

# AG: Decision Granting Refugee Status Not Binding for Extradition



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**News**

A Member State is not bound by the decision of another Member State regarding the recognition of refugee status within the meaning of the Geneva Refugee Convention. This is the view taken by Advocate General (AG) *Jean Richard de la Tour* in his Opinion of 19 October 2023 in [Case C-352/22 \(A. v Generalstaatsanwaltschaft Hamm\)](#). In the underlying case of the request for a preliminary ruling from the Higher Regional Court of Hamm (Germany), a Turkish national had been recognized as a refugee by Italian authorities in 2010. He had been in Germany since 2019, but was in custody pending extradition for criminal offenses committed. The Higher Regional Court of Hamm took the view that asylum and extradition proceedings should be assessed independently of each other and that there was therefore no obstacle to extradition, even if the refugee status granted in Italy was still valid until 2030.

AG de la Tour confirmed this, but pointed out that in order to guarantee the principle of non-refoulement (Art. 18, 19 para. 2 CFR), the Member State conducting the extradition procedure must comprehensively examine whether the person is at genuine risk of being subjected to treatment prohibited under the Charter of Fundamental Rights in the country of destination. The decision of another Member State that has recognized refugee status must be given particular weight.

The reference was initially pushed by the [German Federal Constitutional Court](#) which blamed the Hamm Court for not having sufficiently considered whether a binding effect of the Italian decision for the German extradition procedure could be derived from Directive 2013/32/EU on common procedures for granting and withdrawing international protection, and Directive 2011/95/EU 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.

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