



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 87/21**

Luxembourg, 20 May 2021

Judgment in Case C-8/20  
L.R. v Bundesrepublik Deutschland

**An application for international protection may not be rejected as inadmissible on the ground that a previous application for asylum made by the same person was rejected by Norway**

*Even though that third State participates in part in the Common European Asylum System, it cannot be treated in the same way as a Member State*

In 2008, L.R., an Iranian national, lodged an application for asylum in Norway. His application was rejected and he was surrendered to the Iranian authorities. In 2014, L.R. lodged a further application in Germany. In so far as the Dublin III Regulation,<sup>1</sup> which allows the Member State responsible for examining an application for international protection to be determined, is also implemented by Norway,<sup>2</sup> the German authorities contacted the authorities of that country requesting it to take charge of L.R. However, those authorities refused to do so, taking the view that Norway was no longer responsible for examining his application, in accordance with the Dublin III Regulation.<sup>3</sup> Subsequently, the German authorities rejected L.R.'s application for asylum as inadmissible, taking the view that it was a 'second application' and that in such a case the necessary conditions for the initiation of a further asylum procedure were not met. L.R. then brought an action against that decision before the Schleswig-Holsteinisches Verwaltungsgericht (Administrative Court, Schleswig-Holstein, Germany).

In that context, that court decided to seek the guidance of the Court of Justice as regards the concept of 'subsequent application', defined in Directive 2013/32.<sup>4</sup> Member States may reject a subsequent application as inadmissible where it does not refer to any new elements or findings.<sup>5</sup>

To the Schleswig-Holsteinisches Verwaltungsgericht, it is apparent from the Procedures Directive that an application for international protection may not be classified as a 'subsequent application' where the first procedure, which led to a rejection, took place not in another EU Member State but in a third State. Nevertheless, in that court's view, that directive should be interpreted more broadly, in the light of Norway's participation in the Common European Asylum System, pursuant to the Agreement between the European Union, Iceland and Norway, with the result that the Member States are not obliged to conduct a complete first asylum procedure in a situation such as that at issue.

In its judgment of today, the Court does not share that view and rules that EU law<sup>6</sup> precludes legislation of a Member State which provides for the possibility of rejecting an application for

<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, 'the Dublin III Regulation').

<sup>2</sup> Pursuant to the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway – Declarations (OJ 2001 L 93, p. 40; 'the Agreement between the European Union, Iceland and Norway').

<sup>3</sup> See Article 19(3) of the Dublin III Regulation.

<sup>4</sup> Article 2(q) of 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 (OJ 2013 L 180, p. 60; 'the Procedures Directive').

<sup>5</sup> See Article 33(2)(d) of the Procedures Directive.

<sup>6</sup> More specifically, Article 33(2)(d) of the Procedures Directive, read in conjunction with Article 2(q) thereof.

international protection as inadmissible on the ground that the person concerned had made a previous application seeking the grant of refugee status in a third State implementing the Dublin III Regulation in accordance with the Agreement between the European Union, Iceland and Norway and that application had been rejected.

## Findings of the Court

The Court recalls that a 'subsequent application' is defined in the Procedures Directive as a 'further application for international protection made after a final decision has been taken on a previous application'.<sup>7</sup> It follows clearly from that directive,<sup>8</sup> first, that an application addressed to a third State cannot be understood as an 'application for international protection' and, second, that a decision taken by a third State cannot fall within the definition of 'final decision'. Therefore, the existence of a previous decision of a third State rejecting an application seeking the grant of refugee status does not permit the classification as a 'subsequent application' of an application for international protection made to a Member State by the person concerned after that previous decision has been adopted.

The Court adds that the existence of an agreement between the European Union, Iceland and Norway is irrelevant in that regard. While, pursuant to that agreement, Norway is to implement certain provisions of the Dublin III Regulation, that is not the case with regard to the provisions of Directive 2011/95<sup>9</sup> or the Procedures Directive. In addition, in a situation such as that at issue, it is true that the Member State to which the person concerned has made a further application for international protection may, where appropriate, request Norway to take back that person. However, where such taking back is not possible or does not take place, the Member State concerned is not entitled to regard the further application as a 'subsequent application', which would allow it to declare it inadmissible, as the case may be. Furthermore, even assuming that the Norwegian asylum system provides for a level of protection for asylum seekers equivalent to that under EU law, that fact cannot lead to a different conclusion. First, it is clear from the wording of the provisions of the Procedures Directive that currently, a third State cannot be treated in the same way as a Member State for the purpose of applying the ground of inadmissibility in question. Second, such treatment cannot depend, on the risk of affecting legal certainty, on an assessment of the specific level of protection of asylum seekers in the third State concerned.

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**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 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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<sup>7</sup> Article 2(q) of the Procedures Directive.

<sup>8</sup> Article 2(b) and (e) of the Procedures Directive.

<sup>9</sup> 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 (OJ 2011 L 337, p. 9).