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Judgment of the Court of Justice in Joined Cases C-228/21, C-254/21, C-297/21, C-315/21 and C-328/21 |
Ministero dell'Interno (Common leaflet – Indirect *refoulement*)

Asylum procedures: the obligation to provide the common information leaflet and to conduct a personal interview concerns all Member States; the risk of indirect *refoulement* is not, as a rule, examined by the second Member State seised

*Information concerning the asylum procedure must be provided to the applicant even when a second asylum application is made. Hearing an action challenging the transfer to the Member State of the first application, the courts of the second Member State cannot, in principle, examine the risk of *refoulement* to the applicant's country of origin*

Several persons originally from, inter alia, Afghanistan, Iraq and Pakistan applied for asylum in Italy. They had previously made similar applications in other Member States (Slovenia, Sweden, Germany and Finland). Since those other Member States agreed, in accordance with the Dublin III Regulation ¹, to take back those applicants, Italy adopted transfer decisions in respect of those applicants. As a rule, it is for the first Member State seised to examine whether international protection is to be granted.

The applicants objected to the transfer. The Italian courts hearing those disputes ask whether an applicant who makes a second asylum application must, as for the first application, be given the 'common leaflet' (that is to say, that it is uniform throughout the European Union), which contains information about the procedure and the rights and obligations of the applicant and, in addition, be entitled to a personal interview. Moreover, they ask whether it is possible to take into account, in the context of the examination of the transfer decision, the risk of *refoulement* of the applicant to his or her country of origin. Those courts therefore sought clarification from the Court of Justice ².

The Court finds that the provision of the common leaflet and the conduct of a personal interview are required both upon a first asylum application and upon a subsequent application. The applicant is thus put in a position to be able to inform the authorities of the second Member State about anything that might prevent his or her transfer and might justify the latter Member State becoming the one responsible for examining his or her asylum application. A failure to comply with those obligations may, under certain conditions, justify the annulment of the transfer decision.

By contrast, **the courts of the second Member State cannot examine whether the applicant, after the transfer to the first Member State, risks being returned to his or her country of origin. It cannot be otherwise unless the courts find that there are systemic flaws in the asylum procedure and in the reception conditions for applicants for international protection in the first Member State.** Differences of opinion between the Member State as regards the interpretation of the conditions for international protection do not establish the existence of systemic deficiencies. Each Member State must, save in exceptional circumstances, consider all the other Member States to be complying with EU law and particularly with the fundamental rights

recognised by EU law.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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¹ [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.

² Both with regard to the Dublin III Regulation, see footnote 1, and with regard to [Regulation \(EU\) No 603/2013](#) of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of [the Dublin III Regulation] and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and the Charter of Fundamental Rights of the European Union.