main proceedings, an application by analogy of Article 20(3) of the Dublin III Regulation to the minor concerned would mean that both the minor concerned and the Member State that has granted international protection to the minor's family members would not be subject to the application of the mechanisms provided for by that regulation.

37 In particular, the application by analogy of the second sentence of Article 20(3) of the Dublin III Regulation to such a minor would have as a consequence that that minor could be the subject of a transfer decision without a procedure for taking charge being initiated for that minor. The exemption from the initiation of a procedure for taking charge for a minor born after the applicant's arrival on the territory of the Member States, provided for in the second sentence of Article 20(3) of the Dublin III Regulation, presupposes that the minor will be included in the procedure initiated with regard to his or her family members and, therefore, that that procedure is ongoing, which is precisely not the case where those family members have already obtained international protection in another Member State.

38 In addition, allowing the minor's Member State of birth to adopt a transfer decision without any procedure for taking charge by applying by analogy the second sentence of Article 20(3) of the Dublin III Regulation would lead, inter alia, to the circumvention of the time limit laid down in that regard by the first subparagraph of Article 21(1) of that regulation and to the Member State which granted international protection to family members prior to the birth of that minor being faced with such a transfer decision, even though it was not informed of that decision and was not in a position to recognise its responsibility for the examination of that minor's application for international protection.

39 Furthermore, it should be noted that the EU legislature has laid down specific rules for situations in which the procedure initiated in respect of the minor's family members has been concluded and those family members are therefore no longer applicants, within the meaning of Article 2(c) of the Dublin III Regulation, but are allowed to reside as beneficiaries of international protection in a Member State. That situation is governed in particular by Article 9 of that regulation.

40 Article 9 of the Dublin III Regulation provides that, where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has

been allowed to reside as a beneficiary of international protection in a Member State, that Member State is to be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

41 Admittedly, as some of the interested parties observed at the hearing, the fact that the application of the criterion for determining the Member State responsible in Article 9 of the Dublin III Regulation is subject to the express condition that the persons concerned have expressed their desire in writing precludes the application of that criterion where no such desire is expressed. That situation is likely to arise in particular where the application for international protection of the minor concerned is made following an unlawful secondary movement of his or her family from one Member State to the Member State in which that application is lodged. However, that fact in no way detracts from the fact that the EU legislature laid down, in Article 9, a provision which specifically covers a situation, such as that at issue in the main proceedings, where an applicant's family members are no longer themselves applicants, but are already beneficiaries of international protection granted by a Member State.

42 Furthermore, in the light of the clear wording of Article 9 of that regulation, the requirement that the desire of the persons concerned be expressed in writing, as laid down in that article, cannot be derogated from. Thus, the prevention of secondary movements, which, as the Court has held (judgment of 2 April 2019, *H. and R.*, C-582/17 and C-583/17, EU:C:2019:280, paragraph 77), is one of the objectives pursued by the Dublin III Regulation, cannot justify a different interpretation of that article.

43 The same applies to the procedure laid down in Article 17(2) of the Dublin III Regulation, under which the Member State in which an application for international protection is made may, at any time before a first decision regarding the substance is taken, request another Member State to take charge of an applicant for international protection in order to bring together any family relations on humanitarian grounds provided that the persons concerned express their consent in writing.

44 In those circumstances, in a situation in which the persons concerned have not expressed, in writing, the desire that the Member State responsible for examining a minor's application for international protection should be the Member State in which that minor's family members were allowed to reside as beneficiaries of international protection, the Member State responsible will be determined pursuant to Article 3(2) of the Dublin III Regulation. In accordance with that provision, which is applicable in the alternative, where no Member State can be designated as responsible on the basis of the criteria listed in that regulation, the first Member State in which the application for international protection was lodged is to be responsible for examining it.

45 In the light of all the findings above, the answer to the first question is that Article 20(3) of the Dublin III Regulation must be interpreted as meaning that it is not applicable by analogy to a situation in which a minor and his or her parents lodge applications for international protection in the Member State in which that minor was born, in circumstances where his or her parents are already the beneficiaries of international protection in another Member State.

The second and third questions

46 In view of the answer to the first question, there is no need to examine the second and third questions.

The fourth question

47 By its fourth question, the referring court asks, in essence, whether Article 33(2)(a) of the Procedures Directive must be interpreted as allowing, by application by analogy, an application for international protection of a minor to be rejected as inadmissible where it is not that minor himself or herself, but his or her parents, who are beneficiaries of international protection in another Member State.

48 It should be recalled that, under Article 33(1) of the Procedures Directive, Member States are not required to examine whether the applicant qualifies for international protection in accordance with Directive 2011/95 where an application is considered inadmissible pursuant to that article. In that regard, Article 33(2) of that directive sets out an exhaustive list of the situations in which the Member States may consider an application for international protection to be inadmissible (judgments of 19 March 2019, *Ibrahim and Others*, C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219, paragraph 76, and of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)*, C-483/20, EU:C:2022:103, paragraph 23).

49 That exhaustiveness is based on both the wording of the latter provision – in particular, on the word ‘only’ preceding the list of grounds of inadmissibility – and the purpose thereof, which consists, as the Court has previously held, in relaxing the obligation of the Member State responsible for examining an application for international protection by defining the cases in which such an application is considered to be inadmissible (judgment of 19 March 2020, *Bevándorlási és Menekültügyi Hivatal (Tompa)*, C-564/18, EU:C:2020:218, paragraph 30 and the case-law cited). In addition, in the light of that purpose, Article 33(2) of the Procedures Directive, taken as a whole, constitutes a derogation from the obligation on Member States to examine the substance of all applications for international protection.

50 Under Article 33(2)(a) of the Procedures Directive, the Member States may consider an application for international protection as inadmissible where another Member State has granted international protection. That possibility is explained in particular by the importance of the principle of mutual trust under EU law, in particular in the area of freedom, security and justice which the European Union constitutes, and of which that provision is an expression in the context of the common asylum procedure established by that directive (see, to that effect, judgment of 22 February 2022, *Commissaire général aux réfugiés et aux apatrides (Family unity – Protection already granted)*, C-483/20, EU:C:2022:103, paragraphs 28 and 29).

51 Nevertheless, it follows both from the exhaustiveness of the list in Article 33(2) of the Procedures Directive and from the fact that the grounds of inadmissibility set out in that list are exemptions that Article 33(2)(a) of that directive must be interpreted strictly and cannot therefore be applied to a situation which does not correspond to its wording.

52 The scope *ratione personae* of that provision cannot, consequently, extend to an applicant for international protection who is not himself or herself a beneficiary of the protection referred to in that provision. That interpretation is borne out by recital 43 of the Procedures Directive, which specifies, as the Advocate General observed in point 40 of his Opinion, the scope of that ground of inadmissibility by stating that Member States should not be obliged to assess the substance of an application for international protection where a first country of asylum has granted ‘the applicant’ refugee status or otherwise sufficient protection.

53 Consequently, in a situation such as that in the main proceedings, where the applicant is a minor whose family members are beneficiaries of international protection in another Member State, but who is not himself or herself a beneficiary of such protection, that applicant does not fall within

the scope of the exception provided for in Article 33(2)(a) of the Procedures Directive. His or her application cannot, therefore, be declared inadmissible on that basis.

54 Furthermore, that provision cannot be applied by analogy as the basis for a decision declaring the application inadmissible in the present situation. Such an application would disregard not only the exhaustive nature of the list in Article 33(2) of the Procedures Directive but also the fact that the situation of such a minor is not comparable to that of an applicant for international protection who is already a beneficiary of such protection granted by another Member State, meaning that any analogy is precluded.

55 In the light of the findings above, the answer to the fourth question is that Article 33(2)(a) of the Procedures Directive must be interpreted as meaning that it does not apply by analogy to an application for international protection lodged by a minor in a Member State where it is not that minor himself or herself, but his or her parents, who are beneficiaries of international protection in another Member State.

Costs

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

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

1. **Article 20(3) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person**

must be interpreted as meaning that:

it is not applicable by analogy to a situation in which a minor and his or her parents lodge applications for international protection in the Member State in which that minor was born, in circumstances where his or her parents are already the beneficiaries of international protection in another Member State.

2. **Article 33(2)(a) 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**

must be interpreted as meaning that:

it does not apply by analogy to an application for international protection lodged by a minor in a Member State where it is not that minor himself or herself, but his or her parents, who are beneficiaries of international protection in another Member State.

[Signatures]

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* Language of the case: German.