Case C-758/24 [Alace] ([i])

LC

v

Commissione Territoriale per il riconoscimento della Protezione Internazionale di Roma – sezione procedure alla frontiera II

(Request for a preliminary ruling from the Tribunale ordinario di Roma)

Judgment of the Court (Grand Chamber) of 1 August 2025

(Reference for a preliminary ruling – Asylum policy – Directive 2013/32/EU – Common procedures for granting and withdrawing international protection – Articles 36 and 37 – Concept of 'safe country of origin' – Designation by means of a legislative act – Annex I – Criteria – Article 46 – Right to an effective remedy – Article 47 of the Charter of Fundamental Rights of the European Union – Examination, by a court, of a Member State's designation of a third country as a safe country of origin – Publicisation of the sources of information on which that decision is based)

1. *Border controls, asylum and immigration – Asylum policy – Procedures for granting and withdrawing international protection – Directive 2013/32 – Examination procedure at first instance – Application which may be regarded as manifestly unfounded by the Member States – Grounds – Application by a national who is from a safe country of origin – Designation of third countries as safe countries of origin by a Member State – Designation by means of a legislative act – Whether permissible – Condition – Judicial review of compliance with the material conditions for such a designation*

   (Charter of Fundamental Rights of the European Union, Art. 47; European Parliament and Council Directive 2013/32, Arts 36, 37 and 46(3))

   (see paragraphs 61, 65-68, operative part 1)

2. *Border controls, asylum and immigration – Asylum policy – Procedures for granting and withdrawing international protection – Directive 2013/32 – Action brought against a decision taken on an application for international protection – Right to an effective remedy – Full and ex nunc examination of both facts and points of law – Action brought against a decision rejecting an application because the applicant comes from a third country designated as a safe country of origin – Obligation on the Member State to ensure sufficient and adequate access to the sources of information on which the designation is based – Verification by the national court or tribunal of compliance with the material conditions for a designation of the country concerned as a safe country of origin – Taking account of the information gathered during the proceedings – Whether permissible – Conditions*

   (Charter of Fundamental Rights of the European Union, Art. 47; European Parliament and Council Directive 2013/32, Arts 36, 37 and 46(3), and Annex I)

   (see paragraphs 70-73, 78-81, 85-88, operative part 2)

3. *Border controls, asylum and immigration – Asylum policy – Procedures for granting and withdrawing international protection – Directive 2013/32 – Examination procedure at first instance – Application which may be regarded as manifestly unfounded by the Member States – Grounds – Application by a national who is from a safe country of origin – Designation of third countries as safe countries of origin by a Member State – Designation, as a safe country of origin, of a third country not satisfying, for certain categories of persons, the material conditions for such a designation – Not permissible*

(European Parliament and Council Directive 2013/32, Art. 37 and Annex I)

(see paragraphs 91-96, 108, operative part 3)

Résumé

Hearing two references for a preliminary ruling from the Tribunale ordinario di Roma (District Court, Rome, Italy), the Court of Justice, sitting as the Grand Chamber, rules, first, on the limits of the option, afforded to Member States under Directive 2013/32, (1) to designate third countries as safe countries of origin and, second, on the scope of the review of such a designation by the court or tribunal hearing an action against a decision rejecting an application for international protection, which had been submitted by a national who is from a third country designated as such.

After being rescued at sea by the Italian authorities, LC and CP, two nationals of the People's Republic of Bangladesh, were taken to a detention centre in Albania. (2) On 16 October 2024, they each lodged an application for international protection with the Italian authorities from that detention centre. By decisions of 17 October 2024, the Territorial Commission for the Recognition of International Protection, Rome – Border Procedures Section II, rejected those applications under an accelerated border procedure as manifestly unfounded, on the ground that LC and CP were from a safe country of origin. (3) The detention orders were not validated by the court having jurisdiction and the applicants were, therefore, released.

Having arrived in Italy, LC and CP challenged those decisions before the referring court, which has doubts as to the designation of the People's Republic of Bangladesh as a safe country of origin.

Findings of the Court

In the first place, the Court finds that a Member State may designate third countries as safe countries of origin by means of a legislative act, provided that that designation can be subject to judicial review as regards compliance with the material conditions for such a designation, set out in Annex I to Directive 2013/32, by any national court or tribunal hearing an action brought against a decision taken on an application for international protection, which had been examined under the special scheme applicable to applications lodged by applicants who are from third countries designated as safe countries of origin.

In that regard, the Court makes clear that, when transposing a directive, Member States enjoy discretion as to the choice of ways and means of ensuring that a directive is implemented. (4) However, the choice, by a Member State, of the competent authority and the legal instrument effecting the designation, at national level, of safe countries of origin cannot affect its obligations under Directive 2013/32. It is thus for each Member State, inter alia, to ensure respect for the right to an effective judicial remedy conferred on applicants for international protection against decisions taken on their applications. (5) In those circumstances, where an action is brought before a national court or tribunal, against a decision taken on an application for international protection from applicants who are from third countries designated as safe countries of origin, that court or tribunal must raise, on the basis of the information in the file and the information brought to its attention during the proceedings before it, a failure to have regard to the material conditions for such designation. (6)

In the second place, the Court holds that a Member State, which designates a third country as a safe country of origin, must ensure that there is, in respect of the sources of information on which that designation is based, sufficient and adequate access. That access must, on the one hand, enable the applicant for international protection concerned, who is from that third country, to defend his or rights under the best possible conditions and to decide with full knowledge of the facts whether it is useful to bring a case before the court or tribunal having jurisdiction and, on the other hand, enable that court or tribunal to review a decision taken on the application for international protection.

On that point, the Court notes that no provision of Directive 2013/32 expressly states that the national authority which designates safe countries of origin at national level must make accessible the sources of information on the basis of which it made such a designation.

However, the fact remains that the designation, by a Member State, of a third country as a safe country of origin makes the special scheme for examining applications for international protection applicable to applicants from that country. That scheme enables Member States to accelerate the procedure for

examining those applications and is based on a form of rebuttable presumption of adequate protection in the country of origin, which may be rebutted by the applicant if he or she submits serious grounds relating to his or her particular circumstances. However, the possibility for an applicant to rebut that presumption requires, in order to be effective, that he or she be put in a position to know the reasons why his or her country of origin is presumed to be safe. Accordingly, that applicant must, on that basis, have access to the sources of information on the basis of which his or her country of origin was designated as a safe country of origin.

Moreover, where an application for international protection is rejected as manifestly unfounded on the ground that the applicant is from a safe country of origin, in order for the judicial protection to be effective, both the applicant concerned and the court or tribunal seised must be able to have not only knowledge of the grounds for such a rejection, but also access to the sources of information on the basis of which the third country in question was designated as a safe country of origin. Indeed, that ground for rejection overlaps, in essence, with the grounds on which the presumption of adequate protection, entailed by the designation of the country concerned as a safe country of origin, is based.

As regards the scope of the right to an effective remedy, the Court states that the national court or tribunal hearing an action brought against a decision taken on an application for international protection, which had been examined under the special examination scheme applicable to applications lodged by applicants who are from third countries designated as safe countries of origin, may, when it verifies, even indirectly, whether that designation complies with the material conditions for such a designation, take account of the information which it has itself gathered, provided that it satisfies itself that that information is reliable and that it guarantees the parties to the dispute that the adversarial principle is observed. The Court recalls, in that regard, that Member States are required to order their national law in such a way that the processing of the actions referred to includes an examination, by the court or tribunal, of all the facts and points of law necessary in order to make an up-to-date assessment of the case at hand. ([7])

Lastly, in the third place, the Court finds that Article 37 of Directive 2013/32, read in conjunction with Annex I to that directive, precludes a Member State from designating as a safe country of origin a third country which does not satisfy, for certain categories of persons, the material conditions for such a designation, set out in Annex I to that directive. In that context, the Court notes that Article 61(2) of Regulation 2024/1348, ([8]) which makes it possible to provide for exceptions for clearly identifiable categories of persons, will enter into force on 12 June 2026, but that it is open to the EU legislature to bring that date forward.

([i]) The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

([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 (OJ 2013 L 180 p. 60). Under Article 37(1) of that directive, Member States may retain or introduce legislation that allows, in accordance with Annex I thereto, for the national designation of safe countries of origin for the purposes of examining applications for international protection.

([2]) Those measures were taken pursuant to the protocollo tra il Governo della Repubblica italiana e il Consiglio dei ministri della Repubblica di Albania per il rafforzamento della collaborazione in materia migratoria (Protocol concluded between the Government of the Italian Republic and the Council of Ministers of the Republic of Albania on strengthening cooperation in the field of migration), under which the Albanian Government made available to the Italian Republic two areas of Albanian territory, which fall entirely within the competence of the Italian authorities and which are treated in the same way as border or transit zones in which asylum seekers may be detained.

([3]) In accordance with Article 31(8)(b) and Article 32(2) of Directive 2013/32, where the applicant is from a safe country of origin, Member States may decide to accelerate an examination procedure and/or conduct that procedure at the border or in transit zones, and consider his or her application to be manifestly unfounded.

([4]) The third paragraph of Article 288 TFEU.

([5]) Article 46(1) of Directive 2013/32.

([6]) Judgment of 4 October 2024, Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky (C-406/22, EU:C:2024:841, paragraph 98).

([7]) In accordance with Article 46(3) of Directive 2013/32; judgment of *Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky*, cited above, paragraph 87.

([8]) Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L, 2024/1348).