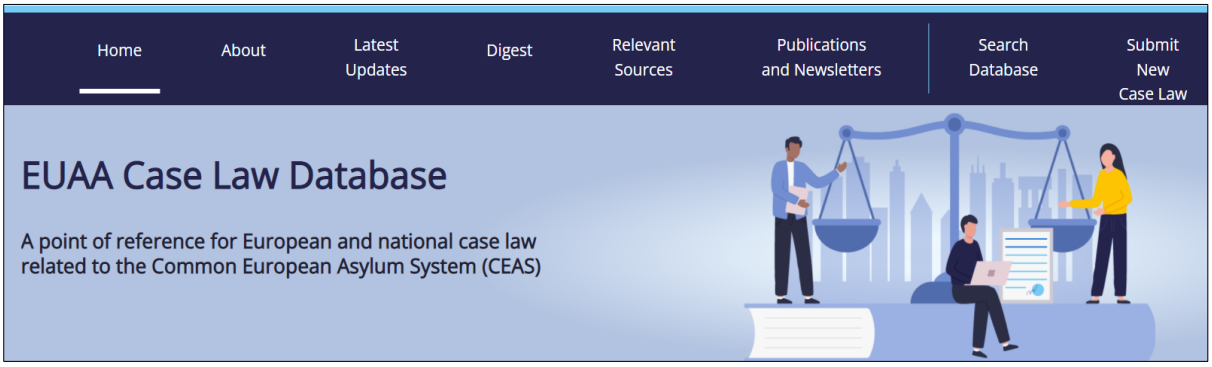

The EUAA Case Law Database

Rules for registration of judgments and decisions

Updated on 25/09/2024

European Union Agency for Asylum
www.euaa.europa.eu

Tel: +356 2248 7500
info@euaa.europa.eu

Winemakers Wharf
Valletta, MRS 1917, MALTA

Contents

1. Introduction

Any user can register an asylum judgment or court decision in the database using the standard online form available on the page Submit New Case.

All cases submitted to the database are checked by the EUAA before they are published on the EUAA Case Law Database, so submitting a case does not automatically make it available to the public.

Only judgments and decisions which are already publicly available in free access databases or websites may be registered and published in the EUAA Case Law Database.

Case summaries may also be submitted by email to caselawdb@euaa.europa.eu using the template summary provided in the About page of the EUAA Case Law Database.

For samples of **case abstracts**, please consult **Annex I**.

2. Information to be filled in when registering a judgment/decision

To register cases in the EUAA Case Law Database, please go to '**Submit New Case**'.

Information icons are available next to each section of the registration form. The icons include a brief description of the information that you will need to submit.

Please follow the instructions below for each section.

2.1 Party (parties) to the case

- Use the name as it appears in the original judgment; however, always anonymise names in national judgments.
- Use Applicant or Applicants even if a national court judgment includes the full name of the applicant(s) (e.g. *Applicant* v *French Office for the Protection of Refugees and Stateless Persons (OFPRA)*).
- If there are initials, use dot after the initial (e.g. M., N.J. (no space in between).
- If there is more than one name, use "and" (e.g. M. and J.).
- If the applicant's name is referred to as X. or A., retain the name in the same way (follow the original judgment).
- If there are more parties, but the court refers to them as 'others' or 'ors' in the title, keep the same title (e.g. *D. and Others* v *Romania*).
- For the second party, the system provides suggestions, once you start typing, based on existing registrations.

2.2 Title

The title is automatically filled in once you fill in the parties but always check that the system picked up both parties.

2.3 Country of origin

Select the relevant country of origin of the applicant from the drop-down list. Select ‘stateless’ if applicable or ‘unknown’ if the country of origin is not known or not mentioned in the judgment.

2.4 Date of decision

Select the exact date of the decision mentioned in the original judgment/decision. If the judgment includes both a date of pronouncement and a date of publication, input the date of pronouncement of the decision.

2.5 Country of decision

Select between EU+ countries, Council of Europe, European Union or United Nations.

2.6 Court name

Select the court from the drop-down list. If it is not available in the list, please select any entry and specify this in the ‘Abstract’.

2.7 Type

Select between several options: Judgment, Decision, Views, interim order, etc.

Case number/citation/document symbol

Please include all available citations as they appear in the original judgment (e.g. No 156, Ra 2024/18/0151-13, 14 A 2847/19.A).

Always use ‘No’ and not number, no. or other abbreviations such as app no.

2.8 ECLI

The European Case Law Identifier is a 5-part identifier for a legal document, designed to make European case law databases more usable. ECtHR and CJEU judgments always have ECLI Numbers.

Always include the ECLI and always check that no extra spaces appear between the numbers or at the end of the ECLI.

Read more on ECLI here: https://eur-lex.europa.eu/content/help/faq/ecli.html

2.9 Abstract

The abstract is an objective summary in English of the original judgment/decision, which includes the facts of the case, information about the applicant relevant for the conclusion of the judgment, the procedural history (steps in the procedure followed by the applicant, such as dates of decisions of administrative bodies, previous appeals and courts that pronounced previous decisions in the case), the reasons for the appeal, the outcome in the court's decision (holding), and the arguments presented in the judgment/decision.

For samples of case abstracts, please consult **Annex II**.

To avoid losing information due to runtime in the database, you are advised to draft the abstract offline and then copy-paste it when you are ready to register all the details of the case.

The abstract should have a length adapted to the complexity of the case (e.g. 3-4 paragraphs if the case is not complex, minimum 2,000 characters). It should be clear, factual and descriptive. It must not include comments, assessments, interpretation or criticism of the judgment/decision.

Always indicate that it was the court that highlighted/noted/stated/concluded to avoid confusing the reader. Use a neutral tone, avoiding words that might indicate a subjective attitude and a personal opinion (e.g. unfortunately, mistakenly, even so).

Where possible, verbs must be in the past tense (e.g. "The Immigration Office rejected the application, noting that…").

Regarding abbreviations:

- Use abbreviations only after explaining them first in the abstract.
- Use 'Article …' and do not abbreviate it into 'art.' or 'Art.'
- Use ECHR for the European Convention on Human Rights and ECtHR for the European Court of Human Rights.

For CJEU and ECtHR judgments, if there is a press release from the court, use it with the proper citation, mentioning the source and including a hyperlink to it (e.g.: "According to the CJEU press release (hyperlink) of [date]: "…""). Please do not copy-paste the abstract from other sources.

The abstract may include observations or comments for the reviewers (e.g. missing keywords, missing court name, aspects about which you are unsure), which we will delete before the case is published in the database.

If a judgment includes a reference to an EUAA report, please mention this (e.g. "The judgment refers to the following EUAA publications: *Afghanistan – Individuals targeted under societal and legal norms, Country of Origin Information Report, December 2017" or "Country Guidance: Afghanistan, June 2019").*

2.10 Keywords

Select from the list all the keywords which are relevant to the case.

If a judgment includes a reference to an EUAA report, please select the relevant keyword from the following:

- EUAA Asylum Report
- EUAA COI Reports
- EUAA Country Guidance Materials
- EUAA Judicial Analysis
- EUAA MedCOI/Medical country of origin information
- EUAA Other Materials

2.11 Relevant legislative provisions

Select the relevant EU/ECHR provisions cited in the judgment/decision.

Select “National law only” when there is no reference to EU law/ECHR.

2.12 Case history

Provide information on other judgments that concern the case you are registering, from other appeal levels before national courts, referrals to the CJEU or reopening of the case after a CJEU judgment.

2.13 Other information

Provide information on cases on the same topic from upper/lower courts, from the CJEU or the ECtHR which are mentioned in the judgment you are registering.

2.14 Source

Please indicate the source name and the source link to the original decision. The system will provide you with suggestions based on existing registrations.

2.15 Other source

Please indicate the name of additional sources and the source link (e.g. press release).

2.16 Original document

If the link to the case is available and you have provided it in the Source section, there is no need to attach a PDF copy.

2.17 Input provided by

Select among the available options: EUAA Annual Report, EUAA Network, etc.

2.18 Submitter’s email and full name

This information is required so that we can contact you if additional information is required.

Select whether you want to be notified when this case is published in the EUAA Case Law Database, type the security code and agree to the privacy notice, and finally, click on submit.

The privacy notice of the EUAA Case Law Database is available at: https://caselaw.euaa.europa.eu/Documents/EASO%20Privacy%20Notice%20Case%20Law%20Database.pdf

Annex I. Sample abstracts for registration of cases

I.1. Sample 1: CJEU judgment

According to the court press release:

"Women, including minors, who share as a common characteristic the fact that they genuinely come to identify with the fundamental value of equality between women and men during their stay in a Member State may, depending on the circumstances in the country of origin, be regarded as belonging to a 'particular social group', constituting a 'reason for persecution' capable of leading to the recognition of refugee status.

Two Iraqi teenagers have been staying in the Netherlands continuously since 2015. After their initial applications for international protection were rejected, they submitted subsequent applications. In support of those applications, they stated that, due to their long stay in the Netherlands, they have adopted the norms, values and conduct of young people of their age in that society. They claim that, if they return to Iraq, they would be unable to conform to the norms of a society which does not afford women and girls the same rights as men and fear being exposed to a risk of persecution due to the identity which they have formed in the Netherlands. Those subsequent applications were also rejected by the Dutch authorities and those young women brought proceedings before the Netherlands court which decided to refer to the Court of Justice a question on the interpretation of Directive 2011/95 on international protection, which lays down the conditions for granting refugee status to third-country nationals. That status is to be granted in cases where a third-country national is persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group.

In its judgment, the Court holds that women, including minors, who share as a common characteristic the fact that they genuinely come to identify with the fundamental value of equality between women and men during their stay in a Member State may, depending on the circumstances in the country of origin, be regarded as belonging to a 'particular social group', constituting a 'reason for persecution' capable of leading to the recognition of refugee status. It clarifies that, where an applicant for international protection is a minor, the national authorities must take into account his or her best interests in connection with an individual examination concerning the merits of the application for international protection submitted by that minor. Furthermore, for the purpose of assessing an application for international protection based on a reason for persecution such as 'membership of a particular social group', a long stay in a Member State may be taken into account, especially where it coincides with a period during which an applicant who is a minor has formed his or her identity."

I.2. Sample 2: ECtHR judgment

An Iranian applicant entered the Tompa transit zone at the Serbian-Hungarian border on 18 January 2018 and requested asylum in Hungary. Her application was rejected on 14 March 2018 and she lodged an appeal against this decision. On 21 January 2019, the administrative

and labour court suspended the examination of her appeal and it submitted a preliminary reference to the Court of Justice of the European Union (CJEU).

The applicant was accommodated in the transit zone, initially with her brothers, in a container of 13 sqm with beds and lockers. She complained that there was noise, heat, prolonged isolation and that her mental health deteriorated. She also complained that she was subjected to verbal harassment from male asylum seekers and that, after the release of her brothers from the transit zone on 7 and 19 February 2019, she felt unprotected, isolated and had suicidal thoughts. From 19 February 2019, she was placed in a container alone and under surveillance 24 hours a day, with police officers entering the container, shouting at her to leave the lights on and the door open. She was released to the Balassagyarmat community shelter on 4 March 2019 after her representative requested the court for her release.

Under Article 3 of the European Convention, taken alone and in conjunction with Article 13, the applicant complained about the allegedly inhuman or degrading conditions in which she had been held in the transit zone and the lack of an effective remedy to challenge these conditions. Under the ECHR, Article 5(1) and (4), the applicant complained about her 13month confinement in the transit zone.

Regarding the complaint under Article 3, the court noted that the applicant was placed in the healthcare sector, essentially an isolation sector, as the government argued that she had threatened to commit suicide. The court further noted that, although she was isolated due to a risk of suicide, she was not consulted by a psychiatrist in a local hospital and no record of medical consultations was provided. The court noted that in *R.R. and Others,* it had already found that the living conditions in the isolation sector had been more restrictive than in the family sector. In addition, although the isolation of the applicant mitigated the risk of harassment and abuse, it deteriorated the applicant's mental health as she was not provided with adequate medical care. Thus, the court concluded that the authorities violated Article 3 of the European Convention as they did not provide the appropriate mental healthcare to the applicant.

Under Article 5(1) and (4), the court noted that confinement to the transit zone was essentially similar to the one examined in *R.R. and Others*, where the court found that the applicants' stay of almost 4 months in the transit zone amounted to a *de facto* deprivation of liberty, and the same conclusion was warranted in this case. It thus found a violation of Article 5(1) and (4).

Finally, the court did not consider it necessary to examine the remaining complaints under Article 13 of the European Convention.

I.3. Sample 3: National court judgment

A Palestinian couple from the Gaza Strip requested international protection in France, after arriving in French Guiana on 12 April 2023. Their request was rejected by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) on 27 July 2023. They appealed the decision before the National Court of Asylum (CNDA), arguing that they were threatened by members of Hamas and cited the deteriorating security situation in the Gaza

Strip, which was on the grip of an armed conflict between Hamas forces and the Israeli armed forces.

The CNDA allowed the appeal and ruled that Palestinians from the Gaza Strip who are registered with UNRWA can apply for international protection in France, as the protection they should be able to receive from UNRWA can no longer be ensured in practice.

The court referred to *LN, SN v Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite* (C-563/22) of 13 June 2024, in which the CJEU held that applicants of Palestinian origin who are registered with UNRWA should be granted refugee status if UNRWA's protection or assistance had ceased.

The CNDA examined UNRWA's ability to fulfil its mission in light of the deterioration of the security and humanitarian situation in the Gaza Strip since 7 October 2023. The CNDA considered that the Gaza Strip was in the grip of an armed conflict between Hamas forces and Israeli armed forces and that this territory was facing a major humanitarian crisis. In reaching this conclusion, it relied on publicly available documentary sources, including data from the non-governmental organization The Armed Conflict Location and Event Data Project (ACLED), the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) and the Integrated Food Security Phase Classification (IPC), the UNRWA situation report, notes from the World Health Organization (WHO) and press releases from the United Nations International Children's Emergency Fund (UNICEF).

Thus, the CNDA granted refugee protection to the applicants, considering that UNRWA was no longer able to effectively provide assistance and protection to any Palestinian residing in the Gaza Strip.

I.4. Sample 4: National court judgment

A national of Türkiye had his asylum application rejected by the Federal Office for Migration and Refugees (BAMF) as manifestly unfounded. Following this decision, BAMF issued a deportation order against him. The applicant challenged this decision by seeking to suspend the effect of the deportation order through an urgent procedure.

The Administrative Court of Giessen reviewed the case under the expedited judicial review process and decided to grant the applicant's request for a suspensive effect. The decision was based on significant doubts about the lawfulness of BAMF's decision to reject the asylum application.

The court clarified that under the Asylum Procedure Act (AsylG), Paragraph 30(1) an asylum application may be rejected as manifestly unfounded if it meets one of the conditions specified in Paragraph 30(1)(1) to (9) which aims to align national law with the requirements of EU law, specifically the recast Asylum Procedures Directive (APD).

BAMF classified the application as manifestly unfounded on the grounds of AsylG, Paragraph 30(1) that the applicant had intentionally destroyed or abandoned his identity documents, which BAMF argued was a ground for rejecting the application as manifestly unfounded. However, the Administrative Court found that the applicant's explanation—that his documents

were lost when he entrusted them to a lorry driver—did not meet the threshold for intentional destruction or abandonment as required by Paragraph 30(1).

The court also noted that other grounds listed in Paragraph 30(1) for dismissing an asylum application as manifestly unfounded did not seem to apply to this case. It found that the applicant's claims of political persecution were not clearly irrelevant or obviously false under Paragraph 30(1)(1). Additionally, the court determined that the applicant had not provided information that was “clearly inconsistent and contradictory, clearly false, or manifestly improbable” within the meaning of Paragraph 30(1)(2), which would contradict sufficiently reliable country of origin information. Therefore, the claims related to his political activities were considered pertinent and not adequately addressed by BAMF's rejection under the summary review conducted in the accelerated procedure.

The court concluded that the BAMF decision did not comply with the procedural requirements set forth in the AsylG because the authority failed to properly address the applicant’s claims. Consequently, the court ordered the suspension of the deportation order and directed that the applicant’s case be thoroughly reconsidered in accordance with legal standards.

I.5. Sample 5: National court judgment

An Indian national requested asylum on 25 November 2023 upon arrival at Schiphol Airport and was detained the same day by the State Secretary for Justice and Security. On 4 December 2023, his asylum application was rejected as manifestly unfounded. The applicant appealed this decision. A hearing against the deprivation of liberty was held on 12 December 2023. The appeal was upheld by the District Court of the Hague seated in Amsterdam, which ordered the measure depriving the applicant of his liberty to be lifted from the date of the judgment. The State Secretary appealed against this decision to the Council of State.

At the time of the judgment of the district court, it had already been decided that a hearing against the rejection of the asylum application would take place on 9 January 2024. The district court noted that, in accordance with the Aliens Act 2000, Article 83b(3), the time limit to rule on an asylum appeal is 4 weeks since the lodging of the appeal. However, the decision was scheduled for 5 weeks following the lodging of the appeal and the district court ruled that the measure was no longer justified. Therefore, it ordered the measure for deprivation of liberty to be lifted to ensure that it would not last longer than necessary.

The State Secretary argued that the Aliens Act 2000, Article 6(3) does not lay down a maximum duration for a measure which deprives a person of liberty and referred to a previous judgment in which the Council of State ruled that a deprivation of liberty measure that was in place for 6 weeks until an appeal on an asylum decision was heard was not considered to be taken for longer than necessary, in light of the recast Reception Conditions Directive (RCD), Article 9(1).

In its judgment, the Council of State considered whether exceeding the period within which the court must rule on the appeal against the asylum decision had consequences for the lawfulness of the measure depriving the applicant of liberty.

The council referred to the CJEU judgment of 8 November 2022, *C, B and X v State Secretary for Justice and Security* (Joined Cases C-704/20 and C-39/21). According to the CJEU judgment, detention is only permissible in compliance with the rules laid down in the recast RCD. Border detention is subject to the requirements set out in Article 8 (3c) in the recast RCD, which provides that an applicant may be detained in order to take a decision on the right to enter the territory in the context of a procedure, following an individual assessment of the case and if no other less coercive measures can be applied effectively. As per Article 9(1) of the recast RCD, detention must be for as short a period as possible and only for as long as the reasons set out in Article 8(3) of the recast RCD apply. The CJEU also noted that detention cannot be prolonged due to delays in administrative procedures which are outside of the applicant's control.

The Council of State noted that there was no delay in the administrative procedure relating to the ground for deprivation of liberty referred to in Article 8(3) and 9(1) of the recast RCD. The delay established by the district court arose in legal proceedings rather than administrative ones. The council elaborated that it is the right to enter the territory that is the basis for the deprivation of liberty, and not the asylum procedure.

For the assessment of whether the applicant was detained for the shortest possible time period, the council considered that there were two important factors to be assessed. The first was that the State Secretary had taken a timely decision on the asylum application, which the council affirmed to be the case. The second was that an appeal is heard within the foreseeable future. Noting that the applicant was in border detention for 6.5 weeks at the time of the scheduled hearing, the council concluded that the deprivation of liberty had not been prolonged unnecessarily, contrary to the recast RCD, Article 9(1). The council also noted that the district court was wrong in its consideration that the deprivation of liberty was no longer justified after weighing the interests of the applicant and the interest of border control.

Thus, the council ruled that the appeal was well founded.