



PRESS RELEASE No 49/25

Luxembourg, 10 April 2025

Advocate General's Opinion in Joined Cases C-758/24 | [Alace] and C-759/24 | [Canpelli] ¹

International protection: according to Advocate General Richard de la Tour, a Member State may designate safe countries of origin by a legislative act and must disclose, for the purpose of judicial review, the sources of information upon which that designation is based

That Member State may also, under certain conditions, grant a third country the status of safe country of origin, while identifying limited categories of persons likely to be at risk of persecution or serious harm in that country

Under Directive 2013/32, ² Member States may accelerate the examination of applications for international protection and conduct it at the border where those applications are made by nationals of countries considered to offer sufficient protection. In Italy, those third countries are designated as safe countries of origin by means of a legislative act of 2024.

It is in that context that two Bangladeshi nationals, following their transfer to a detention facility in Albania under the Italy-Albania Protocol, ³ lodged an application for international protection. Their request was examined under the accelerated border procedure by the Italian authorities, which rejected it as unfounded, as their country of origin was considered safe.

The applicants challenged the rejection decision before the Rome District Court, which turned to the Court of Justice in order to clarify the application of the safe country of origin concept and the Member States' obligations in terms of effective judicial review. The referring court submits that, unlike under the previous scheme, the 2024 legislative act does not specify the sources of information on which the Italian legislature relied in order to assess the safety of the country. Therefore, according to that court, both the applicant and the judicial authority are deprived of the possibility of challenging and reviewing, respectively, the lawfulness of such a presumption of safety, by examining in particular the origin, authority, reliability, relevance, timeliness and completeness of those sources.

In today's Opinion, Advocate General Jean Richard de la Tour confirms **that a Member State may designate a third country as a safe country of origin by a legislative act. However, the national court examining an action against the rejection of a request for international protection must, in its examination of that act's lawfulness, have at its disposal the sources of information on which that designation is based.** The mere fact that a third country is designated as a safe country of origin by a legislative act cannot have the effect of shielding it from a review of legality without depriving the directive of all practical effect. The legislative act implements EU law and must ensure compliance with the substantive and procedural safeguards afforded to applicants for international protection by EU law.

Where the legislature has not disclosed those sources of information, the competent judicial authority may review the lawfulness of such a designation on the basis of sources of information which it has itself gathered from among those referred to in the directive.

As for the possibility of designating a third country as a safe country of origin when it is not safe for certain categories of persons, Advocate General Richard de la Tour considers that **the Directive does not preclude a Member State from conferring the status of safe country of origin on a third country, while identifying limited categories of persons likely to be at risk of persecution or serious harm in that country.** That is possible only if, first, the legal and political situation of that country is that of a **democratic system** in which the general population enjoys lasting protection against such risks and, second, the Member State concerned expressly excludes those categories of persons from the application of the safe country of origin concept and the associated presumption of safety.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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. That decision is similarly binding on other national courts before which a similar issue is raised.

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

The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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¹ The names of the present cases are fictitious names. They do not correspond to the real names of any of the parties to the proceedings.

² [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.

³ The Protocol between Italy and Albania, concluded in Rome on 6 November 2023 and ratified by Law no 14 of 21 February 2024, established a Detention and Return Centre in Albanian territory, but subject to Italian jurisdiction. The centre is intended for international protection applicants and allows for the application of the accelerated border procedure, applicable to nationals from countries considered safe.