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Advocate General's Opinion in Case C-753/22 | Bundesrepublik Deutschland (effect of a decision granting refugee status)

Advocate General Medina: Member States are not bound to recognise refugee status granted in another Member State

Where the person concerned cannot be returned to the Member State that originally granted refugee status due to a serious risk of suffering inhuman or degrading treatment there, the Member State in which that person filed a subsequent application for international protection when assessing that application should apply the principle of good administration

A Syrian national who obtained refugee status in Greece subsequently applied for international protection in Germany. A German court held that, on account of the living conditions for refugees in Greece, she ran a serious risk of suffering inhuman or degrading treatment¹, with the result that she could not return to Greece. Germany rejected her application for refugee status, but granted her subsidiary protection. She then brought an action against the refusal of refugee status before the German courts.

This case focuses on the issue that arises where the conditions in the Member State originally granting refugee status are such that a person concerned cannot be returned there. What are the obligations of another Member State in which that person files a subsequent request for international protection? Should the second Member State process it and in what manner? The German Federal Administrative Court requested the Court of Justice for a preliminary ruling on those questions.

In her Opinion, **Advocate General Laila Medina concludes that EU law does not provide for the principle of mutual recognition with regard to positive decisions granting refugee status.** She considers that the concept of a single responsible Member State under the Dublin III Regulation² does not entail a requirement to recognise, without a substantive examination, the international protection that another Member State has already granted.

However, the authorities of the second Member State (Germany) examining the subsequent application cannot simply disregard **the fact that another Member State (Greece) has already granted refugee status.** Indeed, this fact **may constitute one of the elements substantiating the facts relied upon in support of the subsequent application.**

Further, those authorities are to **prioritise the examination of the subsequent application.** They are also to consider the **use of the information exchange mechanisms between the Member States provided for by the Dublin III Regulation³,** while the authorities in the first Member State (Greece) should respond to all requests for information within a markedly shorter time-frame than the deadline applicable under normal circumstances.

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 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.

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 Within the meaning of [Article 4](#) of the Charter of Fundamental Rights of the European Union.

² [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.

³ Article 34 of the Dublin III Regulation.