



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 112/15**

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Judgment in Case C-290/14  
Skerdjan Celaj

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**The ‘Return Directive’ does not, in principle, preclude legislation of a Member State which imposes a prison sentence on a third-country national who unlawfully enters its territory in breach of an entry ban**

The Return Directive<sup>1</sup> establishes the common standards and procedures applicable in all Member States for the removal of illegally staying third-country nationals.

On 17 April 2012 Mr Skerdjan Celaj, an Albanian national situated in Italy, was subject to a deportation order and a removal order, accompanied by a three year entry ban. Mr Celaj left Italian territory on 4 September 2012 and subsequently re-entered that territory in breach of the entry ban issued against him.

The public prosecutor’s office brought criminal law proceedings against Mr Celaj before the Tribunale di Firenze (District Court, Florence, Italy) and sought a sentence of imprisonment of eight months on the basis of a piece of Italian legislation which prescribes a sentence of imprisonment of between one and four years for any third-country national who unlawfully enters Italy in breach of an entry ban. The Italian court asks the Court of Justice whether the Return Directive precludes this legislation.

In today’s judgment, the Court states, first of all, that the Return Directive does not preclude, in principle, national legislation which classifies the unlawful re-entry of a third-country national in breach of an entry ban as an offence and lays down criminal law sanctions, including prison sentences, provided that such legislation is not liable to jeopardise the attainment of the objectives pursued by that directive.

The Court indicates, in that regard, that the implementation of a return policy is an integral part of the development, by the EU; of a common immigration policy aimed at ensuring, inter alia, the prevention of illegal immigration and enhanced measures to combat it.

The Court then notes<sup>2</sup> that the Return Directive does not preclude penal sanctions being imposed, following national rules and in observance of fundamental rights, on third-country nationals to whom the return procedure has been applied and who are staying illegally without any justified ground for non-return.

The Court goes on to conclude that, *a fortiori*, the Return Directive similarly does not preclude penal sanctions being imposed, following national rules, in observance of fundamental rights and, as the case may be, of the Geneva Convention<sup>3</sup>, on illegally staying third-country nationals who unlawfully re-enter the territory of a Member State in breach of the entry ban issued against them.

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<sup>1</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

<sup>2</sup> Case: [C-61/11 PPU](#) El Dridi see also Press Release No. [40/11](#), Case: [C-329/11](#) Achughbabian see also Press Release No. [133/11](#).

<sup>3</sup> Convention on the Status of Refugees, signed in Geneva on 28 July 1951 (UN Treaty Series, vol. 189, p. 150, No 2545, 1954).

**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 a European Union 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.

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

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