Judgment of the Court (Fifth Chamber) of 29 January 2026 (request for a preliminary ruling from the Den Haag, zittingsplaats Roermond – Netherlands) – W v Staatssecretaris van Justitie en Veiligheid

(Case C-431/24, [1] **Multan** [2]**)**

(Reference for a preliminary ruling – Asylum policy – Directive 2013/32/EU – Common procedures for granting and withdrawing international protection – Article 23(1) – Access to the information in the file of an applicant for international protection – Article 46 – Right to an effective remedy – Charter of Fundamental Rights of the European Union – Article 4, Article 18 and Article 19(2) – Principle of non-refoulement – Second paragraph of Article 47 – Right to a fair trial – Investigation in the applicant's country of origin – Rejection of an application for international protection and adoption of a return decision – Access of the court of first instance and the applicant to information relating to the manner in which the investigation was conducted in the applicant's country of origin – Scope of the rights of the defence and of the right to an effective remedy – Connection with the principle of non-refoulement)

(C/2026/1563)

Language of the case: Dutch

Referring court

Rechtbank Den Haag, zittingsplaats Roermond

Parties to the main proceedings

Applicants: W

Defendant: Staatssecretaris van Justitie en Veiligheid

Operative part of the judgment

Article 23(1) 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, read in conjunction with Article 46 of that directive and in the light of Article 47 of the Charter of Fundamental Rights of the European Union,

must be interpreted as meaning that, in the context of an action before a national court called upon to rule on the lawfulness of a decision rejecting an application for international protection and that of a return decision taken against the third-country national who lodged that application, information relating to the manner in which an investigation was conducted by the authorities of the host Member State in the country of origin of that third-country national for the purpose of determining the merits of his or her application is covered by the concept of 'information in the applicant's file upon the basis of which a decision is or will be made', within the meaning of that provision, where it is likely to be relevant to the assessment, by that court, of whether the principle of non-refoulement has been complied with. It follows that the applicant for international protection and the court having jurisdiction must be able to access that information by the means provided for in points (a) and (b) of the second subparagraph of Article 23(1) of that directive.

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[1] OJ C, C/2024/5605.

[2] The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.