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## **CJEU ? Joined Cases C-391/16, C-77/17 and C-78/17, M (Révocation du statut de réfugié)**

**Country of Applicant:**

Congo (DRC)  
Ivory Coast  
Russia  
Russia (Chechnya)

**Date of Decision:**

14-05-2019

**Citation:**

Joined Cases C-391/16, C-77/17 e C-78/17 (EU:C:2019:403)

**Court Name:**

Court of justice of the European Union (Grand Chamber)

**Keywords:**

[Cessation of protection](#) [1]  
[Exclusion from protection](#) [2]  
[Non-refoulement](#) [3]  
[Revocation of protection status](#) [4]  
[Refugee Status](#) [5]  
[Serious non-political crime](#) [6]

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**Relevant Legislative Provisions:**

European Union Law > [EN - Charter of Fundamental Rights of the European Union](#) [7]  
European Union Law > [EN - Treaty on European Union](#) [8] > Article 6  
European Union Law > [EN - Treaty on European Union](#) [8]  
European Union Law > Treaty on the Functioning of the European Union 2010/C 83/01 > Article 78  
European Union Law > Treaty on the Functioning of the European Union 2010/C 83/01  
European Union Law > [EN - Charter of Fundamental Rights of the European Union](#) [7] > [Article 18](#) [9]  
European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [10] > [Article 2](#) [11]  
European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [10] > [Article 11](#) [12]  
European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#)

[10] > [Article 12](#) [13]

European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [10] > [Article 13](#) [14]

European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [10] > [Article 14](#) [15]

European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [10] > [Article 21](#) [16]

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#### **Headnote:**

The provisions of Article 14(4) to (6) of Directive 2011/95 cannot be interpreted as meaning that the effect of the revocation or the refusal of the refugee status is that the person concerned, who satisfies the material conditions set forth in Article 1A of the Geneva Convention, is excluded from international protection. Member States, when implementing Article 14(4) and (5) of the directive, are required to grant refugees who are present in their respective territories only the rights expressly referred to in Article 14(6) of that directive and the rights set out in the Geneva Convention that are guaranteed for any refugee who is present in the territory of a Contracting State and do not require a lawful stay.

Article 21(2) of the directive precludes Member States from issuing a measure of refoulement or expulsion against the persons covered by one of the scenarios described in Article 14(4) and (5) of Directive 2011/95 if this would expose the concerned persons to the risk of their fundamental rights as enshrined in Article 4 and Article 19(2) of the Charter of fundamental rights of the EU.

#### **Facts:**

The first case, M (C-391/16), concerned an applicant of Chechen origin whose right to asylum was revoked on the grounds that he had been convicted of a serious crime and that he was a threat to national security. The second case, X (C-77/17), concerns an Ivorian national, who applied for asylum after being convicted for serious crimes, and whose application was refused due to these crimes. In the third case, X (C-78/17), the applicant was a recognised refugee whose status was revoked and his removal from the State was ordered because of the serious nature of the crimes he committed.

The referring courts sought to ascertain whether Article 14 (4) to (6) of Directive 2011/95/EU, disregard the Geneva Convention relating to the Status of Refugees are therefore invalid in light of Article 18 of the Charter on Fundamental Rights of the European Union (Charter) and Article 78(1) Treaty on the Functioning of the European Union (TFEU), which state that the common asylum policy must comply with that Convention.

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#### **Decision & Reasoning:**

Although the European Union is not a contracting party of the Geneva Convention, the Court has jurisdiction over the case because Article 78 (1) TFEU and Article 18 of the Charter nonetheless require the Union to observe the rules of that convention.

As can be seen from recital 21 of Directive 2011/95, the recognition by a Member State of a person as refugee is declaratory and not constitutive of being a refugee; thus, the persons that,

under Article 14(4) and (5) of that directive, lose their 'refugee status', continue to be entitled to the international protection which, under Article 18 of the Charter and Article 78(1) TFEU must be guaranteed in compliance with the Geneva Convention.

The circumstances referred to in Article 14(4) and (5) of the directive correspond to those in which Member States may revoke a refugee under Article 21(2) of that directive and Article 33(2) of the Geneva Convention. However, since, as stated in recital 16 of the directive, Article 21 must be interpreted in a way that observes the rights guaranteed by Articles 4 and 19(2) of the Charter, EU law provides a more extensive international protection for the refugees concerned than that guaranteed by the Geneva Convention. Consequently, despite this possibility to revoke or refuse to renew a refugee status, EU law offers protection against refoulement that is wider than that enshrined in the 1951 Geneva Convention.

The Court found that while the status of refugee can be revoked, under Article 14 (6), those persons are still entitled to a number of rights laid down in the Geneva Convention which, as highlighted in the Advocate General [Opinion](#) [17], confirms that they are, or continue to be, refugees for the purposes of, inter alia, Article 1(A) of that Convention, in spite of that revocation or refusal.

The Court emphasized that despite being denied the residence permit attached to refugee status under Directive 2011/95/EC, a refugee covered by one of the scenarios referred to in Article 14(4) and (5) thereof may be authorised, on another legal basis, to stay lawfully in the territory of the Member State concerned. The Court further states that in such a situation, Article 14(6) of the Directive in no way prevents that Member State from guaranteeing that the person concerned is entitled to all the rights which the Geneva Convention attaches to 'being a refugee', particularly provided for in Articles 3, 4, 13, 16, 20, 22, 25, 27, 29 and 31 - 33 of the Convention.

The Court, therefore, concluded that the examination of Article 14(4) to (6) of Directive 2011/95 has not revealed any factor capable of affecting its validity.

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### **Outcome:**

Consideration of Article 14(4) to (6) 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, has disclosed no factor of such a kind as to affect the validity of those provisions in the light of Article 78(1) TFEU and Article 18 of the Charter of Fundamental Rights of the European Union.

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### **Observations/Comments:**

This summary was drafted by Giacomo Bruno.

### **Case Law Cited:**

CJEU - C-443/14 and C-444/14, *Alo and Osso*, 1 March 2016

CJEU - C-373/13 H. T., 24 June 2015

[CJEU ? Case C-181/16 Ghandi, 19 June 2018](#) [18]

[CJEU - C-369/17, \*Shajin Ahmed v Bevándorlási és Menekültügyi Hivatal\*](#)

[19]

CJEU - C-404/15 and C-659/15 PPU, Aranyosi and C?ld?raru

[CJEU - C-573/14, Commissaire général aux réfugiés et aux apatrides v. Mostafa Lounani](#) [20]

[CJEU - C-411-10 and C-493-10, Joined cases of N.S. v United Kingdom and M.E. v Ireland](#) [21]

**Attachment(s):**



[C39116.pdf](#)[22]

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**Other sources cited:**

UNHCR, ?UNHCR Annotated Comments on Directive 2004/83?, published in January 2005

**Authentic Language:**

English

**Country of preliminary reference:**

Czech Republic

**National / Other Legislative Provisions:**

Zákon ?. 325/1999 Sb.

o azylu (law n. 325/1999 on asylum)

Loi du 15 décembre 1980 sur l'accès au territoire

le séjour

l'établissement et l'éloignement des étrangers (law if 15 December 1980 on access to the territory residence

establishment and removal of foreign nationals)

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**Links:**

[1] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A1162](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A1162)

[2] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A31](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A31)

[3] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A48](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A48)

[4] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A69](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A69)

[5] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A192](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A192)

[6] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A75](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A75)

[7] <https://m.asylumlawdatabase.eu/node/453>

[8] <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>

[9] [https://m.asylumlawdatabase.eu/node/453#toc\\_85](https://m.asylumlawdatabase.eu/node/453#toc_85)

[10] <https://m.asylumlawdatabase.eu/node/4038>

[11] [https://m.asylumlawdatabase.eu/node/4038#toc\\_70](https://m.asylumlawdatabase.eu/node/4038#toc_70)

[12] [https://m.asylumlawdatabase.eu/node/4038#toc\\_165](https://m.asylumlawdatabase.eu/node/4038#toc_165)

[13] [https://m.asylumlawdatabase.eu/node/4038#toc\\_176](https://m.asylumlawdatabase.eu/node/4038#toc_176)

[14] [https://m.asylumlawdatabase.eu/node/4038#toc\\_188](https://m.asylumlawdatabase.eu/node/4038#toc_188)

[15] [https://m.asylumlawdatabase.eu/node/4038#toc\\_191](https://m.asylumlawdatabase.eu/node/4038#toc_191)

[16] [https://m.asylumlawdatabase.eu/node/4038#toc\\_247](https://m.asylumlawdatabase.eu/node/4038#toc_247)

[17]

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=203230&pageIndex=0&>

[18] <https://m.asylumlawdatabase.eu/en/content/cjeu-%E2%80%93-case-c-18116-gnandi-19-june-2018>

[19] <https://m.asylumlawdatabase.eu/en/content/cjeu-c-36917-shajin-ahmed-v-bev%C3%A1ndorl%C3%A1si-%C3%A9s-menek%C3%BClt%C3%BCgyi-hivatal>

[20] <https://m.asylumlawdatabase.eu/en/content/cjeu-c-57314-commissaire-g%C3%A9n%C3%A9ral-aux-r%C3%A9fugi%C3%A9s-et-aux-apatrides-v-mostafa-lounani>

[21] <https://m.asylumlawdatabase.eu/en/content/cjeu-c-411-10-and-c-493-10-joined-cases-ns-v-united-kingdom-and-me-v-ireland>

[22] <https://m.asylumlawdatabase.eu/sites/default/files/aldfiles/C39116.pdf>