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Disclaimer: The summaries cover the main elements of the court's decision. The full judgment is the only authoritative, original and accurate document. Please refer to the original source for the authentic text.

Note

The “EUAA Quarterly Overview of Asylum Case Law” is based on a selection of cases from the EUAA Case Law Database, which contains summaries of decisions and judgments related to international protection pronounced by national courts of EU+ countries, the Court of Justice of the EU (CJEU) and the European Court of Human Rights (ECtHR). The database presents more extensive summaries of the cases than what is published in this quarterly overview.

The summaries are reviewed by the EUAA Information and Analysis Sector and are drafted in English with the support of translation software.

The database serves as a centralised platform on jurisprudential developments related to asylum, and cases are available in the Latest updates (last ten cases by date of registration), Digest of cases (all registered cases presented chronologically by the date of pronouncement) and the Search page.

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List of abbreviations

APD	Asylum Procedures Directive. 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 (recast)
BAMF	Federal Office for Migration and Refugees (Germany)
BFA	Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (Austria)
CEAS	Common European Asylum System
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CJEU	Court of Justice of the European Union
COI	country of origin information
CNDA	National Court of Asylum | Cour Nationale du Droit d'Asile (France)
CPR	Pre-Removal Centre | Centro di Permanenza per il Rimpatrio (Italy)
CRC	United Nations Convention on the Rights of the Child
DRC	Democratic Republic of the Congo
Dublin III Regulation	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 (recast)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EUAA	European Union Agency for Asylum
EU	European Union
EU Charter	Charter of Fundamental Rights of the European Union
EU+ countries	Member States of the European Union and associate countries
IPAC	International Protection Administrative Court | Διοικητικό Δικαστήριο Διεθνούς Προστασίας (Cyprus)

NGO	non-governmental organisation
OFPRA	Office for the Protection of Refugees and Stateless Persons | Office Français de Protection des Réfugiés et Apatrides (France)
QD	Qualification Directive. Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 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 (recast)
RCD	Reception Conditions Directive. 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 (recast)
Refugee Convention	The 1951 Convention relating to the status of refugees and its 1967 Protocol
TFEU	Treaty on the Functioning of the European Union
SEM	The State Secretariat for Migration | Staatssekretariat für Migration | Secrétariat d'État aux migrations | Segreteria di Stato della migrazione (Switzerland)
UN	United Nations
UN CEDAW	United Nations Committee on the Elimination of Discrimination against Women

Main highlights

The decisions and judgments presented in this edition of the "EUAA Quarterly Overview of Asylum Case Law, Issue No 3/2025" were pronounced from June to August 2025.

Court of Justice of the European Union (CJEU)

Several important judgments were pronounced by the CJEU on the topics of safe countries of origin, the obligation to provide adequate reception conditions to asylum seekers even during a mass influx of persons, the obligation to appear in person at the hearing for an asylum appeal, the possibility of providing subsidiary protection based on the risk of suffering a breach of private life as a result of the enforcement of a return decision and the legal consequences of not granting a period for voluntary departure when issuing a return decision.

Building on its previous ruling in *CV* (C-406/22, 4 October 2024), the CJEU pronounced a much anticipated judgment in two Italian cases interpreting the concept of 'safe countries of origin' in EU law (*LC [Alace] and CP [Canpelli] v Territorial Commission of Rome*, joined cases C-758/24 and C-759/24, 1 August 2025). The question of whether exceptions can be made for certain categories of people when designating a safe country of origin was brought for interpretation, and the court held that this is not possible under the recast Asylum Procedures Directive (APD). The ruling contrasts on this point with the Advocate General's opinion on this issue, who interpreted the recast APD as not precluding the designation of exemptions for certain categories of people, provided "that the legal and political situation of that country is representative of a democratic system under which the general population has lasting protection" against the risk of persecution or serious harm and if the "Member State expressly excludes those categories of persons from the application of the concept of safe country of origin and the associated presumption of safety".

The judgment has already had effects at the national level, for example the Netherlands announced that, as a result of the judgment, it will shorten its list of safe countries of origin, eliminating Armenia, Brazil, Ghana, Jamaica, Morocco, Senegal, Serbia and Tunisia, so that applications can no longer be declared manifestly unfounded on the ground of origin from a safe country of origin.[1] At the time of the judgment and pending legislative changes, there were another six EU+ countries (Denmark, Estonia, Hungary, Luxembourg, Norway and Switzerland) which implement national lists of safe countries of origin with exceptions for specific geographical areas or profiles of asylum seekers (see the EUAA's Overview of the Implementation of Safe Country Concepts, published on 24 July 2025, Table 2).

The EU Pact on Migration and Asylum, in particular Article 61 of the Asylum Procedures Regulation (APR), adopts a different stance from the CJEU's interpretation of the recast APD in this ruling, as it explicitly allows for both group and territorial exceptions. The court made it clear that it is for the EU legislator to amend the concept or bring forward the application date

[1] The Netherlands, Immigration and Naturalisation Service, IB 2025/35 Judgment of the Court of Justice of the Court of Justice: excluding safe countries of origin from groups - Immigration and Naturalisation Service, 5 August 2025.

for the new provision in the APR, in line with the proposal of the European Commission on 16 April 2025.[2]

Besides the interpretation of exceptions to the concept of safe countries of origin under the recast APD, the CJEU reinforced the role of national courts in the process of reviewing the list of safe countries of origin when such a list is established by legislative act, as was done in Italy in the aftermath of the Italy-Albania Protocol. The court also reinforced their role in reviewing asylum decisions based on such lists, as well as the sources used by the legislator to include a specific country in the list of safe countries of origin.

Additionally, the CJEU issued a ruling which clarified the obligations of Member States in relation to the provision of material reception conditions during situations of mass influx of asylum seekers. In *S.A., R.J. v Minister for Children, Equality, Disability, Integration and Youth, Ireland, Attorney General* (C-97/24, 1 August 2025), the CJEU ruled that a Member State may not argue that an unforeseeable and unavoidable influx of applicants for international protection justifies not respecting its obligation under EU law to cover basic needs for asylum seekers. Member States must guarantee an adequate standard of living under the recast Reception Conditions Directive (RCD), including housing, financial aid or vouchers, ensuring that basic needs are met and that the physical and mental health of applicants are safeguarded, even in the case of a temporary exhaustion of housing resulting from a mass influx of asylum seekers. Noting that Article 18(9b) of the RCD envisaged a derogation system which is applicable in the event of a temporary exhaustion of housing capacity, the court concluded that in situations when EU legislature has adopted rules to define a system imposing certain obligations for the result to be achieved when events occur which are unforeseeable or unavoidable, those obligations cannot be avoided by relying on the occurrence of such events. The CJEU further held that denying minimum reception conditions, even for a number of weeks, constitutes a grave infringement of EU law which can trigger state liability from which applicants might derive a right to compensation.

Concerning appeals in asylum cases, the CJEU pronounced a relevant judgment that clarified that Member States can lay down detailed procedural rules concerning the remedy provided in Article 46 of the recast APD, in accordance with the principle of procedural autonomy, and in doing so, they may limit the right to an effective remedy if the limitations are provided by law, respect the essence of the right and are necessary and proportionate to the objectives pursued. In the respective judgment, the CJEU ruled that the Greek legislation according to which an applicant for international protection is obliged to appear in person at an appeal hearing to prove their presence in the territory is contrary to EU law (*FO v Ypourgos Metanastefsis kai Asylou [Al Nasiria]*, C-610/23, 3 July 2025). It also ruled that the presumption that an appeal has been improperly lodged if the applicant does not appear in person at the oral hearing is contrary to EU law. The CJEU noted that, although such a national rule may ensure the legal certainty and efficiency of a judicial system, it must be proportionate and not preclude an adequate and complete examination of those applications. Agreeing with the Opinion of Advocate General Medina, the court concluded that requiring applicants to travel to the capital of a country solely to appear in person and not in order to be

[2] European Commission, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2024/1348 as regards the establishment of a list of safe countries of origin at Union level, COM/2025/186 final, 16 April 2025.

heard imposes an unreasonable and excessive burden, and it is disproportionate as it entails that no examination will be conducted on the merits. Overall, it renders the exercise of the right to an effective remedy excessively difficult. Thus, to implement this judgment, Greece must amend its current legislation on appeals in asylum cases.

The CJEU clarified the grounds for subsidiary protection according to the recast Qualification Directive (QD), while shedding light on how Member States may introduce more favourable standards for granting subsidiary protection. The court highlighted that such protection cannot be provided due to a risk of a violation of private life as a result of the enforcement of a return decision, as this would be contrary to the objectives and rationale of the recast QD (*A.B. v Ministry of the Interior (Ministerstvo vnitra České republiky) [Nuratau]*, C-349/24, 5 June 2025). The CJEU ruled that granting subsidiary protection for reasons unrelated to the country of origin falls outside the directive's purpose. However, Member States may provide residence on humanitarian grounds, based on national law and not on EU asylum law. The decision is relevant because, in addition to the grounds retained in the recast QD for serious harm, Czech legislation expands this concept to "the fact that the removal of the foreign national is incompatible with the international obligations of the Czech Republic". Notably, the ruling discloses that, ahead of Regulation (EU) 2024/1347 and more than 10 years after the adoption of the recast QD, national systems continue to harmonise the concept of serious harm as defined by 'the rationale of the directive', in a context where its interpretation was progressively defined by the CJEU. While the CJEU emphasises the facultative autonomy of Member States to envisage residence permits based on humanitarian grounds, the question that remains is how humanitarian protection statuses may be different from such a legally indefinite concept such as serious harm.

The CJEU also issued a judgment interpreting the Return Directive, strengthening procedural safeguards and the fundamental rights of individuals subject to a return, while clarifying how Member States may enforce return decisions. In particular, in *W [Al Hoceima], X [Boghni] v Belgian State* (Joined Cases C-636/23 and C-637/23, 1 August 2025), it addressed the legal consequences of refusing to grant a period for voluntary departure, set out in Article 7 of the Return Directive, holding that such a refusal is not a mere enforcement measure but a central element of the return decision itself. This refusal directly alters the legal position of the individual and affects their rights and obligations, triggering immediate consequences such as the imposition of an entry ban.

The CJEU also strengthened judicial protection for people facing a return by ensuring their right to an effective remedy, ruling that the refusal to grant a voluntary departure period must be open to challenge in legal proceedings. Additionally, the CJEU clarified the temporal flexibility of imposing entry bans, determining that they are supplementary to return decisions. As a result, national authorities may impose an entry ban even after a considerable lapse of time, provided it is based on a return decision that does not grant a period for voluntary departure. Finally, the CJEU held that provisions relating to the voluntary departure period form an integral part of a return decision, and if found to be unlawful, the entire decision must be annulled. At the same time, the CJEU reassured states that a corrected decision may be issued, maintaining the effectiveness of EU return policy.

European Court of Human Rights (ECtHR)

At the Council of Europe, claims of violations of fundamental rights in Hungary's embassy procedure were examined by the ECtHR in *H.Q. and Others v Hungary* (24 June 2025), adding to the violations of EU law previously found by the CJEU in *European Commission v Hungary* (22 June 2023). Unlike previous rulings against Hungary (e.g. *Shahzad v Hungary*), in the case of *H.Q.* the applicants were in the country for various reasons prior to their removal. The ECtHR found violations of Articles 3 and 13 of the ECHR and Article 4 of Protocol No 4, in a case where applicants were removed from Hungary to Serbia, ruling that collective expulsions and the embassy procedure denied the applicants an individual assessment and effective access to the asylum procedure.

The court noted that the practice of collective expulsions in Hungary had persisted despite earlier rulings, with over 150,000 removals recorded in 2022 and new laws adopted in 2024 continuing the application of the same system which denies access to the asylum procedure and carries out collective expulsions. As such, the court stressed the urgent need for the Hungarian authorities to take, under Article 46 of the ECHR, immediate and appropriate general measures to prevent further collective expulsions and ensure effective access to the international protection procedure. The execution of the case will take place in a context where already in September 2024 the Committee of Ministers noted 'utmost concern' about the state of execution of general measures in the leading *Shahzad v Hungary* because since 2021 'despite the authorities' repeated indications that the reform of the asylum system is underway, no information on concrete measures has been communicated'.[3]

National courts

Palestinian applicants and beneficiaries of international protection

Coinciding with France's commitment to recognise Palestine as a state at the UN General Assembly in September 2025, the French National Court of Asylum (CDNA) ruled that Israeli military actions in the Gaza Strip constituted persecution on the basis of nationality under the recast QD, thus providing refugee protection to a Palestinian woman and her son. The court noted the indiscriminate violence of exceptional intensity resulting from the armed conflict between the Israeli armed forces and Hamas forces, concluding that Israeli military tactics amounted to serious and systematic human rights violations.

Furthermore, in the Netherlands, the situation in the Gaza Strip was considered indicative of genocide and widespread violations of international humanitarian law which make family reunification essential for a beneficiary of international protection and his family living there. The Dutch Court of the Hague considered that there could be no family life between the beneficiary and the remaining family in the Gaza Strip, given the family's living conditions which lacked adequate shelter, food and medical care, and the daily risk of being killed.

[3] Council of Europe, Committee of Ministers. https://hudoc.exec.coe.int/?i=004-58699

Humanitarian admissions of Afghan nationals to Germany

The Administrative Court of Berlin compelled the German state to issue visas to Afghan nationals in Pakistan who had a valid admission promise issued by the Federal Office for Migration and Refugees (BAMF). This interim order is likely to affect numerous Afghan nationals in Pakistan who are facing deportation to their country of origin. The court ruled that, while Germany may decide on whether to continue or terminate its admission programme for Afghan nationals, it is legally bound to admit individuals to whom BAMF issued final and unrevoked admission notices.

Dublin procedure

In Czechia, the Supreme Administrative court referred a question to the CJEU on the application of the discretionary clauses. It sought clarification on whether Article 17(1) of the Dublin III Regulation may also be used when the responsible Member State has been determined under Article 3(2) of that regulation, or whether the use of the discretionary power is reserved only for situations when the responsible Member State has been determined on the basis of Article 3(1) of that regulation.

Following recent reports detailing worsening reception conditions in Belgium, the Dutch Council of State reversed its earlier rulings, finding that the principle of mutual trust could no longer be relied upon with regards to the transfer of non-vulnerable, single men to Belgium under the Dublin III Regulation. The council found structural shortcomings in the availability of reception places for this cohort, a lack of access to an effective remedy and an indifference of the Belgian authorities to improve the reception situation.

Detention of rejected asylum applicants in Albania based on the Italy-Albania Protocol

The Italy-Albania Protocol continued to give rise to jurisprudence before Italian courts, since rejected asylum applicants are detained at the Centre for Stay and Repatriation (CPR) in Gjader, Albania. Italian courts found in several decisions in July 2025 that there was inadequate healthcare in this CPR for rejected applicants who suffered from various medical conditions and that this was aggravated by the CPR's location in a third country without Italian national health services and relying on limited cooperation from Albanian authorities to provide essential medical care. In relation to this, the Italian Constitutional Court had ruled a month earlier that the legislation governing detention in CPRs (Article 14 of Legislative Decree No 286 of 1998) is unconstitutional as it does not define the rights of detainees. Also, in June 2025, the Supreme Court of Cassation submitted two questions to the CJEU for a preliminary ruling on whether national provisions on the detention of third-country nationals in the CPR in Gjader are compatible with the Return Directive and with Article 9 of the recast APD.

Recently on 4 September 2025, the Court of Cassation (first criminal section) ruled that applicants must be released if their detention has not been validated and submitted to the Constitutional Court for a review, a practice based on Article 6(2-bis) of Legislative Decree No 142/2015 (as amended by Legislative Decree No 37/2025) of keeping a person in detention if detention is not validated until a decision on the validation is issued and provided that another detention order is made within 48 hours for the same person. The Court of Cassation noted that such a legal provision allows the limitation *ex lege* of an individual's freedom simply because they are already in a CPR, unlike someone who is free.

Direct hearings of accompanied minors

The Dutch Council of State ordered the Minister for Asylum and Migration to adjust its policy concerning direct hearings of accompanied minors between the ages of 12 and 15 in asylum proceedings and in the Dublin procedure. It ruled that, while EU law does not provide an absolute obligation for direct hearings of accompanied minors without asylum motives independent to those of their parents, the minister is obliged to provide the opportunity for them to request to be heard. The minister must ensure that they are informed of this possibility, unless it is not in their best interests, in which case this decision must be motivated taking into account the specific circumstances of the case.

Military conscription in Syria

The risk of conscription and punishment for refusing military service in Syria was considered no longer present after the fall of the Assad regime, in a judgment by the Administrative Court of Burgas in Bulgaria (3 June 2025), similarly to the position of the Austrian Federal Administrative Court from January 2025. The Bulgarian court held that there was no evidence that, following the regime change, conscripts were being compelled to take part in unlawful military actions or crimes falling under exclusion clauses.

Subsidiary protection for applicants from Syria and Yemen

In the same judgment, the Bulgarian court found that the overall security situation in Syria had stabilised since the fall of the Assad regime in December 2024, with limited armed conflict, and that mere presence in the country did not warrant the granting of subsidiary protection.

The Dutch Council of State ordered the Minister for Asylum and Migration to revise its country policy on Yemen, finding that it failed to adequately justify the conclusion that Yemen does not fall under Article 15(c) of the recast QD. It emphasised that the minister must carry out a comprehensive assessment of all relevant circumstances, including humanitarian conditions that arise directly or indirectly from the actions or omissions of actors responsible for serious harm. However, it clarified that poor conditions caused solely by natural factors, such as droughts or floods, are not relevant under Article 15(c), though they may be considered in the broader context of Article 3 of the ECHR when assessing the risks of a return.

Referral to the CJEU on return decisions for individuals excluded from international protection

The Dutch Court of the Hague seated in Roermond and the Council of State referred questions to the CJEU which are particularly relevant for excluded people who cannot be removed due to *non-refoulement* but also cannot regularise their stay in a Member State given their exclusion from international protection. The Dutch courts asked the CJEU whether Member States are obliged to issue a return decision to excluded individuals while at the same time confirming the postponement of the removal to respect the principle of *non-refoulement*. The formulation of the question relied on the CJEU's considerations in *Bundesamt für Fremdenwesen und Asyl* v *AA* (C-663/21, 6 July 2023), in which the CJEU clarified the conditions to revoke international protection for third-country nationals who were convicted of a crime. The referring court requested the CJEU to join the case with the

pending case C-202/25 (Tadmur) related to questions on the return of a person whose subsidiary protection was withdrawn due to committing a serious crime and was therefore excluded from protection. Additionally, the Council of State asked the CJEU whether the issuance of a return decision that indefinitely suspends a removal for this reason must be prevented, and if so, whether EU law prohibits national laws that leave such persons for at least 10 years with only limited access to education, essential healthcare and legal aid, without certainty whether they will qualify for residence rights after that period.

Access to the asylum procedure

ECtHR judgment on collective expulsions and the 'embassy procedure'

ECtHR, *H.Q. and Others* v *Hungary*, 46084/21, 40185/22 and 53952/22, 24 June 2025.

The ECtHR found violations of Articles 3 and 13 of the ECHR and Article 4 of Protocol No 4 in a case where applicants were removed from Hungary to Serbia, ruling that collective expulsions and the embassy procedure denied the applicants an individual assessment and effective access to the asylum procedure. It further noted, under Article 46 of the Convention, that Hungary must take measures to prevent further collective expulsions and ensure effective access to the international protection procedure.

Two Afghan nationals and a Syrian national were expelled from Hungary to Serbia under Section 5(1b) of the State Border Act without an examination of their individual circumstances, despite their repeated requests to seek asylum. Following their removal, two of the applicants filed a complaint against the police authorities under the Police Act, which was unsuccessful. The other applicant, after unsuccessfully lodging a 'declaration of intent' in the embassy procedure in Serbia, filed an administrative action before the Budapest High Court, which ruled that Hungary's embassy procedure for asylum was unlawful under EU law, but it did not grant him authorisation to enter.

The ECtHR found that all three removals constituted a collective expulsion in violation of Article 4 of Protocol No 4, since the authorities failed to assess their individual cases or asylum claims. It held that the embassy procedure did not offer genuine or effective access to asylum, as it lacked safeguards and allowed an arbitrary application. In this regard. the court referred to the CJEU case C-808/18, which considered that this procedure did not comply with Article 6 of the recast APD.

For two of the removals, the court also ruled that Hungary violated Article 3 of the ECHR (prohibition of inhuman or degrading treatment) by failing to assess the risk that the applicants would be denied access to an adequate asylum system in Serbia. Moreover, in all three instances, the court held that Hungary provided no effective legal remedy to challenge these removals, amounting to a breach of Article 13 of the ECHR.

Under Article 46 of the ECHR on general measures to prevent similar violations from occurring in the future, the court stressed Hungary's urgent obligation to halt collective expulsions and ensure effective access to asylum, noting that the practice had persisted despite earlier rulings, with over 150,000 removals recorded in 2022 and new laws adopted in 2024 which continued the same unlawful system.

Access to the territory to initiate the Dublin procedure

Germany, Regional Administrative Court [Verwaltungsgericht], *Applicant v Federal Police Directorate Berlin*, 6 L 191/25, 2 June 2025.

The Administrative Court of Berlin ruled that individuals who apply for international protection at the border cannot be returned without first completing the Dublin procedure to determine the responsible Member State and they must be granted access to German territory at the border to initiate that procedure.

A Somali applicant was denied entry by the Federal Police on the grounds that she had arrived from Poland. She subsequently sought interim relief. The Administrative Court of Berlin held that the Federal Police must permit her to cross the border, submit an application for international protection and initiate the Dublin procedure before issuing a return decision.

The court affirmed that a third-country national apprehended at a border is considered present on that Member State's territory. It ruled that, for the Dublin III Regulation to apply, it was irrelevant that no formal entry occurs (under Section 13(2), sentence 2 of the Residence Act (AufenthG)) when border authorities temporarily allow a foreigner to cross the border before deciding on or enforcing a refusal of entry (the 'non-entry fiction'), since the asylum application was nevertheless made on the territory of a Member State.

The court also clarified that the 2014 Agreement between Germany and Poland on police and border cooperation cannot override EU law. Relying on CJEU jurisprudence, the court confirmed that mass influxes do not justify suspending Dublin obligations. It stressed that Article 72 of the TFEU may only be invoked when a Member State demonstrates specific and compelling reasons, the absence of alternative legal remedies and compliance with the principle of proportionality - requirements that the Federal Police failed to meet in this case.

The court also found that the Federal Police failed to demonstrate a concrete threat to public order or internal security within the meaning of Article 72 of the TFEU. Statistics on asylum applications, Eurodac hits and visa entries were deemed insufficient, as no specific link was established between these figures and the necessity or effectiveness of refusing entry at the border.

The court ordered that the applicant be permitted to enter Germany for the Dublin procedure, noting that she had no right to move beyond the border, where the procedure could lawfully take place. It granted the injunction due to the real risk of her removal to Belarus without access to the asylum procedure, as Poland had already initiated return proceedings.

Dublin procedure

Referral to the CJEU on Article 17(1) of the Dublin III Regulation

Czech Republic, Supreme Administrative Court [Nejvyšší správní soud], *E.K. v Ministry of the Interior*, 2 Azs 87/2025 - 1, 16 July 2025.

The Supreme Administrative Court referred a question to the CJEU for a preliminary ruling on whether Article 17(1) of the Dublin III Regulation can be applied when the determination of the responsible Member State was conducted pursuant to Article 3(2) of that regulation.

A Russian national appealed against the decision of the Ministry of the Interior, which determined that the Netherlands was responsible for the examination of his asylum application. The Regional Court of Brno allowed the appeal on grounds that the ministry insufficiently justified its decision with regard to the risk of inhuman or degrading treatment if transferred to the Netherlands and on the refusal to exercise the discretionary clause provided under Article 17(1) of the Dublin III Regulation.

Following an appeal on points of law lodged by the Ministry of the Interior, the Supreme Administrative Court stayed the proceedings and referred a question before the CJEU for a preliminary ruling on whether Article 17(1) of the Dublin III Regulation can be applied when the determination of the responsible Member State was conducted based on the rules provided under Article 3(2) of that regulation or whether the exercise of discretion is reserved solely to situations in which the Member State responsible was designated on the basis of Article 3(1) of that regulation.

Dublin transfers of non-vulnerable, single men to Belgium

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *The Minister for Asylum and Migration (de Minister van Asiel en Migratie) v Applicant*, 202404274/1/V3, 23 July 2025.

The Council of State ruled that non-vulnerable, single men can no longer be transferred to Belgium under the Dublin III Regulation due to structural shortcomings in the availability of reception places for this cohort, a lack of access to an effective remedy and an indifference of the Belgian authorities to improve the reception situation.

The Council of State reversed its earlier rulings, finding that the principle of mutual trust could no longer be relied upon when transferring non-vulnerable, single men to Belgium under the Dublin III Regulation. Referring to CJEU judgments such as *Jawo* (C-163/17) and *X* (C-392/22), the council found that Belgium's reception system had structural shortcomings. It noted that reception capacity was inadequate and declining, with no realistic plans for expansion, and it was uncertain whether this cohort of applicants had access even to emergency shelters.

The council emphasised that Belgian authorities consistently failed to comply with court orders guaranteeing reception rights, despite thousands of judgments from Belgian courts and condemnation by the ECtHR (see *Camara v Belgium*, 49255/22). This persistent non-compliance meant that asylum seekers lacked effective

legal protection, while the authorities' indifference, illustrated by their refusal to expand capacity, explore alternatives or enforce judgments, showed a lack of commitment to remedy the situation.

It concluded that non-vulnerable, single male applicants faced a real risk of inhuman or degrading treatment under Article 4 of the EU Charter and Article 3 of the ECHR, as they could be subjected to material deprivation preventing them from meeting their most basic needs.

Dublin transfers to Greece

Switzerland, Federal Court [Bundesgericht - Tribunal fédéral], *A. v State Secretariat for Migration (SEM)*, F-5298/2024, 12 June 2025.

The Federal Administrative Court ruled that the State Secretariat for Migration (SEM) is required to investigate the situation of asylum seekers in Greece and to take a position on whether there are systemic deficiencies in the country before ordering a Dublin transfer.

SEM ordered a Turkish applicant's transfer to Greece, arguing that the Greek authorities had agreed to take back the applicant and ensure access to the asylum procedure and adequate housing, in line with EU Recommendation 2016/2256 (which allows for the resumption of transfers for non-vulnerable individuals if specific guarantees are provided).

On appeal, the Federal Administrative Court ruled that SEM had violated its duty to investigate by failing to assess whether systemic deficiencies existed in Greece's asylum system and if there was a risk of *refoulement*, as required under Article 3(2) of the Dublin III Regulation.

To reach its conclusion, the court referred to recent ECtHR cases, such as *H.T. v Germany and Greece* (2024), in which the court found that detention conditions and asylum procedures in Greece had serious shortcomings, leading to a violation of Article 3 of the ECHR. In *N.N. and Others v Greece* (2024), it found that living conditions in Greece remained inadequate, particularly for vulnerable individuals, violating Article 3. Finally in *A.R.E. v Greece* (2025), the court concluded that there was a systematic practice of *refoulement* in the Evros region, leading to violations of Articles 3, 5 and 13.

In short, according to this case law, the court held that the presumption that all Member States of the Dublin area are safe countries and respect the principle of *non-refoulement* has become inoperative in the case of Greece. Nevertheless, it clarified that a transfer to this country could exceptionally be considered lawful after due examination of the individual circumstances. For example in the case 2011/36 of 17 October 2011, a transfer to Greece was exceptionally considered lawful because the applicant had access to a regular asylum procedure, held a valid residence permit as an applicant, was able to work legally during his stay and had not alleged individual persecution in his country of origin. By comparison, the applicant in this case did not have a residence permit and he alleged a real risk of persecution in Türkiye.

Accordingly, the court held that SEM must assess whether systemic deficiencies persist in Greece and, if it finds that they do and still intends to proceed with the transfer, it must clearly and specifically justify why this case constitutes an exception to case law. A mere reference to the Greek authorities' acceptance or to

Recommendation No 2016/2256 was found inadequate, especially given the applicant's alleged risk of direct or indirect *refoulement* and the fact that transfers to Greece had rarely been approved in recent years.

First instance procedures

CJEU interpretation of safe countries of origin

CJEU, *LC [Alace] and CP [Canpelli] v Territorial Commission of Rome*, Joined cases C-758/24 and C-759/24, 1 August 2025.

The CJEU ruled that a third country can be designated as a safe country of origin by legislative act if that act is subject to an effective judicial review; the sources on which the designation is based must be sufficiently accessible to both the applicant and the competent judicial authority; and a third country may not be designated as safe if it does not satisfy, for certain categories of persons, the material conditions required for such a designation.

Two Bangladeshi applicants were detained in Albania under the Italy-Albania Protocol. Their request for asylum was examined by the Italian authorities under the accelerated procedure, and their applications were rejected as unfounded as Bangladesh is considered to be a safe country of origin. On appeal, the Rome District Court referred questions to the CJEU on the application of the safe country concept.

The CJEU ruled that under EU law a Member State may designate by legislative act a third country as a safe country of origin, provided that that designation can be subject to an effective judicial review related to compliance with the material conditions in Annex 1 of the recast APD.

Additionally, the CJEU held that, in order for the judicial protection to be effective, both the applicant and the court or tribunal must be able to have knowledge of the grounds for such the rejection and access to the sources of information on the basis on which the third country in question was designated as a safe country of origin. The CJEU also ruled that the national court or tribunal may take into account information which it collected itself, provided that the information is reliable and the adversarial principle is observed.

Finally, pending the entry into application of the Asylum Procedures Regulation in 2026, the CJEU ruled that a Member State may not designate a third country as a safe country of origin if it does not satisfy the material conditions for such designation (set out in Annex 1 of the recast APD) with respect for certain categories of people.

CJEU on whether subsidiary protection may be provided due to a real risk of a breach of private life

CJEU, *A.B. v Ministry of the Interior*, C-349/24, 5 June 2025.

The CJEU ruled that Article 3 of the recast QD precludes national legislation which provides subsidiary protection to a third-country national who, upon removal to the country of origin, would face a real risk of suffering a breach of private life due to the severing of links with the Member State examining the application for international protection.

The CJEU was asked whether Article 3 of the recast QD, which allows for the application of more favourable standards, precludes Member States from granting subsidiary protection to a third-country national whose removal would result in a real risk of a violation of the right to private life because of severing links with the host Member State.

The CJEU stressed that international protection is designed to substitute the protection of the applicant's country of origin when that country cannot safeguard the individual against persecution or serious harm. It noted that under the recast QD, conditions for granting refugee or subsidiary protection are linked to conditions in the country of origin.

According to the CJEU, granting subsidiary protection on grounds unrelated to risks in the country of origin, such as safeguarding private life within the Member State, falls outside of the directive's rationale and thus cannot be considered a 'more favourable standard' under Article 3.

However, the CJEU clarified that Member States are free, under their own national law, to grant residence rights on humanitarian grounds (such as private or family life considerations). These national measures, though, must not be confused with EU-law on subsidiary protection status. In addition, it pointed out that when a removal is considered the Return Directive and the EU Charter of Fundamental Rights require that private life be respected, meaning that return decisions cannot lawfully infringe fundamental rights.

UN CEDAW on secondary movements of victims of gender-based violence and trafficking

United Nations, Committee on the Elimination of Discrimination against Women [CEDAW], *K.J. v Switzerland*, (169/2021, 4 July 2025), *Z.E. and A.E. v Switzerland*, (171/2021, 4 July 2025)

and *C.O.E. v Switzerland* (172/2021, 2 July 2025).

In the first two cases, UN CEDAW found that the decisions by the Swiss authorities to transfer vulnerable single women to Greece, victims of gender-based violence in Greece suffering from deteriorating mental health, would amount to a breach of Articles 2(c)–(f), 3 and 12 of the Convention. In the third case, UN CEDAW found that a decision to transfer a lesbian Nigerian woman to Italy after being trafficked there and resulting in suicidal ideation would breach Articles 2(d) and 6 of the Convention. The committee advised that in general victims of gender-based violence and trafficking should not be transferred to the first country of entry under the Dublin III Regulation without an individualised, trauma-informed and gender-sensitive assessment of the real risk of harm.

UN CEDAW ruled in two cases concerning Afghan women who fled to Iran as children and were victims of forced marriage, physical and sexual abuse. Both applicants were recognised as refugees in Greece. They claimed that they were raped in Greece and feared for their lives as they were informed that their violent husbands were looking for them in Greece. Additionally, they claimed that the Greek authorities took no action to protect them.

They fled to Switzerland, where based on the Dublin III Regulation, they were requested to return to Greece where protection had already been granted. They argued that they would be at risk of gender-based violence in Greece and unable to meet their basic needs due to a lack of support from the Greek authorities.

After exhausting domestic remedies in Switzerland, they submitted their cases to UN CEDAW. In both cases, the Committee found that Switzerland's decisions to transfer the applicants to Greece would breach Articles 2(c)–(f), 3 and 12 of the Convention on the Elimination of all Forms of Discrimination against Women. The committee emphasised that, while it is generally the responsibility of state authorities to evaluate facts, evidence and the application of national law, the evaluations must not be biased, based on gender stereotypes, clearly arbitrary or amount to a denial of justice. The committee stressed that the state party should have conducted an individualised, trauma-informed and gender-based assessment of the applicants' real, personal and foreseeable risks as refugees and female victims of gender-based violence, taking also into account their mental health. It found that the Swiss authorities failed to properly consider their vulnerable status and to carry out a thorough risk assessment.

The third case concerned a female Nigerian applicant who identified as a lesbian and was trafficked in Italy, forced into prostitution, suffered severe gender-based violence and suffered from suicidal ideation. Similarly, the court held that the Swiss authorities should carry out an individualised assessment of the real, personal and foreseeable risk that the applicant would face in Italy and they should not rely on the assumption that she would be able to obtain appropriate medical care in Italy.

The committee recommended in all three cases that the state party reopen the asylum requests, taking its findings into account and refraining from transferring them while re-assessing the cases. More generally, the committee advised that victims of gender-based violence and trafficking should not be transferred to their first-entry country under the Dublin III

Regulation without an individualised, trauma-informed and gender-sensitive assessment of the real risk of harm.

Personal interview of accompanied minors aged 12-15 without an independent asylum motive

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicants* v *The Minister for Asylum and Migration*, 202404661/1/V1, 20 August 2025.

The Council of State ordered the Minister for Asylum and Migration to adjust its policy concerning direct hearings of accompanied minors between the ages of 12 and 15 who do not have an independent asylum motive. It ruled that, while EU law does not provide an absolute obligation for direct hearings of such minors, the minister is obliged to provide the opportunity for them to request to be heard. The minister must ensure that they are informed of this possibility, unless it is not in their best interests, in which case this decision must be motivated taking into account the specific circumstances of the case.

A Tunisian family consisting of parents and their four minor children applied for asylum. The Minister of Asylum and Migration rejected their applications, deeming their account partially credible and considering Tunisia to be a safe country of origin, without conducting a personal interview with the minors. Their appeal was upheld by the District Court of the Hague and the minister lodged an appeal before the Council of State, which examined whether the minister should have directly heard the two eldest children.

At the time of the decision, the minister's policy was that minors between 12 and 15 who apply together with their parents and have no independent asylum claim are generally not heard directly and instead their parents or legal representative are heard on their behalf, unless a request is made to hear them directly or there is good reason to hear them. The minister maintained that information about this possibility is provided to applicants by the Dutch Council for Refugees.

The council examined this practice by reference to CJEU case law, the EU Charter of Fundamental Rights, the UN Convention on the Rights of the Child (CRC) and the recast APD. It noted that, while there is no absolute obligation to always hear directly accompanied minors without independent asylum motives, children must be given an effective opportunity to express their views. This includes the right to request a personal interview, which must be considered taking into account their best interests and supported by case-specific justification if refused.

The council found the minister's working method inconsistent with these obligations because minors were not adequately informed of their right to request a direct hearing. Written material suggested that this was only possible for children with independent asylum grounds, and the minister's reliance on oral explanations by third parties was unsubstantiated. Furthermore, the minister's general assertion that interviews with such minors are not useful was rejected, as the council held that decisions to refrain from hearing children must be exceptional and based solely on their best interests.

The council concluded that the minister's policy was incompatible with Article 24(2) of the EU Charter and Article 3(1) of the CRC. It upheld the district court's ruling, ordered the minister to revise its policy and to interview the two eldest children or justify why doing so would not be in their best interests.

Assessment of applications

Persecution based on nationality: Palestinian identity

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], *H. v French Office for the Protection of Refugees and Stateless Persons (OFPRA)*, No 24035619, 11 July 2025.

The National Court of Asylum (CNDA) granted refugee status to a Palestinian woman and her son, finding that Israeli military operations in the Gaza Strip amounted to persecution based on nationality within the meaning of the recast QD, while noting the situation of indiscriminate violence of exceptional intensity resulting from the armed conflict between Hamas forces and the Israeli armed forces.

H., a Palestinian woman from northern Gaza Strip, entered France with her minor son in January 2024 after their home was destroyed and her son was injured during Israeli airstrikes. They were initially granted subsidiary protection by the Office for the Protection of Refugees and Stateless Persons (OFPRA) in July 2024, but H. appealed, seeking refugee status. She argued that Israeli military operations in the Gaza Strip constituted persecution on account of Palestinian nationality, membership of a particular social group of Palestinians and attributed political opinions in favour of Hamas.

Sitting in Grand Chamber formation, the CNDA first established that H. and her son

were not registered under the protection of UNRWA and thus not excluded from refugee protection. It then examined extensive reports from UN bodies and NGOs documenting widespread civilian deaths, destruction of homes and infrastructure, famine and mass displacement in Gaza since October 2023. The court emphasised that Israeli military tactics disproportionately harmed women and children, targeted vital civilian infrastructure and obstructed humanitarian aid, creating extreme food insecurity.

The CNDA concluded that these actions amounted to serious and systematic human rights violations. It recognised Palestinians as a 'nationality' within the meaning of Article 10 of the recast QD and held that the Israeli army, exercising control over a substantial part of the territory of the Gaza Strip, could be considered a persecuting actor. On this basis, it found that H. and her son had a well-founded fear of persecution.

Accordingly, the CNDA annulled OFPRA's decision and granted them refugee status, ruling that their return to the Gaza Strip would expose them to persecution due to their Palestinian nationality.

Military conscription: Syrian applicants

Bulgaria, Administrative Court of Ruse [Административният съд - Русе], *M.N.A.H. v State Agency for Refugees (SAR)*, No 1881, 13 June 2025.

The Administrative Court of Ruse confirmed a negative decision for a Syrian applicant who feared conscription in the military service, affirming the absence of disproportionate punishment and the availability of exemptions for certain categories. The court also ruled that, following the fall of the Assad regime in December 2024, the security situation in Syria had stabilised, with localised armed conflicts not directly targeting the civilian population, thereby not justifying subsidiary protection.

The Administrative Court of Ruse dismissed the appeal of a Syrian national who challenged the refusal of his asylum application. He claimed he qualified for refugee status on the grounds that, if forced to perform military service, he would face a real risk of criminal prosecution or punishment for potentially committing crimes.

The court noted that the applicant declared he was not a member of any political party, and it found no evidence that he refused military service on religious grounds or as a conscientious objector. It affirmed that Syrian law did not impose disproportionate or discriminatory punishment for failure to perform military service by Syrian youth and allowed for exemptions. The court noted that if the applicant, who had only completed primary education, pursued further studies in Syria, he would be exempt until graduation. It also observed that Syrian nationals living abroad may be exempted upon payment of a fee, with a USD 200 fine imposed per year of delay, which it found proportionate. The court also found no evidence that, following the fall of the Assad regime, the applicant would be forced to engage in aggressive military actions or commit crimes falling under exclusion clauses. It noted that sources showed no widespread punishment or prosecution in Syria for refusal of military service during armed conflict.

Citing the CJEU judgment in *Elgafaji* (C-465/07, 17 February 2009), the court concluded that the applicant was not eligible for subsidiary protection, as armed conflicts in Syria were localised and not directly targeting civilians. The court also

found that the contested decision properly considered the best interests of the applicant, who was an unaccompanied minor during the proceedings. Citing the CJEU judgments in *LW v Bundesrepublik Deutschland* (C-91/20, 9 November 2021) and *Nigyar Raul Kaza Ahmedbekova and Raul Emin Ogla Ahmedbekov v Deputy Chair of the SAR* (C-652/16, 4 October 2018), it reaffirmed that the best interests of the child alone do not constitute an independent or sufficient ground for granting international protection.

Membership of a particular social group: Single women without a support network in the DRC

Cyprus, International Protection Administrative Court [IPAC] *N.B.J. (through the Commissioner for the Protection of Children's Rights) v The Republic of Cyprus (through the Head of the Asylum Service)*, No 5076/22 and No 5077/22, 7 July 2025.

The International Protection Administrative Court (IPAC) held that two unaccompanied twin sisters from the Democratic Republic of the Congo (DRC) had a well-founded fear of being subjected to persecution entailing cumulative acts of social exclusion and stigmatisation due to their belonging to the particular social group of single women without a supportive and social network and who do not have sufficient financial means to survive in the DRC. Being twins constituted an 'aggravating factor' since it was a characteristic associated with prevailing beliefs about witchcraft in the DRC.

Two unaccompanied twin sisters from the DRC applied for international protection in Cyprus on 21 January 2022. Their applications were initially rejected; however, they were later granted refugee status on appeal following an *ex nunc* assessment by IPAC.

As an initial observation, IPAC noted that their applications were not examined under a common administrative procedure but in the context of separate procedures. Citing CJEU judgment C-652/16, IPAC considered that this did not constitute good administrative practices as it may undermine the principle of family unity and result in contradictory or incoherent judgments, while highlighting that a common procedure would better address shared claims and provide a fuller, more accurate evaluation of the risks faced if returned.

Although the applicants did not claim a fear of persecution based on their profiles, IPAC proceeded with such an examination, citing CJEU jurisprudence in joined cases C-199/12, C-200/12 and C-201/12. IPAC noted that the applicants were young women, twins, without family or male support networks in their country of origin, who had left as unaccompanied minors, with limited education and no employment experience in the DRC. Given their profiles and the socio-political context in the DRC, the court considered that it was reasonably probable that they would face persecution or serious harm in the form of adverse social and gender-based discrimination. This risk was heightened by the absence of a supportive family environment and the fact that their status as twins was linked to prevailing social beliefs about witchcraft. The court noted that these factors increased the likelihood of social marginalisation, stigmatisation, economic hardship and an inability to integrate into society, particularly in a country facing multiple political, social and economic crises.

The court further ruled that the applicants had a well-founded fear of being exposed to acts which constitute either in themselves or cumulatively a serious violation of basic human rights. The court

noted that such acts entailed the deprivation of their basic rights, such as protection of their physical integrity, access to housing and decent work, and general social exclusion and stigmatisation amounting to persecution.

The court therefore found that the applicants belonged to a particular social group: single women without a supportive social network and without sufficient financial means to survive in the DRC. On this basis, the court held that the applicants had a well-founded fear of persecution. It determined that the persecutor was DRC society as a whole, due to the prevailing patriarchal perceptions that discriminate against women with their profiles. Furthermore, the court found that effective state protection was unavailable and internal relocation was not a viable option.

Membership of a particular social group: Women who have not undergone female genital mutilation/cutting (FGM/C) in Sierra Leone

Cyprus, International Protection Administrative Court [IPAC], *A.B.* v *Republic of Cyprus through the Asylum Service*, No 3156/23, 11 July 2025.

IPAC ruled that a Sierra Leonean single mother had a well-founded fear of persecution due to belonging to the particular social group of women who have not undergone FGM/C.

A Sierra Leonean national applied for asylum in Cyprus, where her request was rejected. On appeal, IPAC upheld the authority's assessment that the internal credibility of the applicant's claim that she refused to undergo FGM/C lacked detail, clarity, coherence and plausibility. However, following an *ex nunc* assessment, a well-founded fear of persecution upon a return as a woman who had not undergone FGM/C was established and IPAC granted refugee status.

Although the applicant's allegation had been found not to be credible, the court found that the high percentages of the practice in the place of the applicant's last habitual residence in relation to her profile made the fear well-founded based on objective evidence. To establish whether the applicant belonged to a particular social group, the court referred to EASO's Guidance on membership of a particular social group (March 2020), noting that women and girls who have not undergone FGM/C or who refuse it may form a particular social group. Their identity is based on innate traits (such as gender, age or ethnicity) and shared background (not having undergone FGM/C) or on a belief central to their identity. In societies where FGM/C is widespread, these women and girls may be seen as different from others and face social ostracism because of this distinction.

To further substantiate its reasoning, the court referred to CJEU's conclusions in *WS* (C-621/21, 16 January 2024, para 48-57, 61, and 62) and the ECtHR's judgment in *R.H. v Sweden* (4601/14, 10 September 2015).

The court concluded that in the applicant's case, it was reasonably likely that she would suffer acts of persecution as a member of the particular social group of women who have not undergone FGM/C. The court highlighted that these women may experience social exclusion if their situation is known, they are verbally attacked and they are considered an obstacle to marriage, as this is an important part of their cultural identity. The court emphasised that the extent of the

social exclusion they experience because of their refusal can also be considered as persecution.

Furthermore, the court held that the agent of persecution is the very society in which the applicant lives, and the state is not in a position to ensure protection from social discrimination and stigmatisation. It also ruled out the possibility for internal relocation in view of the nature of the persecution, the high prevalence of FGM/C across the country and in light of the applicant's personal circumstances.

Subsidiary protection: Somalia

Cyprus, International Protection Administrative Court [IPAC], *M.A. v Republic of Cyprus through the Asylum Service (Κυπριακή Δημοκρατία και/ή μέσω Υπηρεσίας Ασύλου)*, No 5183/2022, 30 June 2025.

IPAC granted subsidiary protection to a Somali national from Buaale in Middle Juba belonging to the Mahdibaan tribe, noting that the applicant's age, social isolation and lack of racial or family protection were factors which placed the applicant at serious risk of harm upon a return. The court noted that being a minor during the entire stay in Somalia was 'a critical element of vulnerability'.

A Somali national applied for international protection in Cyprus, claiming a fear of persecution from Al-Shabaab, and his request for protection was rejected. On appeal, IPAC upheld the Cyprus Asylum Service's assessment of the applicant's claims. However, after carrying out an *ex nunc* assessment, IPAC granted the applicant subsidiary protection on the basis of Article 15(c) of the recast QD.

The court first noted that, in the absence of systematic acts of targeting or other events that would constitute acts of persecution (i.e. severe social exclusion or deprivation of fundamental rights), it could not be concluded that the applicant had a well-founded fear of persecution due to his race. Even within the general context of vulnerability of the Mahdibaan tribe and discrimination against Mahdibaans, the court noted that the applicant's personal story lacked coherence, clarity and persuasiveness to be assessed as credible and legally sufficient for recognition as a refugee.

However, IPAC noted that, irrespective of the internal credibility of his claims, the general security situation in Buaale, combined with the applicant's age, social isolation and lack of clan or family protection, were factors leading to the conclusion that his return to Somalia, and especially to Buaale in Middle Juba, entailed a real and individualised risk of serious harm. The court observed that the applicant would not have any kind of state or family protection and, as a young man from a marginalised caste without a support network, he would be particularly vulnerable to recruitment or other forms of violence by Al-Shabaab. Furthermore, the court noted that being a minor during his entire stay in Somalia (he was 17 years old when he left the country) constituted a critical element of vulnerability.

The court concluded that the absence of family ties, combined with the applicant's racial identity, age and lack of economic and social resources made any attempt to a sustainable and dignified settlement in another region of Somalia impossible. In this sense, the court emphasised that the possibility of internal relocation requires realistic access to means of subsistence, housing, protection and social acceptance. The court noted that in the absence of

support mechanisms, any such attempt would expose him to a serious risk of poverty, social marginalisation and violence.

Subsidiary protection: Syria

Bulgaria, Administrative Court of Burgas [Административният съд - Бургас], *M.R.I. v State Agency for Refugees (SAR)*, No 5052, 3 June 2025.

The Administrative Court of Burgas confirmed a negative decision for a Syrian woman from Damascus, finding that the overall security situation in Syria had stabilised following the fall of the Assad regime in December 2024, with limited and non-widespread armed conflict, and that mere presence in the country did not expose her to a real risk of serious harm warranting subsidiary protection.

The Administrative Court of Burgas confirmed a negative asylum decision for a Syrian applicant, finding no substantial violations of administrative procedural rules. The court first confirmed that the applicant did not meet the criteria for refugee status, as she did not substantiate claims of persecution in Syria. It acknowledged that, while she claimed to have been threatened by Jabhat al-Nusra due to her clothing not conforming to their rules, there was no evidence of an official ban on certain types of women's clothing in Syria.

Citing the CJEU judgment in Elgafaji (C-465/07, 17 February 2009), the court confirmed that she did not meet the conditions for subsidiary protection under Article 15(c) of the recast QD. Contrary to the administrative authority's conclusion, the court acknowledged that, according to reports from the International Activities Directorate of the State Agency for Refugees (SAR) and additional sources submitted during the proceedings, armed clashes in Syria had not fully ended but were not widespread at the time of the decision. It affirmed that, overall, the security situation in Syria had stabilised since the fall of the authoritarian regime of President Bashar al-Assad. The court noted that there was no data on airstrikes after that date in the applicant's area of origin, Damascus, that caused harm to civilians. Therefore, it held that despite the still unstable and complicated situation in some areas of Syria, the overall assessment of the data did not support a conclusion that the level of indiscriminate violence reached such a high level that mere presence in the area would constitute a real risk of serious harm.

Subsidiary protection: Yemen

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicant v The Minister for Asylum and Migration*, 202407906/1/V2, 16 July 2025.

The Council of State held that the Ministry for Asylum and Migration should revise its asylum policy on Yemen as it had not properly substantiated the assessment of whether the situation in Yemen qualified as the most exceptional situation falling under Article 15(c) of the recast QD.

The Council of State found that the minister had not sufficiently substantiated the conclusion that Yemen did not fall within the scope of Article 15(c) of the recast QD and ordered it to revise its country policy on Yemen. The council highlighted that the minister must consider all relevant circumstances comprehensively, including humanitarian circumstances that are direct or indirect consequences of the actions or omissions of the actors of serious harm. The council

underlined that poor humanitarian conditions resulting from climate and natural phenomena (such as draught or floods) were not relevant in this framework, as these were not related to indiscriminate violence. However, it noted that these may play a role in the more general assessment of the risk upon return under Article 3 of the ECHR.

The council ruled that the minister's assessment had failed to consider factors such as civilian casualties from landmines and explosive remnants, renewed confrontations after the ceasefire, the increase in displaced persons, and the targeting and obstruction of humanitarian aid by Houthi rebels. Moreover, it held that the minister had not properly assessed the feasibility of a return to Aden for the applicant.

Reception

CJEU on reception conditions when a Member State is faced with a mass influx of persons

CJEU, *S.A.,R.J. v Minister for Children, Equality, Disability, Integration and Youth, Ireland, Attorney General*, C-97/24, 1 August 2025.

The CJEU ruled that a Member State may not plead an unforeseeable and unavoidable influx of applicants for international protection in order to evade its obligation under EU law to cover basic needs for asylum seekers.

Two asylum seekers from Afghanistan and India were left without adequate reception conditions in Ireland. Despite being entitled under the recast RCD to material support covering their basic needs, they were only given a EUR 25 voucher and denied accommodation due to alleged exhaustion of reception capacity. As a result, they lived on the streets in unsafe and degrading conditions, lacking food, hygiene and security. They sought compensation before the Irish High Court.

Ireland admitted a breach of EU law but invoked force majeure, citing a mass influx of third-country nationals after the war in Ukraine that had temporarily overwhelmed housing capacity. The High Court referred questions to the CJEU on the possibility of ruling out the liability of the state in such circumstances despite its legal obligations under the recast RCD and the EU Charter.

The CJEU rejected this argument. It recalled that Member States must guarantee asylum seekers an adequate standard of living, including housing, financial aid or vouchers, while safeguarding physical and mental health and ensuring that applicants can meet their basic needs. The CJEU held that denying minimum reception conditions, even temporarily, constitutes a manifest and grave overstepping of a Member State's discretion under the recast RCD. It ruled that such failure may amount to a sufficiently serious infringement of EU law and may trigger state liability.

Even in exceptional circumstances, such as an unforeseeable mass influx, the CJEU held that the recast RCD allows only temporary adjustments to reception modalities but never the suspension of basic support. It ruled that Member States remain obliged to cover basic needs, consistent with human dignity under the EU Charter. In this regard, it emphasised that the exhaustion of housing capacity, even when this is the result of a mass influx of asylum seekers, cannot justify evading this duty or exclude liability for compensation.

Finally, the CJEU found no evidence that Ireland was objectively prevented from fulfilling its obligations, since alternatives such as temporary housing, financial support or use of the derogation system were possible.

Refusing reception due to late submission of an asylum application

Italy, Regional Administrative Court, *Applicant v Ministry of the Interior - Prefecture of Vicenza*, No 293/2025, 2 July 2025.

The Regional Administrative Court of Veneto ruled that the right to reception cannot be denied solely because the asylum application is submitted more than 90 days after entry into Italy, finding that the national law permitting such a dismissal may be in conflict with the recast RCD.

The applicant challenged the rejection of his request for reception measures due to his asylum application being submitted more than 90 days after arrival in Italy and that he was not considered to be in a condition of vulnerability, pursuant to Article 1(2-bis) of Legislative Decree No 142/2015.

The Regional Administrative Court of Veneto considered that Article 1(2-bis) should be disapplied as it conflicts with the recast RCD, Article 20(5), which allows only the reduction (not refusal) of reception measures in cases of late asylum applications. It also observed that the competent authority had failed to assess the applicant's potential vulnerability, despite indications that he lacked means of subsistence while awaiting the outcome of the asylum procedure. Finally, the court found that the applicant should have been given advance notice of the rejection.

The court therefore granted interim relief, suspended the contested decision, ordered the administration to re-examine the applicant's case within 30 days, and ordered his immediate placement in suitable accommodation.

Detention

Constitutional challenges to the legal framework governing detention conditions in Italy

Italy, Constitutional Court [Corte constituzionale], *Justice of the Peace of Rome*, 96/2025, 9 June 2025.

The Constitutional Court ruled that the legal framework governing administrative detention in CPRs violates Article 13(2) of the Constitution by failing to regulate the methods of detention through primary legislation. It also ruled that constitutional challenges were inadmissible, noting that it cannot fill the legislative gap on regulating detention methods in CPRs.

The Justice of the Peace of Rome raised constitutional questions concerning Article 14(2) of Legislative Decree No 286 of 1998, questioning its unclear rules on detention procedures and conditions, detainee rights and safeguards, judicial oversight, and reliance on subordinate laws.

The Constitutional Court cited relevant case law on detention, including the CJEU judgments in *C, B and X* v *State Secretary for Justice and Security* (C-704/20 and C-39/21, 8 November 2022) and in *FMS* (C-924/19 and C-925/19, 15 May 2020), and the ECtHR judgment in *Khlaifia and Others* v *Italy* (16483/12, 15 December 2016).

The court confirmed that there was a violation of Article 13(2) of the Constitution, which requires that any restriction of personal liberty be established by law. It found that Article 14 of Legislative Decree No 286 of 1998 does not precisely define the rights of detainees, and improperly delegates regulation of detention methods to non-binding administrative acts, violating the constitutional requirement for clear legal rules on restricting personal freedom.

Nevertheless, the court ruled that the constitutional challenges were inadmissible, stating it cannot fill the legislative gap on regulating detention methods in CPRs, which is the legislature's responsibility. It emphasised the need for comprehensive laws defining detainee rights and standards for facilities, healthcare and legal access. While compensation under Article 2043 of the Civil Code and urgent relief under Article 700 of the Code of Civil Procedure remain available, the court found these remedies inadequate without clear legislative and procedural safeguards.

Detention under the Italy-Albania Protocol

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], *Ministero dell'Interno and Questura di Roma* v *S.H., A.H.*, 20 June 2025.

The Supreme Court of Cassation (criminal section) submitted two questions to the CJEU for a preliminary ruling on whether the detention of a third-country national based on national legislation is compatible with the requirements of EU law when the detention is ordered and implemented in facilities located outside of the Italian territory, based on the Italy-Albania Protocol.

Following unenforced expulsion orders against S.H., a Tunisian national, and A.H., an Algerian national, the applicants were detained in the Bari Return Centre and transferred to the Gjader Return Centre in Albania, based on the Italy-Albania Protocol. While in detention, they applied for asylum and the Rome Police Chief ordered their detention at the Gjader Return Centre pursuant to the legislation transposing the recast APD. The Rome Court of Appeal invalidated both detention orders and the Ministry of the Interior appealed before the Supreme Court of Cassation.

The proceedings in both cases were joined before the Supreme Court of Cassation (criminal section), which referred two questions before the CJEU for interpretation of the Return Directive and the recast APD:

> (1) Does the Return Directive and in particular Articles 3, 6, 8, 15 and 16 preclude the application of national legislation (Article 3(2) of Law No 14 of 21 February 2024), which allows recipients of detention orders endorsed or extended pursuant to Article 14 of Legislative Decree No 286 of 1998 to be taken to the areas referred to in Article 1(1)(c) of the Italy-Albania Protocol, in the absence of any predetermined and identifiable prospect of a return?
>
> (2) If the answer to that question is in the negative, does Article 9(1) of the recast APD preclude the application of national legislation (Law No 14 of 21 February 2024) which allows, on the grounds of an application for protection deemed to have been lodged for improper purposes, the detention in one of the areas referred to in Article 1(1)(c) of the Italy-Albania Protocol of the migrant who is the subject of an expulsion order and who, having been brought to the area, has submitted such an application?

Italy, Civil Court [Tribunale], *Applicant v Ministry of the Interior (Ministero dell'Interno)*, RG 33697/2025, 25 July 2025.

The Tribunal of Rome ordered the immediate release of an applicant detained in the CPR of Gjader, Albania, finding that the detention violated his fundamental right to health due to inadequate care for his psychiatric condition, including treatment without a formal diagnosis and off-label drug use administered without informed consent.

Following a removal order, the applicant was detained at the CPR in Gjader, Albania. After his subsequent asylum application was rejected and his detention confirmed by the Justice of the Peace of Rome, he filed an urgent interim relief application with the Tribunal of Rome, claiming that the detention violated his right to health.

The Tribunal of Rome observed that the clinical diary documented a severe deterioration of the applicant's mental health. It noted that the applicant was administered Clonazepam off-label, without adequate information or informed consent. The tribunal concluded that the applicant did not receive appropriate treatment for his condition, which continued to worsen, and the therapy was administered outside the legal framework and safeguards. It also noted that that there was no permanent Italian National Health Service presence in Albania, and the applicant required care from an appropriate facility.

The tribunal cited the Constitutional Court judgment No 96 of 9 June 2025, which provided no guidance on civil court jurisdiction over administrative acts or how its protective measures relate to the review under Article 15(3) of the Return Directive. The tribunal affirmed it could not order alternative measures or transfer detainees to another CPR in Italy. It also held that transferring the applicant would not address the lack of adequate care, since CPRs do not provide direct healthcare through the National Health Service. Therefore, the tribunal ordered the applicant's immediate release to protect his right to health.

Italy, Justices of the Peace [giudice di pace], *Applicant v Rome Police Headquarters ,Ministry of the Interior (Ministero dell'Interno)*, RG 26017/2025, 30 July 2025.

The Justice of the Peace of Rome ordered the cessation of detention for a Togolese national held at the CPR in Gjader, ruling that his detention violated the fundamental right to health due to the absence of a required suitability assessment by the Italian public health service, especially given his serious medical condition and the absence of the Italian National Health Service at the detention centre in Albania.

A Togolese national had his asylum application rejected, and following an expulsion decree, he was detained at the CPR in Caltanissetta, with subsequent detention and expulsion orders. He was then hospitalised for chronic sialoadenitis and underwent surgery. After his detention was extended, he was transferred to the CPR in Gjader, Albania. He challenged his detention, claiming it was incompatible with his health condition.

The Justice of the Peace noted that the applicant's medical records showed signs of mental distress requiring continuous monitoring and reassessment of fitness, which were not carried out. She found this to be a clear violation of detention regulations protecting the fundamental right to health. The Justice of the Peace also emphasised that this non-compliance was aggravated by the fact that the CPR was located in a third country, lacking an Italian National Health Service presence and relying solely on limited cooperation from Albanian authorities to provide essential medical care to detainees, as set forth in Article 4(8) of the Italy-Albania Protocol. Consequently, the Justice of the Peace upheld the appeal and ordered the cessation of the detention measure.

Detention on grounds of national security

Italy, Court of Appeal [Corte di Appello], *Questura di Venezia*, RG 1194/2025, 27 June 2025.

The Court of Appeal of Venice did not validate the detention of a Tunisian national as it was based on an incorrect legal ground. It distinguished between primary applicants who may be detained if they pose a danger to public order or national security or if detention is necessary to verify their claim due to a flight risk, and secondary applicants, who may be detained if they submit subsequent manifestly unfounded applications for asylum solely to delay a removal.

A national of Tunisia was detained at the Bari-Palese CPR on grounds of involvement in criminal trafficking, danger to public order and national security, and to establish the elements supporting his asylum application due to him being a

flight risk. The Venice Police Headquarters requested validation of the detention measure from the Court of Appeal of Venice.

The court held that there were no grounds to justify his detention for being a danger to public order or national security, as the Police Headquarters did not establish habitual involvement in criminal trafficking or a current and serious danger posed by the applicant.

The court also observed that there was no evidence that the applicant had appealed the rejection of his asylum application, nor that he had submitted a new application while detained at the CPR with the intent to delay the execution of a removal or expulsion order following the rejection. It held that the applicant was not detained at the CPR as a primary applicant for international protection under the conditions set forth by the Police Headquarters in his detention order pursuant to Article 6(2) of Legislative Decree No 142/2015, but rather because he was awaiting the execution of an expulsion order. The court found no evidence that, during detention, the applicant submitted a subsequent application that was manifestly unfounded or intended solely to delay or obstruct the expulsion procedure, which would justify detention for a secondary applicant.

Exclusion: Meaning of serious reasons in Article 12 of the recast QD

Greece, Athens Administrative Court of First Instance, [Διοικητικό Πρωτοδικείο Αθήνας], *Applicant v Ministry of Immigration and Asylum*, No ΑΔ 768/2025, 13 June 2025.

The Athens Administrative Court of First Instance annulled the exclusion decision relating to a Turkish applicant who was politically involved with TAYAD due to substantive investigative flaws, noting that serious reasons in Article 12(2) of the recast QD requires a high standard of proof, different from those applied in criminal proceedings, and clear, robust evidence after a full individual examination of the acts committed is necessary even in cases of collective responsibility for criminal acts. The mere fact that the applicant has been a member of an organisation whose acts are listed in the Common Position 2001/931 to combat terrorism cannot automatically lead to exclusion.

A Turkish national of Kurdish origin who entered Greece in 2004 and requested asylum by arguing a fear of persecution due to his participation in the Revolutionary People's Liberation Party/Front (DHKP-C) lodged a subsequent application on 2 October 2015. In addition to the arguments which he had submitted in his past asylum requests, he claimed that since 2013 his targeting by the Turkish authorities had intensified, putting his life, freedom and physical integrity at risk. His subsequent application was declared admissible but rejected on exclusion grounds. The 18th Independent Appeals Committee rejected the appeal, concluding that the applicant participated and assisted in committing a series of terrorist acts, as defined in the Common Position on the application of specific measures to combat terrorism.

The applicant appealed to the Athens Administrative Court of First Instance, which relied on the considerations of the CJEU and Advocate General Sharpston in *Office of the Commissioner General for Refugees and Stateless Persons v Mostafa*

Lounani (C-573/14, 31 January 2017) and the EASO Judicial analysis Exclusion: Articles 12 and 17 of the Qualification Directive (2020). It ruled that the Appeals Committee had based its decision solely on the grounds that his main claim that he was not a member of DHKP-C (but instead of TAYAD) was found not credible. It concluded that the assessment was not based on strong and reliable evidence and an individual assessment of the circumstances of the case, but on inferences and to a large extent, hypotheses. The court annulled the decision and sent the case to the authority for a re-examination with indications of specific elements to be considered in the exclusion assessment.

Second instance procedures

CJEU on the obligation to appear in person before the court

CJEU, *FO v Ypourgos Metanastefsis kai Asylou [Al Nasiria]*, C-610/23, 3 July 2025.

The CJEU ruled that Greek legislation according to which an applicant for international protection is obliged to appear in person at the hearing for an appeal is contrary to EU law. It also ruled that the presumption that an appeal has been improperly lodged if the applicant is not personally present for an oral hearing is contrary to EU law.

An Iraqi national who appealed the rejection of his request for international protection before an Independent Appeals Committee in Greece had his appeal rejected as improperly brought because he failed to appear in person before the committee. On further appeal, the Administrative Court of First Instance of Thessaloniki referred questions to the CJEU for a preliminary ruling on whether such a dismissal was compatible with EU law, considering that applicants were required to travel to Athens solely in order to have their presence recorded.

The CJEU noted that a national law which provides that failing to appear in person on an appeal may play a role in the efficiency of the judicial system as it focuses the appeal system only on applicants with a

genuine interest in their appeal; however, it is disproportionate to dismiss the appeal as improperly brought if the sole objective of the provision is not to be heard by the court but to verify the applicant's presence on the national territory.

The court noted that less restrictive measures could be adopted, such as allowing representation by a lawyer or other authorised person, while proof of presence in the Greek territory could take place by appearing at a police station or another public or judicial authority close to where the applicants are staying.

Right to a fair trial: Oral hearings of minors

Austria, Constitutional Court [Verfassungsgerichtshof Österreich], *Applicant v Federal Office for Immigration and Asylum (BFA)*, E3411/2024, 6 June 2025.

The Constitutional Court upheld the constitutional complaint of a minor from Mali, finding that the lower court's omission of an oral hearing breached Article 47(2) of the EU Charter and emphasising the need for a credibility assessment which considers the applicant's age at the time of his departure from Mali and at the time of his interview.

The Constitutional Court reviewed the case of a Malian minor whose application was rejected by the Federal Office for Immigration and Asylum (BFA), which doubted his credibility, pointed to inconsistencies in his account of his origin and assumed he must have relatives in Mali due to the country's high fertility rate. The Federal Administrative Court dismissed his appeal without an oral hearing.

Before the Constitutional Court, the applicant argued that his right to a fair trial under Article 47(2) of the EU Charter was violated because the lower court failed to conduct an oral hearing and did not properly consider his young age at the time of the events and interviews. The Constitutional Court acknowledged that hearings may be omitted if the facts are fully clarified but emphasised that particular weight must be given to the applicant's status as a minor, both at the time of the alleged events and when he first gave testimony. It found that the Federal Administrative Court had not applied the correct standard in assessing credibility, especially in light of the applicant's youth and vulnerability.

The court further held that relying on Mali's fertility rate to assume the existence of relatives was unfounded and the security situation in different regions of Mali made a careful, individualised assessment necessary. It concluded that an oral hearing was essential to form a proper impression of the applicant's credibility. By omitting it, the lower court breached Article 47(2) of the EU Charter. The Constitutional Court therefore upheld the complaint and annulled the lower court's decision.

Assignment of a judge and an interpreter of a preferred sex

Austria, Constitutional Court [Verfassungsgerichtshof Österreich], *Applicant v Federal Office for Immigration and Asylum (BFA)*, E507/2025, 5 June 2025.

The Constitutional Court upheld the complaint of a Georgian national, ruling that failure to assign a female judge in a case involving sexual self-determination violated the constitutionally-guaranteed right to a trial before a lawful judge.

The Constitutional Court reviewed the case of a homosexual Georgian national

whose asylum claim in Austria was rejected by the BFA and subsequently dismissed by the Federal Administrative Court. In his appeal, the applicant had expressly requested that any oral hearing and decision be conducted by a female judge, arguing that his claim was based on persecution linked to his sexual self-determination and that he found it easier to discuss his sexual identity with women. Despite this, the Federal Administrative Court held the hearing before a single male judge and dismissed the appeal, finding no violations under the ECHR.

The Constitutional Court noted that under Section 20(1) of the Asylum Act 2005, when an applicant's fear of persecution relates to violations of sexual self-determination, questioning and decision-making must be carried out by a judge of the same sex, unless the applicant explicitly requests otherwise. Since the applicant's claims clearly fell within this provision and he had explicitly demanded that a female judge hear his case, the Constitutional Court concluded that the Federal Administrative Court's failure to respect this requirement amounted to a violation of the applicant's constitutional right to a trial before a lawful judge.

Humanitarian protection

Admission programme for Afghan nationals in Pakistan

Germany, Regional Administrative Court [Verwaltungsgericht], *Applicants v Federal Republic of Germany*, 8 L 290/25 V, 7 July 2025.

The Administrative Court of Berlin ruled that, while Germany may decide whether and under what conditions to continue or terminate its admission programme for Afghan nationals, it remains legally bound to admit individuals to whom final and unrevoked admission notices were voluntarily issued.

The applicants, Afghan nationals in Pakistan, received conditional humanitarian admission commitments from BAMF under the Federal Admission Programme for Afghanistan. They applied for visas and underwent security interviews, after which the embassy prepared their visas. Shortly before their planned departure, doubts arose about Applicant 1's identity, which the applicants disputed. They filed for interim relief, citing an urgent need for protection due to threats of deportation to Afghanistan.

The Administrative Court of Berlin held that BAMF's admission commitments legally entitled them to a visa procedure and visa issuance. It found that the applicants met all visa issuance requirements, including identity verification and absence of security risks, noting that Applicant 1's

identity was reliably confirmed despite previous discrepancies in her recorded birthdate.

The court affirmed that, while Germany may decide whether and under what conditions to continue or end the admission programme (and may temporarily withhold new admission commitments), it remains legally bound by final and unrevoked admission notices issued to the applicants. The court also highlighted the German government's suspension of the admission procedure, repeated statements about ending the programme, cancelled charter flights since April 2025, ongoing unresolved political decisions, and the absence of a clear timeline for resuming admission procedures. It concluded that resuming visa procedures was not foreseeable in the near future.

The court found that the applicants faced a credible risk of deportation to Afghanistan, which would cause serious and irreparable harm, and that they demonstrated an urgent need for interim relief. It ordered Germany to issue visas to the applicants, pursuant to Section 23(2) of the Residence Act (AufenthG).

Content of protection

Compatibility of the Dutch Civic Integration Act with the recast QD

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicant* v *The Minister for Asylum and Migration*, 202107906/2/V6, 9 July 2025.

The Council of State delivered its judgment on the Civic Integration Act following the CJEU preliminary ruling in C-158/23.

An Eritrean national, beneficiary of international protection in the Netherlands, failed to complete the civic integration exam within the required period, despite extensions. As a result, the Ministry of Social Affairs imposed a fine of EUR 500 and required repayment of a EUR 10,000 loan that had been granted to support integration but was conditional on passing the exam. The District Court of the Hague upheld this decision, but on appeal before the Council of State, the case was referred to the CJEU, which issued its ruling on 4 February 2025 in C-158/23.

In light of the CJEU judgment, the Council of State found that the Dutch Civic Integration Act 2013 conflicted with Article 34 of the recast QD. The CJEU made clear that integration measures must not constitute a disproportionate obstacle for beneficiaries of international protection

and cannot be designed in a punitive way. Fines may only be imposed in exceptional cases where there is clear evidence of unwillingness to integrate, not simply for failing exams, and integration programmes must be free of charge unless beneficiaries can reasonably contribute to the costs. Conditional loans that require repayment if exams are not passed do not meet these requirements.

The council therefore ruled that Article 31(1) of the Civic Integration Act, which allowed for fines, was invalid as applied to beneficiaries of international protection. It emphasised that the fine imposed on the applicant was unlawful, since the ministry had not demonstrated a persistent lack of willingness to integrate and in any case lacked a valid legal basis. It also held that Article 16(4) of the Act, requiring repayment of the state loan by beneficiaries of international protection was contrary to EU law.

The council concluded that both the fine and repayment obligation had been wrongly imposed. Although the Civic Integration Act 2013 was since replaced by the 2021 Act, the Council stressed that its conclusions remain relevant, as the new system still provides for fines alongside the integration obligation.

Family reunification for a young adult with dependents in the Gaza Strip

Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicants v The Minister for Asylum and Migration*, NL25.26179, 3 July 2025.

The Court of the Hague seated in Middelburg granted an interim measure to allow family reunification of a young adult, beneficiary of protection in the Netherlands, and his parents and minor siblings residing in the Gaza Strip, where they were at continued risk of being killed.

A young adult from Gaza with international protection in the Netherlands applied for family reunification with his parents and minor siblings who remained in Gaza. The Minister for Asylum and Migration rejected the request and the applicant appealed before the District Court of the Hague.

The court found a compelling urgent interest, noting clear indications of genocidal violence against Gaza's population and widespread violations of international humanitarian law, without foreseeable improvement. The family was at daily risk of fatal harm, meaning family life was directly jeopardised.

The court examined the young adult policy, which requires cumulative elements of dependency. The sponsor, aged 23 at departure, lived with his parents in Gaza and worked to support the household, with his income being essential for survival. Since much of his earnings in the Netherlands were also sent to Gaza, the family remained financially dependent on him. The court held that independence forced by refugee circumstances cannot be used against continued family life, and the minister failed to justify the rejection of the existence of dependency or family life under Article 8 of the ECHR.

The court also rejected the state's claim that family life could be maintained remotely, as the family lived in a tent camp without electricity or Internet and often went for weeks without contact. Arguments about cultural ties to Gaza were dismissed, as Gaza had been devastated and most relatives and friends had perished. Considering the best interests of the minor siblings, who lived in mortal

danger without adequate shelter, food or medical care, the court found reunification essential.

The court concluded that the minister had disproportionately prioritised economic interests over fundamental rights and ordered the granting of visas to allow family reunification.

Cessation of refugee status

Belgium, Council for Alien Law Litigation [Conseil du Contentieux des Étrangers - CALL], *Applicant* v *Commissioner General for Refugees and Stateless Persons*, No 326 879, 16 May 2025.

The Council for Alien Law Litigation (CALL) found that the applicant had voluntarily reclaimed protection from Afghan authorities, evidenced by his return to Afghanistan, public statements praising the Taliban and engagement with official institutions, thereby justifying the cessation of his refugee status.

After several requests, an Afghan national was granted international protection in Belgium in 2021 due to a well-founded fear of persecution on the ground of political beliefs, which were made public on the applicant's YouTube channel. The Commissioner General for Refugees and Stateless Persons (CGRS) later revoked his refugee status as he had visited the Afghan Embassy multiple times to obtain documents (including a birth certificate), engaged with senior Taliban officials and publicly expressed support for the Taliban. The applicant appealed, arguing that the CGRS had misinterpreted his views.

Citing the EUAA's Judicial Analysis: Ending international protection (2021), CALL recalled the requirements that must be met to consider that an applicant had reclaimed protection from their country of origin, namely the act must be voluntary, intentional and result in effective national protection. In this case, CALL found that the applicant's return to Afghanistan (where he remained at the time) and his social media posts expressing a sense of safety were incompatible with his claimed fear of being assassinated and persecuted. According to CALL, this was sufficient to conclude that the applicant voluntarily sought protection from his national authorities, justifying the cessation of his refugee status.

CALL found the request for subsidiary protection to be unfounded. Since the applicant did not present any new facts beyond those already considered for refugee status, which no longer justified protection, CALL concluded that there were no serious grounds to believe that he faced a real risk of harm. Moreover, the court noted that, according to the EUAA's Country Guidance: Afghanistan (May 2024), there was no real risk that civilians in the Kunduz province, where he originated from, would be personally affected by indiscriminate violence.

Withdrawal of refugee status on grounds of national security

Italy, Supreme Court of Cassation - Civil section [Corte Suprema di Cassazione], *Ministry of the Interior (Ministero dell'Interno)* v *B.S.*, RG 18427/2025, 3 July 2025.

The Court of Cassation ruled that when a revocation of refugee status is motivated by reference to classified administrative documents, access to those documents must be guaranteed for defence and judicial review purposes through the procedure established by Article 42(8) of Law No 124/2007. It further established

that Member States may revoke refugee status on grounds of danger to national security, not only for real and current threats but also for potential threats.

B.S. appealed the revocation of his refugee status, which was based on a classified note from the Department of Public Security, Central Directorate of Prevention Police which asserted that his presence in Italy posed serious national security risks. The Tribunal of Milan upheld the appeal, and the Ministry of the Interior challenged this decision before the Court of Cassation.

The Court of Cassation ruled that if a revocation decision refers to a classified document, access must follow the special procedure set out in Article 42(8) of Law No 124/2007. It affirmed that the right of access takes precedence over confidentiality when necessary for defence rights, but if access is not requested through the proper procedure, confidentiality prevails. The court found that the tribunal erred by refusing B.S.'s request to produce the classified note and by treating it as legally irrelevant.

The court referenced CJEU judgments in *XXX* v *Commissaire général aux réfugiés et aux apatrides* (C-8/22, 6 July 2023) and in *K.A.M.* v *Republic of Cyprus* (C-454/23, 27 February 2025). It clarified that Member States may revoke, terminate or refuse to renew refugee status not only for real and immediate threats, but also for potential threats to national security. The court held that the tribunal improperly confined its review to the concreteness of the risk, excluding the relevance of prior conduct that could pose a potential danger to the fundamental interest of national security. Accordingly, the court quashed the contested decree and referred the case back to the tribunal, with a different composition, for reconsideration.

Return

CJEU judgment on the legal consequences of return decisions which do not grant a period for voluntary return

CJEU, *W [Al Hoceima], X [Boghni] v Belgian State*, Joined Cases C-636/23 and C-637/23, 1 August 2025.

The CJEU addressed the legal consequences of refusing to grant a period for voluntary departure under the Return Directive, holding that such a refusal is not a mere enforcement measure but one that directly alters the legal position of the individual and must be open to challenge in legal proceedings. The CJEU also ruled that entry bans are supplementary to return decisions, so national authorities may impose an entry ban even after a considerable lapse of time, provided it is based on a return decision that does not grant a period for voluntary departure. The provisions relating to the voluntary departure period form an integral part of a return decision, and if found to be unlawful, the entire decision must be annulled.

The CJEU ruled on a request for a preliminary ruling submitted by two Belgian courts in the context of challenges brought by two third-country nationals who were issued return decisions without a voluntary departure period on grounds of a risk of absconding, and for one of the individuals, a threat to public policy and national security.

The CJEU held that refusing a voluntary departure period is not a simple

enforcement measure under the Return Directive. Member States must, as a rule, allow between 7-30 days for a voluntary departure. Exceptions are permitted only in cases of a risk of absconding, fraudulent or unfounded applications, or threats to public policy or national security. The CJEU emphasised that a voluntary departure is a crucial element of the return procedure, ensuring a gradual escalation of enforcement measures and protecting fundamental rights such as dignity, family unity, healthcare access and education for minors. A refusal therefore alters the legal position of the individual and carries immediate consequences, including the obligation to impose an entry ban.

On judicial protection, the CJEU recalled that Article 13 of the Return Directive guarantees an effective remedy to challenge return-related decisions, read in light of Article 47 of the EU Charter. It concluded that decisions refusing a voluntary departure, as well as the length of such periods, must be open to a judicial review. Individuals must have the chance to contest the assessment of their situation and the consequences of such a refusal before an impartial authority.

Regarding entry bans, the CJEU ruled that they do not need to be imposed simultaneously with the return decision. Although they 'supplement' a return decision, this link is material rather than temporal. The CJEU concluded that Articles 3(6) and 11(1) must be interpreted as allowing national authorities to impose an entry ban even after a considerable lapse of time, provided it is based on a return decision that denied a voluntary departure period.

Finally, the CJEU addressed whether an unlawful voluntary departure provision invalidates the whole return decision. It held that under Articles 3(4) and 7 of the Return Directive the voluntary departure period is an integral part of the obligation to return, which encompasses both voluntary and enforced returns. Any unlawfulness related to the voluntary departure provision therefore affects the validity of the entire decision, which must then be annulled. However, it held that this does not undermine the effectiveness of the EU's return policy as authorities may issue a new decision correcting the defect without restarting the entire procedure.

Referral to the CJEU on return decisions for individuals excluded from international protection

Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant v The Minister for Asylum and Migration* (NL24.20154, 11 July 2025) and the Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicants v The Minister for Asylum and Migration (de Minister van Asiel en Migratie)* (202304482/1/V3 and 202304625/1/V3, 27 August 2025).

The Court of the Hague seated in Roermond and the Council of State referred questions to the CJEU for a preliminary ruling concerning the issuance of return decisions when a person excluded from international protection cannot be forcibly removed due to the principle of non-refoulement, as well as the implications for their entitlement to state support.

In the first case, issued by a district court, a Yemeni national entered the EU in 2021 on a Spanish visa with his wife and two children and later applied for asylum in the Netherlands. While his family was granted subsidiary protection, the IND rejected his application on 23 July 2024 as manifestly unfounded, citing Article 1F of the Geneva Convention. The IND found serious grounds to believe that, during his 30-year career in Yemen's security apparatus, he

was involved in extrajudicial detention, ill treatment and torture.

The IND acknowledged that he faced a real risk of treatment contrary to Article 3 of the ECHR if returned to Yemen, and therefore he could not be issued a return decision or entry ban considering the CJEU case C-663/21. However, because he posed a threat to public order and national security, he was flagged in Dutch and EU databases, obliging him to leave the EU voluntarily as long as the flagging remained valid. He appealed, but the Court of The Hague in Roermond upheld the exclusion finding and focused on the legal consequences of being flagged and the interaction between exclusion, the Return Directive and *non-refoulement*.

The court noted that, under the Return Directive, foreigners staying illegally must in principle be issued a return decision, while Article 5 requires respect for *non-refoulement* and Article 9 allows postponement of the removal. It held that issuing a return decision, while simultaneously confirming the postponement of the removal, would both respect *non-refoulement* and establish the illegality of the stay. The court emphasised that *non-refoulement* prevents a removal to the country of origin but does not preclude voluntary departure to a safe third country.

Given the legal uncertainty, particularly for excluded persons who cannot be removed but also cannot regularise their stay, the court referred a question to the CJEU on whether Member States are obliged to issue a return decision to excluded individuals while confirming postponement of the removal.

Similarly in the second case, the Council of State referred questions to the CJEU concerning two applicants, an Afghan national and a Yemeni national, who were excluded from international protection on grounds of Article 1F of the Geneva Convention and could not be returned to their home countries as this would constitute a beach of the principle of *non-refoulment*. The third-country nationals complained about the uncertainty of their right of residence and feared a situation of far-reaching material deprivation resulting from their uncertain legal status which limited their entitlement to state support.

The council referred three questions to the CJEU. The first question mirrored the question referred by the district court whether EU law obliges Member States to issue return decisions against third-country nationals who have been excluded from international protection and are illegally present but cannot be removed due to the principle of *non-refoulement*, and whether such decisions must explicitly record the postponement of the removal. Additionally, the council asked whether relevant CJEU jurisprudence should be interpreted as precluding the issuance of a return decision when that decision simultaneously provides for the indefinite postponement of a removal because of the risk of a breach of the principle of *non-refoulement*. Finally, the council sought clarification on the legality of the Dutch legal scheme that leaves such persons for at least 10 years with only limited access to education, essential healthcare and legal aid, without certainty whether they will qualify for residence after that period.

Appeal by the spouse and child against a decision to remove the father from the country

Finland, Supreme Administrative Court [Korkein hallinto-oikeus], *B and C v Finnish Immigration Service (FIS)*, KHO:2025:50, 11 June 2025.

In contrast to previous case law, the Supreme Administrative Court of Finland ruled that a spouse and child did not have a separate or independent right to appeal against a return decision taken against the father of the child.

In its former case law from 2022, the Supreme Administrative Court of Finland had ruled that a spouse and child have the right to appeal against a return decision taken against the father of the child, based on the right to family life and the best interests of the child.

In contrast, the Supreme Administrative Court held that the spouse and child of an Iraqi applicant did not have a separate or independent right to appeal against a return decision taken against the father. The difference between the former and current decision was that in 2022 the court simultaneously heard the appeal against the removal decisions for the applicant and the spouse and child. This was the key distinctive element based on which the court justified a different reasoning from its previous case law.

The court highlighted that an appeal brought by a family member limited solely to a removal would mean that, when hearing such an appeal, the administrative court would not be able to intervene in the decision on which the refusal of entry was based and by which the residence permit was not granted. In the case at hand, the appeal of the spouse and child was dismissed as inadmissible.

The court furthermore ruled that the obligations under Article 8 of the ECHR could not lead to an independent right to appeal for family members.

A judge submitted a separate vote agreeing with the majority of the judges that a family member does not have a right to appeal independently but affirming that the decision to remove a foreign national from the country has in principle a direct impact on the rights and interests of family members legally residing in Finland.


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