



CJEU judgment regarding labour market access for applicants who are subject to a transfer order under the Dublin III Regulation (14th January 2021)

Following a preliminary reference by the International Protection Appeals Tribunal pursuant to Article 267 of the Treaty on the Functioning of the European Union, the Court of Justice issued its judgment today in Case C-385/19 and the related reference by the High Court in Case C-322/19.

The full text of the judgment in Joined Cases C-322/19 and C-385/19, *K.S., M.H.K. v The International Protection Appeals Tribunal, The Minister for Justice and Equality, Ireland, The Attorney General (C-322/19), and R.A.T., D.S. v Minister for Justice and Equality (C-385/19)*, can be found here:

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=F1DB2C41A676FDB9E2A71BCD3E2B9A19?text=&docid=236427&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=22664737>

The operative part of the judgment states as follows:

1. **A national court must take account 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, which, pursuant to Articles 1 and 2 and Article 4a(1) of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, does not apply in the Member State of that court, in order to interpret the provisions of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, which is, by contrast, applicable in that Member State in accordance with Article 4 of that protocol.**
2. **Article 15 of Directive 2013/33 must be interpreted as precluding national legislation which excludes an applicant for international protection from access to the labour market on the sole ground that a transfer decision has been taken in his or her regard under 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 15(1) of Directive 2013/33 must be interpreted as meaning that:**

- a delay in the adoption of a decision at first instance concerning an application for international protection which results from a lack of cooperation by the applicant for international protection with the competent authorities may be attributed to that applicant;
- a Member State may not attribute to the applicant for international protection the delay in adopting a decision at first instance concerning an application for international protection on account of the fact that the applicant did not lodge his or her application with the first Member State of entry, within the meaning of Article 13 of Regulation No 604/2013;
- a Member State may not attribute to the applicant for international protection the delay in processing his or her application which results from the bringing, by that applicant, of legal proceedings with suspensory effect against the transfer decision taken in his or her regard under Regulation No 604/2013.