



PRESS RELEASE No 162/24

Luxembourg, 4 October 2024

Judgment of the Court in Case C-406/22 | Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky

Asylum policy: the designation of a third country as a safe country of origin must cover its entire territory

The national court examining the lawfulness of an administrative decision refusing to grant international protection must raise the failure to take account of the rules of EU law on the designation of a third country as a safe country of origin

The Court of Justice specifies the conditions for the designation by a Member State of third countries as safe countries of origin under the directive on common procedures for international protection.¹ It considers that the fact that a third country derogates from the obligations under the ECHR does not preclude it from being designated as such. The authorities of the Member States must, however, assess whether the conditions for implementing the right to derogate are capable of calling that designation into question. Furthermore, the Court holds that EU law precludes a Member State from designating a third country as a safe country of origin for only part of its territory. In addition, the national court called upon to verify the lawfulness of an administrative decision on international protection must raise of its own motion, as part of its full examination, a failure to take account of the rules of EU law relating to the designation of safe countries of origin.

In 2022, CV, a Moldovan national, lodged an application for international protection in the Czech Republic. In support of his application, CV relied on the threats made to him in Moldova by individuals who had assaulted him in the past and whom the police authorities were unable to identify. He also stated that he did not wish to return to his region of origin due to Russia's invasion of Ukraine.

The Czech authorities rejected that request, taking into account, inter alia, the fact that Moldova, with the exception of Transnistria, had been designated as a safe country of origin. CV has not succeeded in demonstrating that that designation is not valid in his particular case.

Hearing CV's appeal against the rejection of his application, the Regional Court, Brno (Czech Republic) referred a number of questions to the Court of Justice concerning the interpretation of the directive on common procedures for international protection.

The Court notes, first of all, that **a third country does not cease to fulfil the criteria enabling it to be designated as a safe country of origin on the sole ground that it invokes the right to derogate² from the obligations laid down by the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)**. The declaration that it will have recourse to that derogation does not, in itself, support the conclusion that derogating measures have actually been taken or what their nature and extent are. However, reliance on the right to derogate must lead the competent authorities of the Member States to assess whether the conditions for its implementation are such as to call that designation into question.

Next, the Court considers that EU law does not currently allow Member States to designate as a safe country of

origin only part of the territory of the third country concerned. **The criteria for designating a third country as a safe country of origin must be met throughout its territory.**

Lastly, the Court states that a **national court** hearing an appeal against the rejection of an application for international protection lodged by an applicant from a third country designated as a safe country of origin **must raise a failure to take account of the rules of EU law relating to that designation.** Therefore, in examining the action brought before it, the Regional Court, Brno must take into account Moldova's derogation from its obligations under the ECHR and the Czech Republic's failure to comply with the condition that the designation of a third country as a safe country of origin must extend to the whole of its territory.

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, 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 and, as the case may be, an abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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¹ [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.

² Under Article 15 ECHR, Contracting States may derogate from some of their obligations under that convention in time of war or exceptional public emergency threatening the life of the nation. The exercise of that right is accompanied by certain conditions and is subject to review by the European Court of Human Rights. On 25 February 2022, Moldova resorted to Article 15 ECHR due to the energy crisis it was experiencing. On 28 April 2022, due to Russia's invasion of Ukraine, it decided to extend the exercise of that right of derogation.