ECLI:EU:C:2016:127

JUDGMENT OF THE COURT (Grand Chamber)

1 March 2016 (*)

(Reference for a preliminary ruling — Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 — Articles 23 and 26 — Area of freedom, security and justice — Directive 2011/95/EU — Rules relating to the content of international protection — Subsidiary protection status — Article 29 — Social welfare — Conditions of access — Article 33 — Freedom of movement within the host Member State — Definition — Restriction — Obligation to reside in a particular place — Different treatment — Comparable situations — Balanced distribution of budgetary costs between local authorities — Grounds of migration or integration policy)

In Joined Cases C-443/14 and C-444/14,

REQUESTS for preliminary rulings under Article 267 TFEU from the Bundesverwaltungsgericht (Federal Administrative Court, Germany), made by decisions of 19 August 2014, received at the Court on 25 September 2014, in the proceedings

Kreis Warendorf

v

Ibrahim Alo (C-443/14)

and

Amira Osso

v

Region Hannover (C-444/14),

Interested party:

Vertreter des Bundesinteresses beim Bundesverwaltungsgericht (C-443/14 and C-444/14),

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, M. Ilešič, L. Bay Larsen (Rapporteur), T. von Danwitz, C. Toader, D. Šváby, F. Biltgen and C. Lycourgos, Presidents of Chambers, A. Rosas, E. Juhász, A. Borg Barthet, M. Safjan, M. Berger, A. Prechal and K. Jürimäe, Judges,

Advocate General: P. Cruz Villalón,

Registrar: K. Malacek, Administrator,

having regard to the written procedure and further to the hearing on 14 July 2015,

after considering the observations submitted on behalf of:

– Kreis Warendorf, by L. Tepe, acting as Agent,

– Mr Alo, by S. Bulut, Rechtsanwalt,

– Ms Osso, by S. Ziesemer and K.-S. Janutta, Rechtsanwältinnen,

– the German Government, by T. Henze and J. Möller, acting as Agents,

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

– 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 6 October 2015,

gives the following

Judgment

1 These requests for preliminary rulings concern the interpretation of Articles 29 and 33 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9).

2 The requests have been made in two sets of proceedings between, in Case C-443/14, Kreis Warendorf (Warendorf District) and Mr Alo and, in Case C-444/14,

Ms Osso and Region Hannover (Hanover Region), concerning the place-of-residence conditions attached to Mr Alo's and Ms Osso's residence permits.

Legal context

The Geneva Convention

3 The Convention Relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, vol. 189, p. 150, No 2545 (1954)), entered into force on 22 April 1954. It was supplemented by the Protocol Relating to the Status of Refugees, concluded in New York on 31 January 1967, which entered into force on 4 October 1967 ('the Geneva Convention').

4 Article 23 of the Geneva Convention, entitled 'Public relief', states:

'The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.'

5 Article 26 of that convention, entitled 'Freedom of Movement', provides:

'Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.'

EU law

6 Recitals 3, 4, 6, 8, 9, 16, 23, 24, 33 and 39 of Directive 2011/95 are worded as follows:

'(3) The European Council at its special meeting in Tampere on 15 and 16 October 1999 agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention …

(4) The Geneva Convention … [provides] the cornerstone of the international legal regime for the protection of refugees.

...

(6) The Tampere conclusions also provide that rules regarding refugee status should be complemented by measures on subsidiary forms of protection, offering an appropriate status to any person in need of such protection.

...

(8) In the European Pact on Immigration and Asylum, adopted on 15 and 16 October 2008, the European Council noted that considerable disparities remain between one Member State and another concerning the grant of protection and the forms that protection takes and called for new initiatives to complete the establishment of a Common European Asylum System, provided for in the Hague Programme, and thus to offer a higher degree of protection.

(9) In the Stockholm Programme, the European Council reiterated its commitment to the objective of establishing a common area of protection and solidarity, based on a common asylum procedure and a uniform status, in accordance with Article 78 [TFEU], for those granted international protection, by 2012 at the latest.

...

(16) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. …

…

(23) Standards for the definition and content of refugee status should be laid down to guide the competent national bodies of Member States in the application of the Geneva Convention.

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

...

(33) Standards for the definition and content of subsidiary protection status should also be laid down. Subsidiary protection should be complementary and additional to the refugee protection enshrined in the Geneva Convention.

...

(39) While responding to the call of the Stockholm Programme for the establishment of a uniform status for refugees or for persons eligible for subsidiary protection, and with the exception of derogations which are necessary and objectively justified, beneficiaries of subsidiary protection status should be granted the same rights and benefits as those enjoyed by refugees under this Directive, and should be subject to the same conditions of eligibility.'

7 Article 20(1) and (2), forming part of Chapter VII of Directive 2011/95, which concerns the content of international protection, provides:

'1. This Chapter shall be without prejudice to the rights laid down in the Geneva Convention.

2. This Chapter shall apply both to refugees and persons eligible for subsidiary protection unless otherwise indicated.'

8 Article 29 of Directive 2011/95, entitled 'Social welfare', is worded as follows:

'1. Member States shall ensure that beneficiaries of international protection receive, in the Member State that has granted such protection, the necessary social assistance as provided to nationals of that Member State.

2. By way of derogation from the general rule laid down in paragraph 1, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits which will then be provided at the same level and under the same eligibility conditions as nationals.'

9 Article 32 of that directive provides:

'1. Member States shall ensure that beneficiaries of international protection have access to accommodation under equivalent conditions as other third-country nationals legally resident in their territories.

2. While allowing for national practice of dispersal of beneficiaries of international protection, Member States shall endeavour to implement policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation.'

10 Article 33 of Directive 2011/95, entitled 'Freedom of movement within the Member State', provides:

'Member States shall allow freedom of movement within their territory to beneficiaries of international protection, under the same conditions and restrictions as those provided for other third-country nationals legally resident in their territories.'

German law

11 Paragraph 12 of the Law on the 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 cases before the referring court ('the AufenthG'), provides:

'(1) The residence permit shall be issued for the territory of the Federal Republic. Its validity under those provisions of the Convention Implementing the Schengen Agreement that apply to residence in the territories of the Contracting Parties shall remain unaffected.

(2) Visas and residence permits may be granted and extended subject to certain conditions. They may, even *ex post facto*, have conditions attached to them, in particular a geographical restriction.'

12 Under the Administrative Instructions concerning the AufenthG (Allgemeine Verwaltungsvorschrift zum AufenthG) of 26 October 2009:

'12.2.5.2.1 The condition restricting the place of residence represents in particular an appropriate means of ensuring that foreign recipients of social security benefits do not place a disproportionate fiscal burden on individual Länder and municipalities by linking them to a particular region. Such conditions may also help avert the concentration of welfare-dependent foreign nationals in specific areas and the associated emergence of points of social tensions with the negative effects which they have for the integration of foreign nationals. Such measures are also justified as a means of linking foreign nationals in particular need of integration to a specific place of residence so that they can avail themselves of the integration facilities available there.

12.2.5.2.2 Against this background, conditions restricting the place of residence are to be imposed and maintained in the case of holders of leave to remain under Chapter 2, Section 5, of the AufenthG or indefinite leave to remain under Paragraph 23(2), in so far as and so long as they are in receipt of benefits under the Second or Twelfth Book of the Social Security Code (Sozialgesetzbuch) or the Law on benefits for asylum seekers (Asylbewerberleistungsgesetz).'

13 According to the information provided in the orders for reference, those administrative instructions apply exclusively to foreign nationals who have been granted a residence permit on humanitarian or political grounds or grounds based on international law. The order for reference also indicates that, according to the case-law of the referring court, it is not permissible to impose a residence condition on third-country nationals with refugee status solely for the purpose of ensuring an appropriate distribution of the burden of public social assistance.

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

14 Mr Alo and Ms Osso are Syrian nationals. They travelled, in 1998 and 2001 respectively, to Germany where they both made unsuccessful applications for asylum. They then resided in Germany having been granted provisional leave to remain. They have been in receipt of social security benefits since their asylum procedures first began.

15 Following the submission of fresh asylum applications, Mr Alo and Ms Osso were granted subsidiary protection status by the Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge).

16 The residence permits which were issued to Mr Alo and Ms Osso by decisions of Warendorf District of 12 October 2012 and Hanover Region of 5 April 2012,

respectively, included a condition requiring them to take up residence, in Mr Alo's case, in the town of Ahlen (Germany) and, in Ms Osso's case, in Hanover Region (Germany), with the exception of the capital of the Land of Lower Saxony. The authorities, in taking those decisions, relied on points 12.2.5.2.1 and 12.2.5.2.2 of the Administrative Instructions concerning the AufenthG.

17 Mr Alo and Ms Osso object, in the two cases in the main proceedings, to the residence conditions imposed on them. Their actions were dismissed at first instance.

18 The appeal brought by Mr Alo before the Oberverwaltungsgericht für das Land Nordrhein Westfalen (Higher Administrative Court for the Land of North Rhine-Westphalia) was successful. The court lifted the residence condition and, in essence, held that the decision of Warendorf District was in breach of Article 28(1), in conjunction with Article 32, 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), provisions which correspond to Articles 29(1) and 33 of Directive 2011/95.

19 By contrast, the Niedersächsisches Oberverwaltungsgericht (Higher Administrative Court for the Land of Lower Saxony) dismissed Ms Osso's appeal. It held, in particular, that the contested decision was compatible with the applicable provisions because Ms Osso was in receipt of certain social security benefits. The court also held that that decision was not in breach of either international or EU law.

20 Warendorf District and Ms Osso then brought appeals on a point of law ('Revision') before the Bundesverwaltungsgericht (Federal Administrative Court) against the judgments of the Oberverwaltungsgericht für das Land Nordrhein Westfalen (Higher Administrative Court for the Land of North Rhine-Westphalia) and the Niedersächsisches Oberverwaltungsgericht (Higher Administrative Court for the Land of Lower Saxony).

21 In those circumstances, the Bundesverwaltungsgericht (Federal Administrative Court) decided to stay the proceedings and to refer the following questions, which are worded identically in Case C-443/14 and Case C-444/14, to the Court of Justice for a preliminary ruling:

'1. Does the condition requiring residence to be taken up in a geographically limited area (municipality, district, region) of a Member State constitute a restriction of freedom of movement within the meaning of Article 33 of Directive 2011/95, where the foreign national can otherwise move freely and stay in the territory of that Member State?

2. Is a place-of-residence condition imposed on beneficiaries of subsidiary protection status compatible with Article 33 and/or Article 29 of Directive 2011/95, where it is based on the objective of achieving an appropriate distribution of social assistance burdens among the relevant institutions within the territory of the State?

3. Is a place-of-residence condition imposed on beneficiaries of subsidiary protection status compatible with Article 33 and/or Article 29 of Directive 2011/95, where it is based on grounds of migration or integration policy, for instance to prevent points of social tension as a result of the accumulated settlement of foreign nationals in certain municipalities or districts? Are abstract migration or integration policy grounds sufficient in this regard or must such grounds be specifically ascertained?'

Consideration of the questions referred

The first question

22 By its first question in each of the cases before it, the referring court asks, in essence, whether Article 33 of Directive 2011/95 must be interpreted as meaning that a place-of-residence condition ('residence condition') imposed on a beneficiary of subsidiary protection status, such as the conditions at issue in the main proceedings, constitutes a restriction of the freedom of movement guaranteed by that article, even when it does not prevent the beneficiary from moving freely within the territory of the Member State that has granted the protection and from staying on a temporary basis in that territory outside the place designated by the residence condition.

23 Under Article 33 of Directive 2011/95, Member States are to allow freedom of movement within their territory to beneficiaries of international protection, under the same conditions and restrictions as those provided for other third-country nationals who are legally resident in their territories.

24 It cannot be determined, purely from a literal reading of Article 33, whether that article implies only that beneficiaries of international protection must be able to move freely within the territory of the Member State that has granted such protection or whether it also means that such beneficiaries must be able to choose their place of residence in that territory.

25 The fact that Article 33 of Directive 2011/95 is entitled 'Freedom of movement' is not sufficient to dispel the ambiguities arising from its wording. As the Advocate General has noted in point 34 of his Opinion, that expression is not always used uniformly in EU law, inasmuch as certain provisions of EU law explicitly distinguish between the freedom of movement and the freedom to choose the place of residence, while others use the expression 'freedom of movement' in a way which also encompasses the right to choose the place of residence.

26 Furthermore, although in the German-language version of Directive 2011/95, the title of Article 33 of the directive, namely 'Freizügigkeit innerhalb eines Mitgliedstaats', could be read as an indication that the freedom of movement which that article lays down includes the right to choose the place of residence, other language versions of the directive, in particular the Spanish, Danish, English, French and Italian versions, do not support such an interpretation.

27 According to settled case-law of the Court, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions. Provisions of EU law must be interpreted and applied uniformly in the light of the versions established in all the languages of the European Union. Where there is divergence between the various language versions of an EU legislative text, the provision in question must be interpreted by reference to the general scheme and the purpose of the rules of which it forms part (judgment in *GSV*, C-74/13, EU:C:2014:243, paragraph 27 and the case-law cited).

28 It must be noted in that regard that it is clear from recitals 4, 23 and 24 of Directive 2011/95 that the Geneva Convention constitutes the cornerstone of the international legal regime for the protection of refugees and that the provisions of the directive for determining who qualifies for refugee status and the content of that status were adopted to guide the competent authorities of the Member States in the application of that convention on the basis of common concepts and criteria (see, by analogy, judgment in *Abed El Karem El Kott and Others*, C-364/11, EU:C:2012:826, paragraph 42).

29 Directive 2011/95 must, for that reason, be interpreted in the light of its general scheme and purpose, and in a manner consistent with the Geneva Convention and the other relevant treaties referred to in Article 78(1) TFEU. As is apparent from recital 16 in the preamble thereto, the directive must also be interpreted in a manner consistent with the rights recognised by the Charter of Fundamental Rights of the European Union (see, by analogy, judgment in *Abed El Karem El Kott and Others*, C-364/11, EU:C:2012:826, paragraph 43 and the case-law cited).

30 Furthermore, it follows from recital 3 of Directive 2011/95 that, drawing on the Conclusions of the Tampere European Council, the EU legislature intended to ensure that the European asylum system, to whose definition that directive contributes, is based on the full and inclusive application of the Geneva Convention.

31 In principle, those considerations are, in so far as they pertain to the Geneva Convention, relevant only in relation to the conditions for determining who qualifies for refugee status and the content of that status, since the system laid down by the convention applies only to refugees and not to beneficiaries of subsidiary protection status, which is intended, as is apparent from recitals 6 and 33 of Directive 2011/95, to complement and add to the protection of refugees enshrined in the convention (see, to that effect, judgments in *Diakité*, C-285/12, EU:C:2014:39, paragraph 33, and *N.*, C-604/12, EU:C:2014:302, paragraph 31).

32 Nevertheless, recitals 8, 9 and 39 of Directive 2011/95 state that the EU legislature intended, in responding to the call of the Stockholm Programme, to establish a uniform status for all beneficiaries of international protection and that it accordingly chose to afford beneficiaries of subsidiary protection the same rights and benefits as those enjoyed by refugees, with the exception of derogations which are necessary and objectively justified.

33 Thus, Chapter VII of Directive 2011/95, which relates to the content of international protection, is to apply, in accordance with Article 20(2) of the directive, both to refugees and to beneficiaries of subsidiary protection status, unless otherwise indicated.

34 Whilst certain articles in Chapter VII contain such an indication to the contrary, that is not the case of Article 33 of Directive 2011/95. Rather, that article makes clear that the 'freedom of movement' it lays down is secured for 'beneficiaries of international protection', which means that refugees and beneficiaries of subsidiary protection status are, in that respect, subject to the same rules.

35 Article 26 of the Geneva Convention, under which refugees are guaranteed the right to freedom of movement, expressly provides that that freedom includes not only the right to move freely in the territory of the State that has granted refugee status, but also the right of refugees to choose their place of residence in that territory. There is nothing to suggest that the EU legislature chose to include only the first of those rights in Directive 2011/95, but not the second.

36 In those circumstances, interpreting Article 33 of Directive 2011/95 to the effect that it does not confer on beneficiaries of subsidiary protection status the right to choose their place of residence in the territory of the Member State that has granted them such protection would mean that that right was afforded only to refugees. That would create — despite the absence of an express provision to that effect in the directive — a distinction (contrary to the objective referred to in paragraphs 32 and 33 of the present judgment) between the content of the protection afforded in this respect to, on the one hand, refugees and, on the other, beneficiaries of subsidiary protection status.

37 Accordingly, Article 33 of the directive must be interpreted as meaning that it requires the Member States to allow beneficiaries of international protection both to move freely within the territory of the Member State that has granted such protection and to choose their place of residence within that territory.

38 The fact that Article 32(2) of Directive 2011/95 specifically states that the national practice of dispersal of beneficiaries of international protection is allowed does not call that conclusion into question.

39 Indeed, in view of the subject matter of Article 32, that statement must be understood as intended solely to enable the Member States to incorporate such a practice in their policies on access to accommodation.

40 In the light of the foregoing, the answer to the first question in each of the cases in the main proceedings is that Article 33 of Directive 2011/95 must be interpreted as meaning that a residence condition imposed on a beneficiary of subsidiary protection status, such as the conditions at issue in the main proceedings, constitutes a restriction of the freedom of movement guaranteed by that article, even when it does not prevent the beneficiary from moving freely within the territory of the Member State that has granted

the protection and from staying on a temporary basis in that territory outside the place designated by the residence condition.

The second question

41 By its second question in each of the cases before it, the referring court asks, in essence, whether Articles 29 and 33 of Directive 2011/95 must be interpreted as precluding the imposition of a residence condition, such as the conditions at issue in the main proceedings, on a beneficiary of subsidiary protection status in receipt of certain specific social security benefits, for the purpose of achieving an appropriate distribution of the burden of paying those benefits among the various institutions competent in that regard.

42 As regards Article 33 of the directive, although it follows from the answer to the first question that the imposition of a residence condition such as those at issue in the main proceedings constitutes a restriction of the freedom of movement guaranteed by that article, the latter nonetheless allows certain restrictions of that freedom.

43 Article 33 of Directive 2011/95 makes clear however that the right of beneficiaries of international protection to freedom of movement must be exercised under the same conditions and restrictions as those provided for other third-country nationals who are legally resident in the territory of the Member State which has granted that protection.

44 Article 26 of the Geneva Convention, which, in the light of the reasoning in paragraphs 28 to 37 of the present judgment, is relevant for determining the scope of the freedom of movement of beneficiaries of subsidiary protection status, provides that freedom of movement is to be accorded to refugees subject to any regulations applicable to aliens generally in the same circumstances.

45 It follows that, under Article 33 of Directive 2011/95, beneficiaries of subsidiary protection status cannot, in principle, be subject to more restrictive rules, as regards the choice of their place of residence, than those applicable to refugees and other third-country nationals who are legally resident in the Member State which has granted that protection.

46 The order for reference indicates that, in order to achieve an appropriate distribution of the burden of paying certain specific social security benefits (‘welfare benefits’) among the various competent institutions, a residence condition is imposed on third-country nationals who (i) have leave to remain on grounds that are humanitarian or political or based on international law (with the exception of refugees) and (ii) are in receipt of welfare benefits.

47 Under the national rules at issue in the main proceedings, beneficiaries of subsidiary protection status are thus subject, in that respect, to a more restrictive regime than that applicable, generally, to refugees and third-country nationals legally resident in Germany on grounds that are not humanitarian or political or based on international law.

48 So far as Article 29 of Directive 2011/95 is concerned, the Court notes that paragraph 1 thereof lays down a general rule that beneficiaries of international protection are to receive, in the Member State that has granted such protection, social assistance as provided to nationals of that Member State. That rule implies, in particular, that the access of those beneficiaries to social assistance cannot be dependent on compliance with conditions which are not imposed on nationals of the Member State that has granted the protection.

49 Article 29(2) of the directive provides that the Member State may derogate from that rule by limiting social assistance granted to beneficiaries of subsidiary protection to core benefits. However, it is clear from that provision that, where a Member State decides to derogate from the rule, those core benefits must be provided under the same conditions of eligibility as those applicable to nationals of that Member State.

50 Accordingly, in the two situations mentioned in Article 29 of Directive 2011/95, the conditions under which beneficiaries of subsidiary protection status are eligible for the social assistance extended to them by the Member State that has granted them that protection must be the same as those under which such assistance is granted to nationals of that Member State.

51 Article 23 of the Geneva Convention, which, in the light of the reasoning in paragraphs 28 to 37 of the present judgment, is relevant for the interpretation of Article 29(1) of Directive 2011/95, confirms that analysis, since it states that the Contracting States are to accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

52 It follows from the considerations in paragraph 46 of the present judgment that residence conditions such as those at issue in the main proceedings are imposed on beneficiaries of subsidiary protection status when the latter are in receipt of welfare benefits.

53 Unlike German nationals, for whom there are no such residence conditions, a beneficiary of subsidiary protection status will therefore be eligible for welfare benefits only if he is prepared to accept a residence condition.

54 That said, national rules could legitimately provide for a residence condition to be imposed on beneficiaries of subsidiary protection status, without such a condition being imposed on refugees, third-country nationals legally resident in the territory of the Member State concerned on grounds that are not humanitarian or political or based on international law and nationals of that Member State, if those groups are not in an objectively comparable situation as regards the objective pursued by those rules.

55 In that respect, it must be noted, however, that the grant of social security benefits to a given person will entail costs for the institution that is required to provide those benefits, regardless of whether that person is a beneficiary of subsidiary protection status, a refugee, a third-country national who is legally resident in German territory on grounds

that are not humanitarian or political or based on international law or a German national. The movement of recipients of those benefits or the fact that such persons are not equally concentrated throughout the Member State concerned may thus mean that the costs entailed are not evenly distributed among the various competent institutions, irrespective of the potential qualification of such recipients for subsidiary protection status.

56 It follows from the foregoing that the answer to the second question in each of the cases in the main proceedings is that Articles 29 and 33 of Directive 2011/95 must be interpreted as precluding the imposition of a residence condition, such as the conditions at issue in the main proceedings, on a beneficiary of subsidiary protection status in receipt of certain specific social security benefits, for the purpose of achieving an appropriate distribution of the burden of paying those benefits among the various institutions competent in that regard, when the applicable national rules do not provide for the imposition of such a measure on refugees, third-country nationals legally resident in the Member State concerned on grounds that are not humanitarian or political or based on international law or nationals of that Member State in receipt of those benefits.

The third question

57 By its third question in each of the cases before it, the referring court asks, in essence, whether Articles 29 and/or 33 of Directive 2011/95 must be interpreted as precluding the imposition on a beneficiary of subsidiary protection status, in receipt of certain specific social security benefits, of a residence condition, such as the conditions at issue in the main proceedings, where the objective is to facilitate the integration of third-country nationals in the Member State that has granted that protection.

58 It appears from the orders for reference that, in connection with the objective mentioned in the preceding paragraph, the residence condition provided for by German law seeks, on the one hand, to prevent the concentration in certain areas of third-country nationals in receipt of welfare benefits and the emergence of points of social tension with the negative consequences which that entails for the integration of those persons and, on the other, to link third-country nationals in particular need of integration to a specific place of residence so that they can make use of the integration facilities available there.

59 In that regard, it should be stated that Article 29 of Directive 2011/95 is not relevant in the context of the examination of the third question, since beneficiaries of subsidiary protection status and German nationals are not in a comparable situation so far as the objective of facilitating the integration of third-country nationals is concerned.

60 As regards Article 33 of Directive 2011/95, it can be seen from the information set out in paragraphs 12 and 13 of the present judgment that the treatment, under the national rules at issue in the main proceedings, of beneficiaries of subsidiary protection status in receipt of welfare benefits is different from the treatment applicable, generally, to third-country nationals legally resident in German territory on grounds that are not humanitarian or political or based on international law and to German nationals.

61 It follows from the reasoning in paragraph 54 of the present judgment that the imposition by such rules of a residence condition on a beneficiary of subsidiary protection status in receipt of welfare benefits is precluded by Article 33 of Directive 2011/95 only where beneficiaries of subsidiary protection status are in a situation that is, so far as concerns the objective pursued by those rules, objectively comparable with the situation of third-country nationals legally resident in Germany on grounds that are not humanitarian or political or based on international law.

62 The referring court will therefore have to determine whether the fact that a third-country national in receipt of welfare benefits is a beneficiary of international protection — in this case subsidiary protection — means that he will face greater difficulties relating to integration than another third-country national who is legally resident in Germany and in receipt of such benefits.

63 That might, in particular, be the case if, pursuant to the national rule mentioned by the referring court — under which the stay of third-country nationals legally resident in Germany on grounds that are not humanitarian or political or based on international law is generally subject to a condition that they are able to support themselves —, those nationals were eligible for welfare benefits only after a certain period of continuous legal residence in the host Member State. It could be assumed from such a period of residence that the third-country nationals concerned are sufficiently integrated in that Member State and therefore would not be in a situation comparable with that of beneficiaries of international protection so far as the objective of facilitating the integration of third-country nationals is concerned.

64 It follows from the foregoing that the answer to the third question in each of the cases in the main proceedings is that Article 33 of Directive 2011/95 must be interpreted as not precluding a residence condition, such as the conditions at issue in the main proceedings, from being imposed on a beneficiary of subsidiary protection status, in receipt of certain specific social security benefits, with the objective of facilitating the integration of third-country nationals in the Member State that has granted that protection — when the applicable national rules do not provide for such a measure to be imposed on third-country nationals legally resident in that Member State on grounds that are not humanitarian or political or based on international law and who are in receipt of those benefits — if beneficiaries of subsidiary protection status are not in a situation that is objectively comparable, so far as that objective is concerned, with the situation of third-country nationals legally resident in the Member State concerned on grounds that are not humanitarian or political or based on international law, it being for the referring court to determine whether that is the case.

Costs

65 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 33 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, must be interpreted as meaning that a residence condition imposed on a beneficiary of subsidiary protection status, such as the conditions at issue in the main proceedings, constitutes a restriction of the freedom of movement guaranteed by that article, even when it does not prevent the beneficiary from moving freely within the territory of the Member State that has granted the protection and from staying on a temporary basis in that territory outside the place designated by the residence condition.**

2. **Articles 29 and 33 of Directive 2011/95 must be interpreted as precluding the imposition of a residence condition, such as the conditions at issue in the main proceedings, on a beneficiary of subsidiary protection status in receipt of certain specific social security benefits, for the purpose of achieving an appropriate distribution of the burden of paying those benefits among the various institutions competent in that regard, when the applicable national rules do not provide for the imposition of such a measure on refugees, third-country nationals legally resident in the Member State concerned on grounds that are not humanitarian or political or based on international law or nationals of that Member State in receipt of those benefits.**

3. **Article 33 of Directive 2011/95 must be interpreted as not precluding a residence condition, such as the conditions at issue in the main proceedings, from being imposed on a beneficiary of subsidiary protection status, in receipt of certain specific social security benefits, with the objective of facilitating the integration of third-country nationals in the Member State that has granted that protection — when the applicable national rules do not provide for such a measure to be imposed on third-country nationals legally resident in that Member State on grounds that are not humanitarian or political or based on international law and who are in receipt of those benefits — if beneficiaries of subsidiary protection status are not in a situation that is objectively comparable, so far as that objective is concerned, with the situation of third-country nationals legally resident in the Member State concerned on grounds that are not humanitarian or political or based on international law, it being for the referring court to determine whether that is the case.**

[Signatures]

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* Language of the case: German.