



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 76/18**

Luxembourg, 31 May 2018

Judgment in Case C-647/16

Adil Hassan v Préfet du Pas-de-Calais

---

**When a person travels to a Member State after making a request for international protection in another Member State, the first Member State cannot decide to transfer that person to the second Member State before that second State has agreed to the request to take that person back**

After having applied for international protection in Germany, Mr Adil Hassan, an Iraqi national, travelled to France, where he was arrested. The French authorities then requested the German authorities to take back Mr Hassan, whilst deciding the same day to transfer him to Germany. The French authorities took the view, pursuant to the Dublin III Regulation,<sup>1</sup> that Germany was responsible for processing Mr Hassan's request for international protection, since it was in that country that Mr Hassan had made that request. Mr Hassan challenged before the French courts the decision ordering his transfer to Germany. He argued, *inter alia*, that that decision infringed the Dublin III Regulation because it was taken and notified to him before the requested Member State (Germany) had even explicitly or implicitly replied to the French authorities' request to take him back.

The tribunal administratif de Lille (Administrative Court, Lille, France), before which the case was brought, asks the Court of Justice whether, in that context, the French authorities could take a transfer decision in respect of Mr Hassan and notify it to him before Germany had explicitly or implicitly accepted that request to take him back.

In today's judgment, the Court holds that it is clear from the wording, the history and the objective of the Dublin III Regulation that a transfer decision may be adopted and notified to the person concerned only after the requested Member State has, implicitly or explicitly, agreed to take that person back.

In particular, the Court notes that a person such as Mr Hassan may be required, before the requested Member State has even responded to the request to take him back, to lodge an appeal against the transfer decision, even though such an appeal can take effect only in a situation where the requested Member State has accepted that request. Furthermore, the scope of the right of the person concerned to an effective remedy is liable to be restricted, since the transfer decision would be based only on the evidence and *indicia* gathered by the requesting Member State (in the present case, France). Lastly, to permit the adoption and notification of a transfer decision to take place before receipt of the reply from the requested Member State would, in Member States which do not provide for the suspension of such a decision before the requested Member State's reply, expose the person concerned to the risk of a transfer to that Member State even before that State had given its consent in principle.

---

**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 European Union law or the validity of a European Union act. The Court of Justice does not decide the

---

<sup>1</sup> 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 (OJ 2013 L 180, p. 31).

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](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Holly Gallagher ☎ (+352) 4303 3355