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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

AIMA	Agency for Integration, Migration and Asylum | Agência para a Integração, Migrações e Asilo (Portugal)
AMMR	Asylum Migration Management Regulation. Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management
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 | Bundesamt für Migration und Flüchtlinge (Germany)
BFA	Federal Office for Immigration and Asylum | Bundesamt für Fremdenwesen und Asyl (Austria)
CAC	Central Administrative Court (Portugal)
CEAS	Common European Asylum System
CNDA	French National Court of Asylum
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)
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
FAC	Federal Administrative Court (Switzerland)
FGM/C	Female gender mutilation/cutting
IPAC	International Protection Administrative Court | Διοικητικό Δικαστήριο Διεθνούς Προστασίας (Cyprus)
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer
MedCOI	Medical country of origin information
OCMA	Office of Citizenship and Migration Affairs | Pilsonības un migrācijas lietu pārvalde (Latvia)
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)
Refugee Convention	The 1951 Convention relating to the status of refugees and its 1967 Protocol
SEM	The State Secretariat for Migration | Staatssekretariat für Migration | Secrétariat d'État aux migrations | Segreteria di Stato della migrazione (Switzerland)
SMA	Swedish Migration Agency
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNRWA	United Nations Relief and Works Agency

Main highlights

The decisions and judgments presented in this edition of the "EUAA Quarterly Overview of Asylum Case Law, Issue No 4/2025" were pronounced from September to November 2025.

Court of Justice of the European Union (CJEU)

Several important judgments were pronounced by the CJEU, for example on the meaning of a rejected application for the purpose of the Dublin III Regulation, effective judicial protection related to a return and deprivation of liberty, as well as whether the status derived from temporary protection excludes the possibility to apply for subsidiary protection.

In the context of an asylum application submitted by a Syrian national in Finland after his first temporary residence permit, based on asylum under the Danish national law, was not renewed, the Finnish Supreme Administrative Court sought clarification on whether the non-extension or non-renewal of a previously issued temporary residence permit under Danish law equated to a rejection of an application for international protection, thus triggering the take back obligation enshrined Article 18(1)(d) of the Dublin III Regulation. By judgment in *X. [Qassioun] v Maahanmuuttovirasto* (C-790/23, 30 October 2025), the CJEU recalled Denmark's special status as a participatory state in the Dublin system under Protocol No 22 and the EU–Denmark Agreement, but it is not bound by the recast Qualification Directive (QD). It explained that, to ensure the effectiveness of that agreement and integrity of the Dublin system, an application lodged in Denmark under domestic law equates to an application for international protection under EU law. The CJEU clarified that the term rejected in Article 18(1)(d) of the Dublin III Regulation is an autonomous concept of EU law which refers to a refusal to grant an application of international protection and does not include non-extension or non-renewal of a temporary residence permit previously allowed as a positive outcome of that application. The structure of the Dublin system, particularly Article 12(4), supports such an interpretation, aligned with the provisions of the recast QD and recast Asylum Procedures Directive (APD) which distinguish between rejected decisions on applications and decisions on end, revocation or non-renewal of previously granted protection.

Advocate General Richard de la Tour emphasised in his opinion that Article 18(1)(d) of the Dublin III Regulation cannot be interpreted as applying to situations when Denmark merely terminated asylum protection granted under domestic law. It disagreed with the assertion that the regulation does not specify what is to be understood by rejected application since it would be unacceptable that an application for international protection has remained pending for 4 consecutive years during which it was rejected temporarily and then definitively.

Additionally, the CJEU pronounced a ruling in *GB [Adrar] v The Minister for Asylum and Migration* (C-313/25, 4 September 2025) and shed light on the right to effective judicial protection concerning a return-related decision and stricter procedures and requirements for detention pending a removal, as enshrined in the Return Directive read with Article 47 of the Charter of Fundamental Rights of the European Union (EU Charter). First, the CJEU highlighted that Articles 5 and 15 of the Return Directive must be interpreted as meaning that

national judicial authorities reviewing the lawfulness of detention pending a removal of an illegally-staying, third-country national, when the return decision is final, must examine *ex officio* whether the *non-refoulement* principle prevents the removal. Since detention constitutes a serious interference with the right to liberty of that person, the CJEU reaffirmed its standards established in *Ararat* (C-156/23, 17 October 2024) and *Staatssecretaris van Justitie en Veiligheid* (joined Cases C-704/20 and C-39/21, 8 November 2022) on the duty to review *ex officio* the respect of the principle of *non-refoulement* at all stages of the return procedure. Thus, the applicant can raise any *change* in circumstances that occurred after the adoption of the return decision and may have a significant bearing on the assessment of his/her situation, and the court must be able to consider facts and evidence previously adduced by the administrative authority which ordered the detention and any other element which enables a review of a serious and real risk for the third-country national.

The CJEU noted that effective judicial protection under Article 47 of the EU Charter means that national courts are able to assess all pertinent facts and legal considerations, including those not made by the detainee, when reviewing lawfulness of detention. If deemed that the principle of *non-refoulement* applies, then courts must declare the detention unlawful and release the person. The court emphasised that national law or practice that limits an assessment of *non-refoulement* to those who apply for international protection must be precluded because the principle of *non-refoulement* affords equal protection to all irregular migrants.

Second, the CJEU similarly emphasised that national courts must assess of their own motion whether the best interests of the child and the right to family life prevent the removal or the detention of an irregular migrant. Recalling that these rights do not have an absolute nature, it noted that the purpose of Article 5 read with Articles 7 and 24 of the EU Charter is to ensure respect for fundamental rights in a consistent manner.

The CJEU strengthened protection for displaced persons from Ukraine in its third ruling so far interpreting the Temporary Protection Directive (TPD). Following *Kaduna* (C-244/24 and C-290/24) and *Krasiliva* (C-753/23), the CJEU examined in *Framholm* (C-195/25, 20 November 2025) Sweden's practice of dismissing requests for subsidiary protection by beneficiaries of temporary protection as inadmissible, without examining the merits. As explained in the opinion of Advocate General Sánchez-Bordona, this practice stemmed from the fact that when the TPD was adopted, EU law did not yet provide for subsidiary protection, and thus, when Sweden implemented the TPD, it did not refer to subsidiary protection as a possibility for beneficiaries of temporary protection. Since the TPD was not brought into line with the new legislation, Directive 2004/83, which introduced subsidiary protection, Swedish law implementing the TPD also remained limited to refugee protection or asylum. The CJEU ruled that being a temporary protection beneficiary is not a ground of inadmissibility under the recast APD and therefore an application for international protection made by a person under temporary protection must be examined on the merits to assess whether the applicant qualifies for refugee status or subsidiary protection. It further noted that national courts may disapply national law that is not in conformity with these provisions, so that in the event of an ineffective implementation of EU law, individuals would still benefit from rights provided under EU law.

European Court of Human Rights (ECtHR)

Before the ECtHR, claims of violations of fundamental rights concerned the protection of the right to life during sea operations, conditions of detention in Greek police stations and the risk of ill treatment upon a return to Russia.

Reaffirming the standards established in *Safi and others* pronounced in 2023, the ECtHR found a new violation of Article 2 by Greek authorities on both procedural and substantive grounds in the case *FM and Others* v *Greece* (14 October 2025). Afghan and Iraqi nationals survived a shipwreck in March 2018, but their lives were seriously endangered and many of their relatives lost their lives. Serious doubts were raised about the independence of the bodies conducting the investigation due to hierarchical and institutional links and the conduct of the prosecutor undermined the overall reliability and certainty of the investigation. Serious procedural deficiencies resulted in an impossibility to determine the exact date of the shipwreck and the time of death of the victims. The court found a violation of Article 2 on the procedural aspect and reiterated that the Contracting Parties must comply with the requirements of Article 2 for an effective investigation into a death that may involve the responsibility of national authorities.

Despite general measures indicated by the Council of Ministers in 2020 for similar violations in a repetitive case[1], the ECtHR concluded that there was a violation of Article 3 in the case *B.F.* v *Greece* (14 October 2025) for the detention of an Iranian national in a police station for a duration of 2.5 months in 2013. By referring to reports from the special rapporteur on human rights and the United Nations Working Group on Arbitrary Detention, it found that detention conditions were extremely poor and inappropriate for the long term. The court emphasised that police stations are primarily designed to accommodate detainees for a short time only. In this specific case, it concluded that there was a violation of Article 3 due to poor conditions (separately) and a violation of Article 13 jointly with Article 3 due to the authority's failure to assess the applicant's allegations.

In *R.G.* v *Switzerland* (23 October 2025), the ECtHR found no violation of Article 3 of the ECHR concerning a Russian national who alleged a risk of ill treatment due to his Chechen origin and a risk of forced military conscription. The court reiterated that the burden of proof lied with the applicant to substantiate his claims and noted that the Swiss authorities thoroughly assessed all circumstances related to a risk of ill treatment upon a return. Referring to updated country of origin information (COI), including the EUAA COI Query: Major developments regarding human rights and military service, Q82-2024, 21 November 2024, the ECtHR ruled that the applicant did not substantiate any risk of forced conscription resulting in a risk of violating Article 3 of the ECHR.

[1] See the cases of Taggatidis and 32 others against Greece, Resolution of the Council of Ministers of 3 December 2020.

National courts

Referral for a preliminary ruling on the impact of a serious health condition on a Dublin decision to transfer

In the context of a Dublin decision to transfer an applicant from the Netherlands to Croatia, the District Court of the Hague seated in Roermond referred two questions to the CJEU for a preliminary ruling on whether the assessment of the risk of inhuman or degrading treatment is limited to an examination of the person's fitness to travel or it extends to all health consequences due to a transfer. The court also sought guidance from the CJEU on whether a transfer must be prohibited instead of suspended when objective evidence suggests that the suspension and uncertainty around the transfer can result in itself in a serious health deterioration or violate human dignity. The applicant suffered from a serious medical condition, within the meaning of CJEU findings in *C.K. and Others* v *Republic of Slovenia* (C-578/16, 16 February 2017), and the transfer would constitute a violation of Article 4 of the EU Charter. The CJEU's standard-setting case law will serve as a basis for future implementation of the Asylum Migration Management Regulation (AMMR), and the referring court diligently added reference to Article 43(1)(a), (b) of the AMMR in the wording of the second question, possibly also in view of a limited scope of a judicial review under the AMMR.[2]

Effect of the CJEU judgment on designating safe countries of origin

Reinforcing the primacy of EU law over national law, the German Federal Constitutional Court clarified the bearing of CJEU judgments for national courts and the applicants, specifically in view of *CV v Ministerstvo vnitra České republiky, Odbor azylové a migrační politiky* (C-406/22, 4 October 2024) and *LC [Alace] and CP [Canpelli] v Territorial Commission of Rome* (joined cases C-758/24 and C-759/24, 1 August 2025) on rules to designate safe countries of origin. In a legal dispute over the designation of Ghana as a safe country of origin, especially for lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) applicants, the Federal Constitutional Court affirmed that lower administrative courts must address *ex officio* substantive requirements of the recast APD when designating a safe country of origin appears to be contrary to EU rules.

Thus, the Constitutional Court clarified that the lower court should have considered the pending case in *Alace* when deciding on the interim injunction, since the questions were relevant for the designation of a safe country of origin.[3] However, the constitutional complaint was deemed inadmissible for failure to use available remedies since the applicant should have introduced a new application for a preliminary injunction with the administrative court, pursuant to Section 80(7) of the Code of Administrative Court Procedure on the basis of the CJEU judgment in *Alace*.

[2] See also Section 3.3. of the EUAA Factsheet Analysis of Jurisprudence on the Implementation of the Dublin Procedure (June 2025).
[3] See also the EUAA Quarterly Overview of Asylum Case Law, Issue No 3/2025, published in September 2025 and the EUAA's Overview of the Implementation of Safe Country Concepts, Situational Update No 22, published on 24 July 2025.

Secondary movements of beneficiaries of international protection in Greece

Higher courts in Ireland, Germany and Switzerland found no risk of inhuman or degrading treatment contrary to Article 3 of the ECHR when assessing applications submitted by status holders in Greece. By applying the criteria in *Ibrahim*, the Irish Court of Appeal affirmed that the applicants did not demonstrate an individual risk amounting to a real risk of treatment contrary to Article 4 of the EU Charter upon a return to Greece. The German Federal Administrative Court reiterated its previous findings,[4] adding that beneficiaries could resort, if necessary, to local aid organisations or even to emergency shelters. Similarly, the Swiss Federal Administrative Court (FAC) affirmed that families with minor children must make reasonable efforts to access state support or aid from social organisations.

Refugee protection *sur place* for Russian applicants due to risks related to war propaganda

Referencing the EUAA's Practical Guide on Political Opinion, the District Administrative Court in Latvia decided to grant refuge protection *sur place* to a Russian mother and her minor children on grounds of persecution based on political opinion, for supporting the Ukrainian cause. Citing the EUAA COI Query: Major developments regarding human rights and military service in the Russian Federation (November 2024), the court found that children were exposed to war propaganda in Russian schools and pressure to join affiliated military youth organisations. The court reasoned that the children's young age would make it difficult for them to conceal political beliefs instilled in them by their parents, to avoid reprisals and loss of parental custody. The court also considered, as a weighty element, that the mother was dependant on psychiatric treatment which, if interrupted, could result in a lack of proper parental care for the children.

Dutch policy on the risk for Gülenist supporters in Türkiye

The District Court of the Hague seated in Utrecht found that the 2023-2024 changes in the policy for assessing applications from Gülen supporters were unlawful, because it lacked a sufficient basis on reliable and comprehensive COI to remove the earlier relaxed assessment (2020-2021) which presumed a risk of persecution and required only minimal indications of such a risk. On the contrary, the court found that country of origin information did not show in a comprehensive and consistent manner a reduced risk of arbitrary persecution and persecution of Gülenists in Türkiye remained widespread.

Membership of a particular social group: women in Somalia; children from the Democratic Republic of the Congo (DRC) accused of witchcraft who have reached adulthood

Applying the CJEU judgment in *WS* (C-621/21, 16 January 2024) concerning gender-based persecution of women, the French National Court of Asylum (CNDA) added to its previous jurisprudence on the protection of women as a particular social group in Afghanistan (No 24014128 R, 11 July 2024) and Iran (No 24024165, 3 April 2025) with a recent judgment concerning women in Somalia. In Grand Chamber formation, the CNDA noted that Sharia law in Somalia, imposed as customary or statutory law, led to impunity for sexual violence, forced marriages and excision, while Al-Shabaab-controlled areas in the centre and south areas of

[4] See also the EUAA Quarterly Overview of Asylum Case Law, Issue No 2/2025, published in June 2025.

the country enforced extreme restrictions on women's attire and mobility. The CNDA drew on the EUAA Country Guidance: Somalia (October 2025) and the EUAA COI report Somalia: Country Focus (May 2025) to conclude that women in Somalia suffered pervasive gender inequality and institutionalised violence.

In addition, while the CNDA rejected the claim that women as a whole constituted a particular social group in the Democratic Republic of the Congo (DRC), it did confirm that children accused of witchcraft who have reached adulthood are members of a particular social group entitled to refugee protection. Based on multiple sources, including the EUAA COI Query: DRC - Sorcery Witchcraft (November 2021) and Medical Country of Origin Information Report – (MedCOI) DRC (August 2021), the court noted that accusations of witchcraft remained widespread, socially entrenched and even a rising phenomenon, resulting in lifelong stigma and exclusion from the surrounding society for those affected as children.

Examination of asylum applications by Syrian nationals and possibility of a safe return

Courts pronounced judgments on the security situation and the possibility of safely returning to Syria following the recent resumption of processing asylum applications submitted by Syrian nationals in some countries.[5] Courts emphasised the procedural obligation to ensure that examinations are based on the most recent COI reports, with the EUAA COI Reports playing a pivotal role in ensuring a common approach.

For example, the Regional Administrative Court of Düsseldorf reinforced that national authorities must observe the 21-month time limit to process an asylum application. It found that BAMF failed to examine an asylum application submitted by a Syrian national since October 2023 and ruled that there was sufficient, up-to-date country of origin information, including from the EUAA, the Austrian Federal Office and the German Federal Office, to allow such an examination. The same court affirmed in November 2025 that two Syrian nationals could safely return to their home regions of Damascus and Latakia. Relying on country of origin information, including the EUAA COI Syria: Country Focus (July 2025), it noted that the level of indiscriminate violence was not as high as to trigger a risk of exposure to a serious individual threat to their life or physical safety simply by virtue of their presence there. It affirmed that Syrian nationals were not at risk of inhuman or degrading treatment resulting in a violation of Article 3 of the ECHR upon a return. On individual circumstances, the court found no element substantiating a risk related to medical care, material deprivation or family situation.

In contrast, the Austrian Constitutional Court emphasised that a failure to assess the security situation in Syria, specifically the Al-Hasakah governorate and in Aleppo, and the feasibility of a safe return violated the constitutional right to equal treatment of foreigners. The court affirmed that the Federal Administrative Court insufficiently assessed the security situation in the applicant's region of origin using current COI, citing also the COI Report - Syria: Country Focus (March 2025), and the possibility to safely reach that region. The Constitutional Court reiterated the requirement of court decisions to refer to updated COI in two similar cases, one being an unsuccessful appeal against a negative decision and the other a validation of a return and a detention order pending a return.

[5] See also EUAA Latest Asylum Trends: Monthly Overview, September 2025.

In addition, the ECtHR lifted interim measures adopted in a case concerning the return of a Syrian national by Austrian authorities, on grounds that there were no reasons to believe that the security situation and the individual circumstances would expose the applicant to a risk of irreparable harm upon a return under Articles 2 and 3 of the ECHR.

The EUAA Country Guidance: Syria (2 December 2025) affirms that "there are no areas in Syria where the degree of indiscriminate violence reaches an exceptionally high level or a high level" in the context of assessing the requirements of Article 15(c) of the recast QD. It confirms that the situation in Damascus governorate is assessed to be an area where there is no real risk for a civilian to be personally affected within the meaning of Article 15(c) of the recast QD. However, the security situation has been assessed as improved but volatile, with indiscriminate violence still taking place in the governorates of Aleppo, Dar'a, Deir Ez-Zor, Hama, Hasaka, Homs, Idlib, Latakia, Quneitra, Raqqa, Rural Damascus, Sweida and Tartous. Thus, to substantiate grounds for subsidiary protection under Article 15(c) of the recast QD, a higher level of individual elements is required.

Situation in Sudan

The situation in Sudan was analysed by the Danish Refugee Appeals Board and the French CNDA. In Denmark, the Coordination Committee of the Refugee Appeals Board concluded on 13 November 2025 that the situation in North Darfur, including in El-Fasher, is characterised by such an extreme level of indiscriminate violence that the mere presence in the area entails a risk of treatment contrary to Article 3 of the ECHR. It confirmed that caution must be exercised when assessing evidence in cases submitted by Sudanese applicants.

With regard to West Darfur, the French CNDA, relying on EUAA Country of Origin Report and Country Guidance, concluded that the Masalit ethnic group is subjected to persecution sufficiently serious and regular to be considered systematic, at the hands of the Sudanese Rapid Support Forces (RSF) and Arab militias (Janjaweed) that control most of this territory, without the Sudanese authorities being able to grant effective protection to this ethnic group.

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

The Rome Court of Appeal questioned the compatibility of the Italy-Albania Protocol with the two main foundational EU treaties in the context of detaining an asylum applicant at the Pre-Removal Centre (CPR) in Gjader, Albania. The Rome Court of Appeal referred two questions to the CJEU for a preliminary ruling on the compatibility of the Italy-Albania Protocol and its implementing Law No 14/2024 with the Treaty on the European Union (TEU) and Treaty on the Functioning of the European Union (TFEU), in the context of validating a detention order concerning a Moroccan national. The court sought guidance from the CJEU with two questions: i) whether, given Article 4(3) of the TEU and Articles 3(2) and 216(1) of the TFEU, the Union has exclusive external competence in the field of the Common European Asylum System (CEAS) in a way as precluding a Member State from concluding an agreement for the management of migration flows like the Italy-Albania Protocol, which may affect or alter the scope of EU asylum and reception system; and ii) in case the CJEU finds no such exclusive competence, whether EU asylum and reception related procedures enshrined in the recast APD and recast Reception Conditions Directive (RCD), interpreted in light of Articles 6 and 47 of the Charter, prevent the transfer and detention of third-country nationals, including asylum seekers, in facilities located outside of EU territory pursuant to such an agreement. The court also anticipated the changes under the Pact on Migration and Asylum, but it found that the

new rules are designed to ensure a greater convergence, that directives will be replaced by regulations directly applicable to Member States, and specified that no provisions will allow the possibility to examine asylum applications in places outside the external borders of Member States.

Safeguards related to administrative detention: The right to proper healthcare

Italian courts continued to address the critical area of administrative detention, following the landmark judgment of the Constitutional Court which brought to light the structural deficiencies affecting the legal framework governing deprivation of liberty in Pre-Removal Centres (CPRs).[6] Detention in CPRs has been examined not only in relation to the legal basis of the measure, but increasingly in relation to the safeguards governing its practical implementation, particularly those concerning health and vulnerability. Notably, when assessing the CPRs tender specifications, the Council of State highlighted significant shortcomings in healthcare safeguards, the assessment and monitoring of vulnerabilities, and the prevention and documentation of self-harm and suicide risks. This reflected the growing body of independent oversight evidence, including the summary report of the National Guarantor for the Rights of Persons Deprived of Liberty and the report of the Council of Europe's Committee for the Prevention of Torture (CPT), which document severe and persistent shortcomings in several CPRs, including widespread psychological distress, inconsistent medical screening, and gaps in suicide-prevention protocols.

Against this background, the Rome Court of Appeal has begun to factor the structural deficiencies identified at systemic level into its assessment of individual detention measures, particularly where there are significant shortcomings in evaluating an applicant's psychiatric vulnerability and fitness for detention. It clarified that, in the absence of a clear legal framework ensuring adequate healthcare and safeguards, detention measures that risk violating the right to health cannot be validated.

Obligation to provide access to material reception conditions during a mass influx of migrants

Irish courts have continued to address the recurrent challenge of providing accommodation in the context of a mass influx of applicants. The Supreme Court granted the Irish Human Rights and Equality Commission leave to appeal due to the fundamental importance of the case, which raised questions on the interpretation of Article 1 of the EU Charter and several matters of general public importance. Recently, the CJEU ruled in *S.A., R.J. v Minister for Children, Equality, Disability, Integration and Youth, Ireland, Attorney General* (C-97/24, 1 August 2025) that a Member State may not plead an unforeseeable and unavoidable influx of applicants for international protection to evade its obligation under EU law to cover basic needs for asylum applicants. Against this background and due to the conflicting approaches adopted by higher courts, the Supreme Court considered that it is in the interest of justice to clarify Ireland's obligations, especially under EU law, on access to material reception conditions and the standard for human rights protection in the context of a mass influx of migrants.

[6] See also the EUAA Quarterly Overview of Asylum Case Law, Issue No 3/2025, published in September 2025.

Access to the asylum procedure

ECtHR on safeguarding the right to life

ECtHR, *F.M. and others* v *Greece*, No 17622/21, 14 October 2025.

The ECtHR found a violation of Article 2 of the Convention on both procedural and substantive aspects in a case concerning a shipwreck in March 2018 which endangered the lives of an Afghan and Iraqi national while some of their relatives died. The ECtHR found that the authorities insufficiently investigated the incident although they had sufficient information to prevent it.

Three applicants who survived a shipwreck and one applicant residing in a reception centre in Larissa argued to the ECtHR that the Greek authorities had violated Article 2 of the ECHR both in its substantive and procedural aspects for failing to conduct a proper investigation into the sinking of a boat in the maritime area southeast of Agathonissi island (Greece) in March 2018. Several relatives of the applicants lost their lives in the sinking.

The court reaffirmed the principles and standards established in ECtHR judgment *Safi and Others* v *Greece* (5418/15, 7 July 2022) and that there was a violation of Article 2 of the ECHR under the procedural limb. First, it noted that although three investigations were conducted, there were serious doubts about the independence of the bodies involved in conducting the investigation. This was not only because of the existence of hierarchical and institutional links, but also because of the actual conduct of the competent prosecutor. Second, the court noted that although the maritime court prosecutor's office explicitly requested the content of the voicemail to be recorded and added to the case file, there was no explanation on the lack of action from the authorities to ensure that the message was duly considered, even though its content was of particular importance to establish the date of the disputed shipwreck.

Third, the court noted that the forensic investigation report had multiple deficiencies, and it was not reliable as, for example, it contained the same analysis for all victims and it was impossible to establish with any degree of certainty, the time of death of the applicant's relatives for to determine the date of the disputed shipwreck.

The court also held that there had been a violation of the substantive limb of Article 2 of the ECHR. In view of all the elements presented by the parties, the court found that the authorities had sufficient information to alert them on the above risk, but the authorities did not do everything which could have been reasonably expected of them to ensure protection under Article 2 of the Convention.

Refusing access to the asylum procedure during instrumentalisation of migration

Poland, Voivodship Administrative Court [Wojewodzki Sąd Administracyjny], *A.M.H.I. v Commander of the Border Guard Post,* II SABk 122125, 7 October 2025.

The Voivodship Administrative Court in Białystok upheld the refusal to accept a Sudanese applicant's asylum request under new rules against the instrumentalisation of migrants at the border with Belarus. The court held that the obligation to ensure state security under Article 72 of the Treaty on the Functioning of the European Union (TFEU) outweighed the recast APD provisions.

A Sudanese national injured himself while crossing the Polish-Belarusian border and was hospitalised. After discharge, he tried to request international protection but was not allowed to do so under a recent amendment of the Asylum Act which restricts requests at the border in cases of instrumentalisation of migrants. He was expelled to Belarus the same day, before the ECtHR's interim measure against his deportation was communicated.

The Voivodship Administrative Court upheld the rejection of the applicant's request for asylum, finding that the restriction was proportionate to protect state security and border integrity against Belarusian hybrid attacks through migrant instrumentalisation. The court held that authorities were required to informally assess whether individuals would be at risk in Belarus, thereby safeguarding the *non-refoulement* principle. The court further found that the expedited return of individuals participating in organised border breaches was warranted under Article 33(2) of the 1951 Convention relating to the status of refugees and its 1967 Protocol (Refugee Convention) and did not constitute collective expulsion as determined in ECtHR's judgment in *N.D. and N.T. v Spain* (8675/15 and 8697/15, 13 February 2020).

Drawing on the CJEU judgment in *European Commission v Hungary* (C-823/21, 22 June 2023), the court concluded that applying the recast APD at the Belarus border would undermine Poland's duty to maintain public order and security under Article 72 of the TFEU and, therefore, held that the directive could not have a direct effect over the conflicting national law.

Access through diplomatic missions

Spain, National High Court [Audiencia Nacional], *S., A., L. v State Administration,* SAN 4370/2025, 9 October 2025.

The National High Court allowed a request by a former Afghan public prosecutor and her family to transfer to Spain to apply for asylum, which was made at the Spanish Embassy in Pakistan, pursuant to Article 38 of the Asylum Act. The court noted that Pakistan had not signed the Refugee Convention, found the applicants faced a risk of refoulement and they were at risk of retaliation by the Taliban.

An Afghan family who had fled to Pakistan following the Taliban takeover requested the Spanish Embassy to transfer them to Spain to seek asylum under Article 38 of the Spanish Asylum Act.

Citing EUAA's Country Guidance on Afghanistan (23 May 2024), the National High Court found that both applicants, former Afghan public prosecutors, had received credible threats and observed

that the female applicant faced heightened risks due to her work in sexual and gender-based violence cases and the Taliban's prohibition on women judging men.

The court noted that Pakistan is not a signatory of the Refugee Convention and carries out returns of Afghan nationals, placing the applicants at risk of *refoulement*. Therefore, the court upheld their appeal and confirmed their right to be transferred to Spain to apply for asylum.

Dublin procedure

CJEU on rejection, non-extension and non-renewal of a temporary residence permit

CJEU, *X. [Qassioun] v Maahanmuuttovirasto,* C-790/23, 30 October 2025.

The CJEU clarified that the term rejection, in the wording of Article 18(1)(d) of the Dublin III Regulation, is an independent concept under EU law which cannot be interpreted as including non-extension or non-renewal of a residence document previously issued to a third-country national who made an application for international protection.

The CJEU examined whether Denmark's decision not to renew a temporary residence permit could be considered a rejection of an asylum application for the purposes of Article 18(1d) of the Dublin III Regulation. The case arose after a Syrian national, previously granted temporary residence in Denmark, later applied for asylum in Finland after Denmark decided not to renew the temporary residence document. Denmark accepted a take back request under the Dublin procedure, and the Finnish authorities rejected the applicant's application for international protection in Finland.

The applicant lodged an appeal against that decision. The Finnish Supreme Administrative Court sought clarification on the proper interpretation of the term

'rejected' in this context, to determine whether the applicant's Danish protection status had been rejected and therefore whether Article 18(1)(d) applied.

A central question stemmed from Denmark's special legal status. Although Denmark applies the Dublin III Regulation, it is not bound by the recast QD, which normally provides the definition of application for international protection. Instead, Denmark grants protection according to national law. The CJEU held that, despite this special position, applications for protection made in Denmark must be treated as equivalent to applications made in other EU Member States for the purposes of the Dublin III Regulation to preserve the regulation's effectiveness.

The court examined whether the non-renewal of a previously granted residence permit constitutes a rejection within the meaning of Article 18(1d). It concluded that the term rejection refers only to a refusal to grant protection in the first place. Non-renewal, revocation or withdrawal of an already granted protection status is conceptually different: these procedures presuppose a prior positive decision and are treated separately under both the recast QD and the recast APD. Accordingly, non-renewal cannot be equated with a rejection of an asylum claim.

The CJEU therefore ruled that the Danish authorities' decision not to renew the applicant's temporary protection residence permit does not amount to a rejection of his application under Article 18(1)(d) of the Dublin III Regulation. As a result, the non-renewal of a residence document cannot trigger the take back obligations associated with a rejected application under that provision.

Referral for a preliminary ruling on impact of health conditions

Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant v The Minister for Asylum and Migration (de Minister van Asiel en Migratie)*, NL23.17939 Reference, 22 October 2025.

The District Court of the Hague seated in Roermond referred two questions to the CJEU for a preliminary ruling. The first one was whether Article 4 of the EU Charter requires national authorities and courts to consider all health consequences of a transfer decision under the Dublin III Regulation and not just the person's fitness to travel, when assessing the risk of inhuman or degrading treatment. The second one was whether courts must absolutely prohibit a transfer, rather than merely suspend it, when objective evidence shows that even the suspension and uncertainty surrounding the transfer would itself cause serious health deterioration or violate human dignity.

The Netherlands sought to transfer an applicant to Croatia under the Dublin III Regulation, but the applicant appealed, arguing that due to his poor state of health, the transfer would breach Article 4 of the EU Charter, relying on the CJEU's judgment in *C.K. and Others v Republic of Slovenia* (Case C-578/16 PPU, 16 February 2017).

The District Court of the Hague seated in Roermond referred the following two questions to the CJEU:

> 1) Is Article 4 of the EU Charter, read in conjunction with Article 47 of the EU Charter, Article 27(1) of the Dublin III Regulation and Article 43(1a) and (b) of the AMMR, to be interpreted as meaning that a third-

country national may be transferred under these regulations only if it is not possible that the impact of the transfer decision entails a real and proven risk that that third-country national will become subjected to inhuman or degrading treatment within the meaning of Article 4 of the EU Charter? In particular, does Article 4 of the EU Charter preclude the competent national authority, including the judicial authority, from taking into account the impact of the transfer decision on the state of health of the third-country national solely for the purpose of examining the fitness of the third-country national to travel?

2) Are Articles 1 and 4 of the EU Charter, read in conjunction with Article 47 of the EU Charter, Article 27(1) of the Dublin III Regulation and Article 43(1)(a) and (b) of the AMMR, to be interpreted as meaning that the judicial authority reviewing the lawfulness of a transfer decision is required, if necessary of its own motion, to declare that the transfer is absolutely prohibited under these regulations and cannot be suspended if it is apparent from objective evidence that the suspension of the transfer would in itself entail a real and proven risk of a significant and irreversible deterioration in the state of health, or must be regarded as incompatible with human dignity?

Risk of irreversible deterioration of health when an applicant is seriously ill

Luxembourg, Administrative Tribunal [Tribunal administratif], *Applicant v Ministry of the Interior*, 53416, 24 September 2025.

The Administrative Tribunal confirmed the Minister of Home Affairs' decision not to examine the asylum application of a North Macedonian national and to transfer him to the Netherlands, finding that his health claims (depression and memory problems) did not demonstrate a real risk of inhuman or degrading treatment under Article 3 of the ECHR that would preclude a transfer to the Netherlands, and that his allegations concerning refoulement and best interests of children were unfounded.

A national of North Macedonia appealed a Dublin transfer decision to the Netherlands, arguing that due to severe depression and memory problems, even in the absence of systemic failures in the Netherlands, his transfer should be suspended as it would lead to a serious and irreversible deterioration of his state of health. He stated that his medical condition was chronic and severe, requiring regular and specialised care, and a transfer to the Netherlands would result in a lack of adequate medical care. He stressed that according to the ECtHR judgment *Savran v Denmark* (57467/15, 7 December 2021), states must ensure that, when transferring applicants suffering from serious medical conditions, the transfer should not result in an irreversible health deterioration.

The tribunal first recalled the presumption of compliance with fundamental rights by EU Member States. Then referring to the ECtHR judgment *Tarakhel v Switzerland* (29217/12, 4 November 2014) and the CJEU

judgment *C.K. and Others* v *Republic of Slovenia (Republika Slovenija)* (C-578/16, 16 February 2017), it indicated that this presumption is not irrebuttable but requires concrete evidence of a real risk of inhuman or degrading treatment.

The tribunal noted that the applicant had merely asserted that he suffered from depression and memory problems, without providing medical evidence to substantiate that his state of health was particularly serious. The court also noted that the applicant failed to submit any evidence relating to the nature and reasons of the medical treatment he was allegedly receiving.

Concluding that the applicant could not be considered a seriously ill person in the terms of *Savran* v *Denmark*, the court confirmed the Dublin transfer decision to the Netherlands.

Burden of proof of systemic deficiencies and impact of medical condition

Portugal, Central Administrative Court [Tribunal Central Administrativo], *A. v Agency for Integration Migration and Asylum (AIMA)*, 565/25.4BEPRT, 9 October 2025.

The Central Administrative Court confirmed the transfer to Germany of an LGBTIQ Sierra Leonean applicant whose asylum claim was already rejected in Germany, noting that the applicant had not established that he would face systemic flaws in the asylum procedure or reception conditions of the receiving state. The court also noted that the applicant did not establish in which way his medical condition (epilepsy) affected his ability to exercise his rights in the asylum procedure and dismissed the argument as unsubstantiated that he risked imprisonment in Sierra Leone due to his sexual orientation.

An LGBTIQ national of Sierra Leone applied for international protection in Portugal after his asylum request had already been rejected in Germany. He argued that his epilepsy made him a vulnerable applicant and returning him to Germany could expose him to chain *refoulement* to Sierra Leone, where he risked imprisonment or ill treatment because of his sexual orientation. The Agency for Integration, Migration and Asylum (AIMA) rejected his request as inadmissible under the Dublin III Regulation. He appealed the decision before the Administrative Court and subsequently, to the Central Administrative Court (CAC).

The CAC upheld AIMA's decision, finding that the asylum authority was not obligated to investigate *ex officio* alleged systemic flaws in the receiving Member State's asylum or reception system, or to assess a risk of *refoulement* in the absence of relevant indications. The court then noted that the applicant had not established that he would face such conditions in Germany, where he had in fact received accommodation, food and access to healthcare.

The court rejected the applicant's claim about a vulnerability, reasoning that he had not substantiated how his epilepsy impaired his ability to exercise his rights in the asylum procedure. It likewise dismissed the argument as unsubstantiated that the applicant risked imprisonment in Sierra Leone due to his sexual orientation. The court held that, in the absence of any indication of systemic flaws in the German asylum or reception systems, responsibility for examining the request for international protection lay with

the German state, which bore the duty to respect the principle of *non-refoulement*.

Risk of absconding

Czech Republic, Supreme Administrative Court [Nejvyšší správní soud], *Applicant v Ministry of the Interior (Ministerstvo vnitra České republiky)*, 2 Azs 184/2025 - 40, 21 October 2025.

The Supreme Administrative Court allowed a cassation appeal against a decision on a Dublin transfer to France on grounds that the lower court insufficiently reasoned on the concept of absconding in view of the essential arguments presented by the applicant and CJEU jurisprudence.

In a second cassation appeal, a Turkish applicant argued for the first time that the 6-month deadline to implement the decision on his Dublin transfer to France had expired. On the contrary, the Ministry of the Interior argued that the deadline was extended to 18 months because the applicant was considered to have absconded and the French authorities were informed.

The Supreme Administrative Court noted that the Regional Court considered that the applicant absconded because he did not present himself within 1 month to implement the decision on a Dublin transfer. The court found the reasoning insufficient, also because the lower court omitted to consider essential elements submitted by the applicant, which undermined the basis for that conclusion.

Referring to the interpretation of Articles 27(1) and 29(1-2) of the Dublin III Regulation by the CJEU in the judgments *Majid Shiri v Bundesamt für Fremdenwesen und Asyl*, (C-201/16, 25 October 2017) and *Jawo* (C-163/17, 19 March 2019), the court emphasised that the concept of absconding requires conscious action on the part of the applicant to avoid the competent authorities with the aim to prevent the implementation of the transfer. The Supreme Administrative Court annulled the contested decision by affirming that the lower court did not consider the merits of the case and did not explain why the voluntary execution of a decision on a Dublin transfer met the requirements for applying the concept of absconding.

First instance procedures

Timely processing of applications submitted by Syrian nationals

Germany, Regional Administrative Court [Verwaltungsgericht], *Applicant v Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)*, 17 K 10322/24.A, 10 September 2025.

The Regional Administrative Court of Düsseldorf ruled that the situation in Syria was no longer uncertain, in view of updated country of origin reports, including from the EUAA. It found that BAMF failed to assess the asylum application within the maximum time limit of 21 months since the lodging of the application.

Citing the EUAA Syria: Country Focus (July 2025) and other reports, the Regional Administrative Court of Düsseldorf ruled that the current situation in Syrian was no longer uncertain. It noted that, after the fall of the Assad regime in December 2024, Hay'at Tahrir al-Sham (HTS) has remained in power since then, exercises control over large parts of the country and has rebuilt governmental structures.

It recalled that, in line with Section 24(7) of the Asylum Act, the Federal Office must decide on the asylum application no later than 21 months after the application has been filed, this being an 'absolute maximum period'.

In view of updated country of origin information, it concluded that BAMF could process the asylum application and found that the delays violated the applicant's rights.

Secondary movements of beneficiaries of protection in Greece

Germany, Federal Administrative Court [Bundesverwaltungsgericht], *Applicant v Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)*, 1 C 11.25, 23 October 2025.

The Federal Administrative Court ruled that non-vulnerable, male beneficiaries of international protection in Greece would not be at risk of inhuman or degrading treatment if returned to Greece and they may be in temporary emergency accommodation, if needed.

A Syrian national contested the inadmissibility of his asylum application in Germany. Lower courts found that the high threshold of Article 4 of the EU Charter was not demonstrated for a return to Greece of young, healthy, single, male beneficiaries of international protection.

The Federal Administrative Court confirmed that single, young and healthy men, holders of international protection in Greece, are presumed to be able to secure a minimum livelihood. It added that for accommodation, they are expected to secure a place by establishing early contact with local aid organisations and to turn to emergency shelters when public authorities or social organisations cannot provide a sleeping place.

The Federal Administrative Court reiterated its previous findings in *Applicants v Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)* (16 April 2025).

Ireland, Court of Appeal (Landsréttur), *A.A.H., M.H.A. v The International Protection Appeals Tribunal, The Attorney General, The Minister of Justice and Equality*, [2025] IECA 203, 15 October 2025.

The Court of Appeal confirmed the inadmissibility decision concerning two Somali nationals, beneficiaries of international protection in Greece, finding that lower courts correctly applied the CJEU requirements established in Ibrahim to conclude that the applicants did not demonstrate a real and personal risk amounting to a potential breach of Article 4 of the EU Charter.

The Court of Appeal confirmed the High Court decision which validated the inadmissibility decision concerning two Somali nationals who were beneficiaries of international protection in Greece. The court affirmed that the lower court correctly applied the CJEU requirements established in the *Ibrahim* judgment (Joined Cases C297/17, C318/17, C319/17 and C438/17, 19 March 2019) to determine that the applicants did not demonstrate that their return to Greece would constitute a real risk of a treatment contrary to Article 4 of the EU Charter. In the absence of individual elements to substantiate such a risk, the applicant's appeals were dismissed as unfounded.

The court also clarified that the International Protection Appeals Tribunal has the duty, upon request, to indicate in writing the nature and source of any information relating to an appeal that has been considered during that appeal, only once it has decided same.

Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], *A., B., C., D. v State Secretariat for Migration (Staatssekretariat für Migration, SEM)*, D-2590/2025, 11 September 2025.

FAC held that the return of an Afghan refugee family to Greece did not breach Article 3 of the ECHR, finding that beneficiaries of protection generally had access to basic housing, healthcare and social support, and clarifying that a removal is lawful even for vulnerable families unless extreme hardship is proven and applicants demonstrate concrete efforts to seek assistance, accommodation or employment.

Four Afghan nationals unsuccessfully requested international protection in Switzerland because the State Secretariat for Migration (SEM) rejected their claims as inadmissible on grounds that they were beneficiaries of refugee status in Greece. Despite allegations of poor living conditions in Grece, difficulties to find accommodation and employment, vulnerability due to medical problems and status as family with minor children, SEM found that Greece was a safe third country where they already received protection.

On appeal, FAC confirmed the assessment after having taken into account available country information on reception conditions in Greece and individual circumstances of the applicants. It noted that the system in Greece could not be deemed dysfunctional, applicants could access the labour market, were eligible for the HELIOS+ programme and would be able to secure a minimum livelihood. The court found no evidence that children could not receive free education, and the

applicants are expected to make reasonable efforts to access services, either by turning to state institution or humanitarian organisations.

Procedural guarantees and the right to be heard

Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], *A. v State Secretariat for Migration (Staatssekretariat für Migration, SEM)*, D-3455/2025, 12 September 2025.

FAC overturned SEM's decision denying asylum to a Sudanese applicant, holding that serious procedural defects violated fundamental procedural guarantees and required a full reassessment. These included the omission of her initial asylum application, incomplete case file and failure to consider her family's political profile and her brother's recognition as a refugee.

FAC quashed SEM's negative decision for a Sudanese applicant, whose brother had been granted asylum on political grounds due to their family's political activities.

FAC noted that SEM failed to ensure fundamental procedural guarantees because it violated the right to be heard, which encompasses the right to submit evidence, make observations and access the administrative file. FAC noted that SEM did not take sufficient account of certain documents and the implications of the applicant's family's political activities, which led to granting asylum to her brother 2 weeks before SEM's negative decision in this case. It also found that both the applicant and her legal counsel lacked access to the administrative file, breaching her right to defence. For all procedural shortcomings, it annulled the contested decision and remitted it to SEM for a re-examination.

Assessment of a safe country of origin: France

Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], *A. v State Secretariat for Migration (Staatssekretariat für Migration, SEM)*, E-6575/2025, 12 September 2025.

FAC dismissed the asylum appeal of a French citizen from an overseas department, holding that allegations of defamation, harassment and threats did not rebut the presumption of France as a safe country of origin, and that investigations by French police and courts demonstrated the availability of effective state protection. The court further held that a removal would not breach Article 3 of the ECtHR, as the applicant would have access to adequate medical treatment in France if needed.

SEM rejected the application of a French national from an overseas department, who claimed persecution related to alleged defamation and harassment on social media and radio, as he did not rebut the presumption that France was a safe country of origin.

On appeal, FAC noted that France has been listed as a safe country of origin since 2003, creating a strong presumption of state protection. It found that the French authorities had initiated an investigation into the applicant's claims and that, even if the investigation was dismissed, this did not amount to an unwillingness or inability to offer protection. FAC clarified that mere dissatisfaction with the outcome of the proceedings and allegations of political interference were not sufficient to show a denial of justice. It also noted that the applicant had failed to exhaust available domestic remedies in France. FAC further

assessed that there were no impediments to a return under Article 3 of the ECHR.

Readmission to a safe third country: Gambia

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicant* v *The Minister for Asylum and Migration (de Minister van Asiel en Migratie)*, 202307271/1/V3, 11 September 2025.

The Council of State confirmed that The Gambia could be considered a safe third country for a Cameroonian applicant who had previously resided there, and that in principle, the Minister for Asylum and Migration was not required to assess his fears related to his country of origin when determining admissibility. However, it ruled that the Minister must further investigate whether the applicant can realistically obtain a passport without risking harm, when assessing the possibility of re-admission into The Gambia, as his objections to approaching the Cameroonian authorities were not properly addressed.

A Cameroonian national's asylum application was rejected as inadmissible on the basis that The Gambia, where he had previously lived without issues, was considered a safe third country.

The Council of State clarified that when applying the safe third country concept, the Minister for Asylum and Migration must establish the possibility of re-admission, using general information and the applicant's statements, while the applicant must provide evidence if they claim they cannot gain access. It also emphasised that applicants are generally required to make reasonable efforts to obtain entry to the proposed safe country.

The council agreed that The Gambia could be considered safe for the applicant and that assessing his fear of persecution in Cameroon falls outside the scope of the safe third country admissibility test. Such fears would only become relevant if re-admission proved impossible, in line with Article 38(4) of the recast APD.

However, the council noted that the applicant had raised concerns, including his expired passport and the fact that fear of the Cameroonian authorities may prevent him from safely and reasonably seeking a new passport. It found that the Minister had not adequately addressed these elements and incorrectly relied on the applicant's previous unproblematic passport application while in his home country. The council concluded that further investigation was required to determine whether the applicant could be expected to obtain travel documentation and gain entry to The Gambia.

Primacy of EU law to assess a country as safe: Ghana

Germany, Federal Constitutional Court [Bundesverfassungsgericht], *Applicant* v *Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)*, 2 BvR 755/25, 6 October 2025.

The Federal Constitutional Court rejected a constitutional complaint as inadmissible by clarifying that an applicant must exhaust available legal remedies before turning to the Constitutional Court based on the subsidiarity principle. However, it noted that the Administrative Court failed to consider the primacy of EU law with regard to the rules to designate safe countries of origin, as governed by the recast APD and in view of the CJEU case law and pending cases.

The Federal Constitutional Court dismissed a constitutional complaint against the decision of the lower court in expedited proceedings, which confirmed a negative decision for an LGBTIQ applicant from Ghana, based on the safe country concept. The court clarified that the applicant did not exhaust all available remedies, and should have requested again the amendment of the contested decision pursuant to Section 80(7), sentence 2 of the Code of Administrative Court Procedure (VwGO), based on the CJEU judgment *LC [Alace] and CP [Canpelli] v Territorial Commission of Rome* (1 August 2024).

However on the substance, the Constitutional Court noted that the lower court failed to address the applicant's arguments on compliance with the recast APD rules on the designation of Ghana as safe country of origin, also in view of the pending preliminary ruling in *Alace* at the time and other relevant CJEU cases.

Consideration of the best interests of the child in the parent's claim

Czech Republic, Supreme Administrative Court [Nejvyšší správní soud], *Ministry of the Interior (Ministerstvo vnitra České republiky) v Applicant*, 21 Azs 85/2025 - 31, 4 September 2025.

The Supreme Administrative Court quashed the judgment of the Regional Court in Ostrava for a Vietnamese woman and her minor daughter, holding that the Ministry of the Interior had provided sufficient reasoning on humanitarian asylum and was not required to separately assess the best interests of the child, whose independent residence permit meant that her legal status was unaffected by the refusal of international protection.

The Regional Administrative of Ostrava overturned a negative decision for a Vietnamese applicant, considering that the Ministry of the Interior insufficiently reasoned on the claim for humanitarian asylum and did not consider the best interests of the applicant's minor child. On cassation appeal lodged by the ministry, the Supreme Administrative Court clarified the duties of the determining authority related to reasoning and consideration of the best interests of the child.

Since the applicant's child was granted a residence permit in Czechia and the asylum application referred solely to the applicant's circumstances, the Supreme Administrative Court ruled that the asylum authorities were not required to separately evaluate the best interests of the child in proceedings which did not directly or indirectly affect the child's legal status. Thus, the court found no procedural error since the ministry sufficiently reasoned on the essential elements of the case, taking into account the family situation, without being obliged to conduct a separate analysis of the best interests of the child.

Procedural requirements for age assessments of unaccompanied minors

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], *Applicant v Ministry of the Interior (Ministero dell'Interno)*, R.G. 30999/2025, 8 October 2025.

The Court of Cassation quashed the decision of the Justice of the Peace of Caltanissetta, which validated the detention order against a Tunisian national claiming to be a minor, solely on the basis of a radiological age assessment examination that had been ordered by the Justice of the Peace, despite lacking such competence and by disregarding specific

procedural safeguards provided by law for age assessments.

A Tunisian national claiming to be a minor was issued an expulsion order and was detained at the Pre-Removal Centre (CPR) of Caltanissetta for a lack of identification documents. The Justice of the Peace ordered an age assessment based on an X-ray examination without involving the Public Prosecutor at the Juvenile Court. Relying solely on its outcome which revealed that the applicant was an adult, it validated the detention.

Upon an appeal, the Court of Cassation clarified that the Justice of the Peace lacked competence to order an age assessment. It held that unaccompanied minors must be identified exclusively in accordance with the procedure laid down in Article 19-bis of Legislative Decree No 142 of 2015.

Under this provision, age is determined through a graduated procedure involving public security authorities and, where necessary, socio-medical examinations ordered exclusively by the Public Prosecutor's Office at the Juvenile Court. The court also pointed out that the same article requires any doubt about age to be resolved in favour of minority and mandates the suspension of all proceedings treating the individual as an adult pending a decision by the Juvenile Court. The Court of Cassation affirmed that the attribution of age by the Juvenile Court serves not only for the adoption of protective measures for unaccompanied minors, but it also produces effects in administrative and criminal proceedings where age is decisive.

Assessment of applications

Refugee *sur place*: Russian children exposed to war propaganda

Latvia, District Administrative Court [Administratīvā rajona tiesa], *E., D., C., A. v Office of Citizenship and Migration Affairs of the Republic of Latvia*, A42-01744-25/21, 16 September 2025.

The District Administrative Court granted sur place refugee status to a Russian family who opposed the war in Ukraine, finding that their return would expose their children to war propaganda and potentially reprisals. In addition, an interruption of their mother's psychiatric treatment upon a return could leave the children without adequate parental care.

A Russian family with two minor children sought asylum in Latvia on political grounds, citing their support for the Ukrainian cause and claiming that, if returned, one of the applicants risked losing access to essential psychiatric treatment. Referring to the EUAA MedCOI Report on the Russian Federation, the Office of Citizenship and Migration Affairs (OCMA) rejected the application on both grounds as unsubstantiated.

On appeal, the District Administrative Court considered that the case should be examined under the criteria for refugee *sur place* application and referenced the EUAA's Practical Guide on Political Opinion.

Relying on several COI reports, including the EUAA COI Query: Major developments regarding human rights and military service in the Russian Federation, the court assessed the best interests of the child and applied Articles 2 and 3 of the UN Convention on the Rights of the Child. It found that Russian schools exposed children to war propaganda and pressured them to join militaristic youth organisations. Given their age, the court held that the children would find it difficult to conceal the beliefs instilled by their parents, exposing them to harassment, arbitrary arrest, prosecution and potential loss of parental custody.

The court also noted that continuity of the mother's psychiatric treatment was crucial for the children's well-being, because an interruption of medical treatment for the mother could result in the children remaining without proper parental care. The court concluded that the applicants were eligible for refugee status and quashed the negative decision.

Ethnicity: Masalit group in West Darfur (Sudan)

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], *MI v French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection des Réfugiés et Apatrides, OFPRA)*, 25003424 C, 13 October 2025.

The National Court of Asylum (CNDA) provided refugee protection to a Sudanese applicant of Masalit ethnicity from West Darfur, holding that the Masalit group is subjected to persecution sufficiently serious and regular to be considered systematic in the territory of West Darfur, at the hands of the Sudanese Forces and Arab militias that control most of this territory, without the Sudanese authorities being able to grant effective protection to this ethnic group.

M.I., a national of Sudan of Masalit ethnicity from West Darfur, requested international protection in France, claiming a fear of being exposed to persecution by the Rapid Support Forces (RSF) and their allied Arab militias in Sudan. The Office for Refugees and Stateless Persons (OFPRA) rejected the request for refugee status but recognised the subsidiary protection.

On appeal, the CNDA relied on the EUAA COI report Sudan: Security Situation (11 February 2025) and on the Country Guidance: Sudan (23 June 2025) which indicated that the ongoing internal armed conflict, erupted on 15 April 2023, reactivated and exacerbated pre-existing ethnic antagonisms between Masalit communities and the Arab groups now affiliated with the RSF, which have acquired control of a significant portion of the territory of West Darfur. The court further observed that the EUAA COI report Sudan – Country Focus (26 April 2024) notes large-scale massacres based on ethnic motivations against Masalit communities in West Darfur, in the towns of El Geneina, Sirba, Murnei and Masterei, orchestrated by the RSF and allied Arab militias. This report concludes that the ethnic targeting of the Masalit community predates the outbreak of the conflict and is part of a territorial confrontation in Darfur between nomadic, landless populations and those who own land and are tied to a specific territory, a Dar, such as the Masalit ethnic group in Dar Masalit, which overlaps the borders of West Darfur.

The court noted that the sources documented serious and repeated attacks by RSF forces and their allied Arab militias, commonly known as the Janjaweed,

targeting the Masalit community in Darfur. Accordingly, the court held that there are serious reasons to believe that the Masalit in West Darfur are exposed to acts that are sufficiently severe and widespread to be considered systematic, carried out by the RSF and their Arab militias, who currently control most of the territory, with the Sudanese authorities unable to provide effective protection.

Thus, the court provided refugee protection to the applicant.

Political opinion: Dutch policy on the risk for Gülenist supporters in Türkiye

Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicants v The Minister for Asylum and Migration (de Minister van Asiel en Migratie),* NL25.11288, 18 September 2025.

The District Court of the Hague seated in Utrecht held that while Gülen supporters remain a targeted risk group in Türkiye, the situation no longer amounted to group persecution. However, it found that the 2023–2024 policy change removing the previously relaxed assessment framework for Gülenists was unlawful because it was not properly justified by country information effectively substantiating an actual decrease in the intensity or arbitrariness of persecution had actually decreased. On this basis, the court annulled the minister's rejection of the applications of a Turkish family affiliated with the Gülen movement and ordered a reassessment.

A Turkish family who supported the Gülenist movement appealed the rejection of their asylum applications. The district court reviewed the evolving Dutch asylum policy regarding Gülen supporters and found that earlier policies (2020–2021) presumed a risk of persecution, requiring only minimal indications of a risk of persecution. However, from 2023 onward, and especially with the 2024 revision, group persecution was no longer assumed, and asylum seekers had again to demonstrate an individual risk.

The applicants argued that the 2023 policy change was unjustified because persecution of Gülenists in Türkiye remained widespread. The court partly agreed and although it accepted that Gülenists do not currently face group persecution, it found that the policy change was not sufficiently supported with reliable and comprehensive COI. Evidence of a reduced risk of arbitrary persecution was fragmented, unverified and inconclusive. The court therefore ruled that the policy change was unlawful, annulled the family's rejection decision and remitted the case to the Minister for Asylum and Migration for a reassessment of their applications.

Membership of a particular social group: Somali women

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], *Y. v French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection des Réfugiés et Apatrides, OFPRA)*, 24015934 R, 16 October 2025.

In Grand Chamber formation, the CNDA recognised a Somali applicant as a refugee, holding that Somali women as a whole constitute a particular social group under Article 1A(2) of the 1951 Geneva Convention and Somali authorities are unable to provide effective protection against gender-based violence.

A Somali woman requested international protection in France as an unaccompanied minor, alleging that she fled Somalia due to

gender-based violence inflicted by her paternal family and she could not receive protection from the Somali authorities. She asserted that her father's household subjected her to domestic servitude, physical abuse and sexual violence, she had been subjected to female genital mutilation/cutting (FGM/C) at the age of 7, and at age 14, she was raped by her stepmother's nephew, accused by her father of dishonor, detained, beaten and nearly killed. After being hospitalised following a suicide attempt, she and her mother fled to Mogadishu and then to France.

Following a negative asylum decision from the Office for the Protection of Refugees and Stateless Persons (OFPRA), the applicant appealed to the CNDA, claiming that Somali women constituted a particular social group.

After confirming that being a female is an innate trait satisfying the first conditions for membership to a particular social group, the CNDA drew on the EUAA Country Guidance: Somalia (October 2025) and the EUAA COI report Somalia: Country Focus (May 2025) and held that, in Somalia, women suffered pervasive gender inequality and institutionalised violence.

The court noted that the supreme law in Somalia is the Sharia, customary (xeer) or statutory, which collectively reinforced women's subordination. Furthermore, in a background of civil war and disintegration of public institutions, legislation had not been elaborated to protect women, national legislation was not in line with international human rights standards, particularly on the definition of rape, and there was a lack of a legal framework to establish responsibilities for human rights violations against women and girls committed by state or non-state actors.

The court noted that the EUAA COI report Somalia: Country Focus (May 2025) indicated that the criminal code was outdated and criminalised only a limited number of sexual offenses. While the Somali government drafted a bill on sexual offenses in 2018, the court noted that according to the EUAA, this bill had not been adopted. In addition, draft laws on FGM/C and children's rights failed to pass due to opposition from religious leaders, while the national prevalence rate of excision and infibulation was 99% and 45% of women married before the age of 18.

The CNDA emphasised that customary justice systems, administered exclusively by men, imposed impunity for sexual violence, forced marriages and excision, while Al-Shabaab-controlled areas in the centre and south areas of the country enforced extreme restrictions on women's attire and mobility. The CNDA relied on the CJEU findings in the judgment in *WS* (C-621/21, 16 January 2024) and ruled that, in light of the outlined set of legal, social, and moral norms, Somali women, as a whole, are perceived differently by the surrounding society, which encompasses Somalia as a whole.

Membership of a particular social group: FGM/C

Austria, Supreme Administrative Court [Verwaltungsgerichtshof - VwGH], *Applicant v Federal Office for Immigration and Asylum (Bundesamt für Fremdenwesen und Asyl, BFA)*, Ra 2025/18/0070, 9 September 2025.

The Supreme Administrative Court held that any form of female genital mutilation/cutting (FGM/C) constitutes persecution and emphasised the duty of the Administrative Court to consider ex officio relevant country of origin

information on the risk of being subjected to reinfibulation upon a return.

A Somali national lodged an application for international protection in Austria on 3 July 2023, arguing she had been subjected to FGM/C against her will in 2016 and she feared to be subjected to reinfibulation upon a return.

On 7 November 2023, the Federal Office for Immigration and Asylum (BFA) rejected refugee status but granted her subsidiary protection and a temporary residence permit. Dismissing her appeal against the refusal to be granted refugee status, the Federal Administrative Court (BVwG) considered that she was not threatened with further genital mutilation against her will because the form of genital mutilation carried out in her case was currently one of the most common forms of female mutilation in Somalia, whereby the rate of infibulations throughout the country was considered to be declining. Upon appeal to the Supreme Administrative Court the applicant referred to a more detailed report by the BFA of August 2023 showing that there are cases in which a new infibulation is carried out to achieve a more comprehensive FGM/C than the original one and that this is done if the existing FGM/C is not considered appropriate or sufficient.

The Supreme Administrative Court annulled the decision, considering that there were deficiencies in the investigation and its reasoning. It held that the reasoning of the BVwG was insufficient as it confined itself to finding that there was a trend towards less invasive forms of mutilation in Somalia and the number of infibulations was declining; however, the court held that that aspect alone could not explain in a comprehensible way why the applicant would no longer be subjected to gender-specific persecution. The court emphasised that even less invasive forms of FGM/C constitute a serious encroachment on the fundamental human rights of women, since it constitutes an injury to the external female genital organs for non-medical reasons without consent or against the will of the person.

Membership of a particular social group: Congolese children accused of witchcraft who reach adulthood

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], *N. v French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection des Réfugiés et Apatrides, OFPRA)*, 23061821 R, 16 October 2025.

In Grand Chamber formation, the CNDA found the account of a Congolese applicant claiming persecution as a former 'child witch' implausible, while recognising the existence of a particular social group of Congolese children accused of witchcraft who, even as adults, share a common history that cannot be changed, including a particular family situation, and whose discriminatory treatment, exclusionary practices and stigmatisation have the effect of isolating them from the surrounding society.

N. alleged that, during her childhood, she had been accused of witchcraft by her family, subjected to violent exorcisms and later ostracised as a child witch. She began working as a prostitute and left the family home. Following the death of her parents in 2016, she was again accused, alongside her brother, of causing their deaths through sorcery. Her brother was allegedly burned alive, and she fled.

Following a negative asylum decision from OFPRA, the applicant appealed to the CNDA, claiming membership of the "social group of women in the DRC," and alternatively the "social group of adults accused of witchcraft as children", under Article 10(1d) of the recast QD.

The CNDA rejected her claim of belonging to the social group of women in the DRC. It noted that societal norms in the DRC had evolved and there was an advanced framework for gender equality, which was reinforced by police brigades for sexual violence, discrimination and violence against women. Therefore, Congolese women as a whole were not perceived as a distinct and marginalised group.

However, the CNDA recognised that children accused of witchcraft who have reached adulthood met both criteria for membership of a particular social group, namely, an immutable shared history of accusation and exclusion, and a distinct social perception marking affected individuals as 'untouchables' for their entire life, as social re-insertion is impossible. Based on multiple sources, including EUAA COI Query: DRC - Sorcery Witchcraft (November 2021) and MedCOI Report – DRC (August 2021), the court noted that the majority of victims of witchcraft accusations in the DRC are children and adolescents growing up in an unstable family or exhibiting physical or intellectual characteristics deemed abnormal, who are blamed for the occurrence of painful events or the onset of financial difficulties. The court found that accusations of witchcraft remained widespread and socially entrenched, resulting in lifelong stigma and exclusion for those affected as children. It noted that more than 13,000 children in Kinshasa were considered witches, while a study reported 30,000 children in 2023, which was evidence of the rise in the phenomenon. The court observed that it was not only accusations of witchcraft that led children to live on the streets after being rejected by their families, but also the institutional mechanisms for caring for these children, which also contribute to the categorisation of these children as witchcraft. The court further added that children of women accused of witchcraft may be themselves categorised as witches.

Shared family situation as link for persecution grounds

Croatia, Administrative Court [Upravni sud], *G.E. v Ministry of the Interior of the Republic of Croatia, Directorate for Immigration, Citizenship and Administrative Affairs (Ministarstva unutarnjih poslova Republike Hrvatske, Uprave za imigraciju, državljanstvo i upravne poslove)*, Us I-4431/2024-6, 26 September 2025.

The Administrative Court in Zagreb overturned the decision of the Ministry of the Interior rejecting a Russian national's application for international protection, finding that the ministry had failed to take into account that her husband and daughter had been granted asylum on religious grounds and was therefore required to assess whether the applicant herself faced a risk of persecution arising from their situation.

A Russian family applied for international protection in Croatia. While the applicant's case was initially rejected, her husband and daughter were granted asylum on religious grounds.

On appeal, the Administrative Court overturned the rejection, citing the CJEU's

judgment in *Nigyar Raul Kaza Ahmedbekova and Raul Emin Ogla Ahmedbekov v Deputy Chair of the State Agency for Refugees* (C-652/16, 4 October 2018). The court found that, although international protection cannot be granted solely because a relative has a well-founded fear of persecution or faces a real risk of serious harm, the asylum authority must still assess whether such persecution or risk could extend to the applicant due to their family relationship.

The court found that the contested decision had been adopted in breach of Article 4 of the recast QD, annulled it and remitted it to the asylum authority for reconsideration.

Assistance from UNRWA as a decisive factor for assessing exclusion

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicant v The Minister for Asylum and Migration (de Minister van Asiel en Migratie)*, 202307738/1/V2, 24 September 2025.

The Council of State ruled that the exclusion clause applied for a stateless Palestinian from Lebanon registered with the United Nations Relief and Works Agency (UNRWA), finding that the decisive factor in determining its applicability was whether the applicant had received assistance from UNRWA immediately prior to or shortly before applying for international protection.

The Council of State ruled that the District Court of the Hague erred in finding that the exclusion clause under Article 1(D) of the Refugee Convention and Article 12(1a) of the recast QD did not apply to the applicant. It reaffirmed that the key factor is not merely UNRWA registration but whether the person actually received UNRWA assistance or protection shortly before seeking international protection. In this case, the applicant's UNRWA registration card and lifelong residence in an UNRWA camp in Lebanon demonstrated that she benefited from UNRWA support. Her failure to seek UNRWA protection for issues with Hezbollah did not change this conclusion, as UNRWA also provides shelter and basic needs.

Referring to the CJEU judgment in *Mostafa Abed El Karem El Kott, Chadi Amin A. Radi and Hazem Kamel Ismail v Bevándorlási és Állampolgársági Hivatal (Hungarian Immigration and Asylum Office)* (C-364/11, 19 December 2012), the council held that brief family visits outside UNRWA's area do not amount to relinquishing its assistance. Also, the court affirmed that the fact that she did not apply for asylum until six months after her departure, was insufficient to conclude that she did not actually receive assistance from UNRWA immediately prior to or shortly before submitting an asylum application. As a result, it concluded that both the district court and the Minister for Asylum and Migration mistakenly assumed that exclusion did not apply and ordered the latter to reassess whether UNRWA is currently able to fulfil its protection mandate should the applicant return to the operational area.

Exclusion: Human smuggling

Germany, Higher Administrative Court (Oberverwaltungsgericht/Verwaltungsgerichtshöf), *Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF) v Applicant*, 2 LA 83/24, 23 October 2025.

The Higher Administrative Court of Lower Saxony affirmed that human smuggling-related acts and offenses cannot be considered acts contrary to UN principles and purposes, thus the international protection status of a Syrian national could not be revoked on this exclusion ground.

The Higher Administrative Court of Lower-Saxony confirmed that human smuggling of foreigners does not constitute acts contrary to the purposes and principles of the UN, thus they cannot be ground for revocation of international protection.

Referring to Recital 31 and Article 12(2c) of the recast QD and the CJEU judgement in *Lounani* (Case C-573/14, 31 January 2017), the court reiterated that acts contrary to the purposes and principles of the UN are set out in the preamble and Articles 1 and 2 of the UN Charter and UN resolutions on counter-terrorism measures. Thus, for an act to qualify as being considered contrary to UN principles, it must have been recognised in an UN international convention such as a resolution, declaration or agreement.

Contrary to the Federal Office for Migration and Refugees (BAMF) claims that human smuggling is comparable to international terrorism, the court highlighted that the CJEU ruled in *Germany v B and D*, (C-57/09 and C-101/09, 9 November 2010) that the exclusion ground enshrined in Article 12(2)(c) of the recast QD, mirroring Article 1F of the Refugee Convention, applies to terrorist acts and membership in an international terrorist organisation, based on Recital 31 of the recast QD.

The court noted that despite recurrent concerns and issues raised in the EU and Germany, in the absence of an express mention and unambiguous statement from the UN, the interpretation must be restrictive and cannot extend to human smuggling.

Updated country of origin information: Syria

Austria, Constitutional Court [Verfassungsgerichtshof Österreich], *Applicant v Federal Office for Immigration and Asylum (Bundesamt für Fremdenwesen und Asyl, BFA)*, E1520/2025, 18 September 2025.

The Constitutional Court annulled the negative decision of the Federal Administrative Court concerning a Syrian national from Mas'adah holding that the lower court exercised arbitrariness by failing to assess the security situation in the applicant's region of origin, Al-Hasakah governorate, and the feasibility of a safe return, disregarding relevant and up-to-date COI, thereby violating the constitutionally guaranteed right to equal treatment of foreigners.

The Federal Office for Migration and Asylum rejected the asylum application of a Syrian national from Al-Hasakah governorate. On appeal, the Federal Administrative Court upheld the decision, finding that since the collapse of the Assad regime, Syria was no longer in a situation of civil war and a return to Kurdish-controlled areas would not entail a risk under Articles 2 and 3 of the ECHR. The applicant lodged a constitutional complaint before the Constitutional Court.

The Constitutional Court found that the lower court failed to assess the security situation specifically in the applicant's place of origin. It did not consider that according to the EUAA COI Report - Syria: Country Focus (March 2025), there were still clashes, especially with the Syrian Democratic Forces (SDF), even after the fall of the Assad regime, and there had been several security incidents in Al-Hasakah, Deir Ez-Zor and in the eastern parts of Aleppo. The court held that the information sheet of the State Documentation, the most up-to-date source at the time of the contested decision, was still based on a situation prior to those changes, making it partly unreliable. Given the inadequate assessment of both the security situation in the applicant's region of origin and how he could safely reach it, in light of current COI such as the EUAA report, the Constitutional Court affirmed that the lower court ignored the specific circumstances of the case, resulting in an arbitrary decision.

Subsidiary protection: Sudan

Denmark, Refugee Appeals Board [Flygtningenævnet], *Applicant v Danish Immigration Service (Udlændingestyrelsen, DIS)*, 13 November 2025.

The Refugee Appeals Board's Coordination Committee concluded that the situation in North Darfur and Al-Fasher is characterised by such an extreme level of indiscriminate violence that the mere presence in the area entails a risk of treatment contrary to Article 3 of the ECHR.

The Coordination Committee of the Refugee Appeals Board found that the current situation in North Darfur, including in El Fasher, is marked by such a high level of violence that there is a risk of treatment contrary to Article 3 of the ECHR by mere presence of a person in that area. Thus, it affirmed that applicants from these areas have grounds for being granted residence permits under Section 7(3) of the Aliens Act. It added that no internal flight alternative is feasible within the country and caution must be exercised when assessing evidence in cases submitted by Sudanese applicants.

Subsidiary protection: Ukraine

Denmark, Refugee Appeals Board [Flygtningenævnet], *Applicant v Danish Immigration Service (Udlændingestyrelsen, DIS)*, 13 November 2025.

The Refugee Board, sitting in a Coordination Committee, affirmed male Ukrainian nationals at risk of imprisonment due to a refusal to perform military service, including conscientious objection, must demonstrate specific and individual circumstances to substantiate a risk of treatment contrary to Article 3 of the ECHR in order to fulfil protection requirements pursuant to Article 7(2) of the Aliens Act.

The Coordination Committee of the Refugee Appeals Board decided in a meeting on 13 November 2025 on the assessment criteria for asylum applications submitted by male Ukrainian nationals claiming a risk of ill treatment on grounds that a refusal of military service leads to a prison sentence which is to be served in conditions contrary to Article 3 of the ECHR. While acknowledging that prison conditions in Ukraine may be of such nature as to give rise to a risk of being subjected to treatment contrary to Article 3 of the ECHR, the majority of the committee affirmed that this alone cannot constitute ground for protection in Denmark. It clarified that the assessment must also

take into account specific and individual circumstances that make it plausible to believe that an applicant will be exposed to a real risk of treatment contrary to Article 3 of the ECHR upon a return to the country of origin, thus qualifying for protection pursuant to Article 7(2) of the Aliens Act. The Coordination Committee concluded that recent jurisprudence by the ECtHR did not lead to a different outcome.

Role of family community in derived refugee status of minor child

Germany, Higher Administrative Court (Oberverwaltungsgericht/Verwaltungsgerichtshöf), *Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF) v Applicant*, 2 LA 107/21, 23 September 2025.

The Higher Administrative Court of Lower Saxony ruled that the prerequisite to grant refugee status as a derived right for a minor child of a recognised parent does not include a condition of living in a family community with that parent.

The Higher Administrative of Lower Saxony clarified that the derived right to refugee status of a minor child of a recognised parent is not conditional on family community between the two. The court found that Section 26(2) of the Asylum Act which regulates such a right differs from similar rights provided under paragraph 3 and 5 of the same section, which entail a derived right to asylum for a spouse or registered partner and derived right of the parents of an unmarried minor, with the condition that the family resides in the state where the asylum applicant is politically persecuted.

Relying on the recast QD, Recitals 18, 19, 36 and Article 23(1), the court emphasised that the concept of a family member is to be interpreted in a broader manner, best interests of the child require a specific assessment to maintain family unity and Member States can provide for more favourable rules. Thus, granting asylum, as a derived right to a minor without requiring living in the household with the primary beneficiary, was found not contrary to Article 3 of the recast QD.

By referring to the CJEU judgment in *Bundesrepublik Deutschland v SE* (C-768/19, 9 September 2021), the court affirmed that a stricter requirements for the derived asylum right of a child than for the recognition of a spouse or registered partner is not sustainable.

Medical condition as sole ground for protection

Cyprus, International Protection Administrative Court, *M.G.M. v Republic of Cyprus through the Asylum Service (Κυπριακή Δημοκρατία και/ή μέσω Υπηρεσίας Ασύλου)*, No 1593/2023, 6 October 2025.

The International Protection Administrative Court (IPAC) upheld the Asylum Service's decision to reject the request for protection of a DRC applicant with chronic heart failure, concluding that the necessary medical monitoring, treatment services and medicine would be available upon a return to his habitual place of residence in Kinshasa and found it feasible for him to obtain treatment considering his individual circumstances.

An applicant from DRC appealed the decision of the Asylum Service which rejected his claim for protection in Cyprus, arguing, among other reasons, that he suffered from chronic heart failure disease and would not be able to have appropriate treatment in his country. Citing the CJEU

case *M'Bodj v Etat Belge* (18 December 2014), IPAC recalled that where no intent on the part of a persecutor or actor of serious harm is established, the mere fact that a person suffers from a serious illness and needs medical treatment, even in the absence of appropriate treatment in his country of origin, cannot constitute grounds to grant international protection. Nevertheless, IPAC noted that in assessing the possibility of the applicant to return to his country of origin, it should be examined whether the specific treatment for the problem he is facing with his heart is in fact available in the DRC, based on his state of health, the medication given and the medical information submitted to the court.

Upon consultation of relevant information available in the EUAA MedCOI Portal, IPAC concluded that medical monitoring, treatment services and medicine are available in Kinshasa. Noting the EASO DRC MedCOI (August 2021), IPAC outlined the relevant treatment and costs for cardiovascular diseases by reference to the active ingredient of the five main medicines he was taking. It concluded that despite certain costs, it would be feasible for the applicant to access healthcare through financial assistance from public or private resources. The applicant did not display any additional vulnerability or serious form of disability to justify the claim.

Stateless Bidoon in Kuwait

Greece, Administrative Court [Διοικητικό Πρωτοδικείο], *Applicant v Minister of Immigration and Asylum (Υπουργού Μετανάστευσης και Ασύλου)*, AK1246/2024, 28 November 2025.

The Athens Administrative Court of First Instance annulled the negative decision on international protection concerning a stateless Bidoon for insufficient reasoning and inadequate evaluation of the applicant's statements of alleged persecution due to exclusion by the Kuwait authorities from access to health, education and issuance of documents, also in view of country of origin information confirming such treatment against stateless Bidoon.

A stateless Bidoon, whose country of habitual residence was Kuwait, applied for international protection in Greece claiming persecution on the basis of systemic exclusion of stateless Bidoon from public services, such as education, health and issuance of documents and certificates.

Both the Asylum Office and the Appeals Committee rejected and found the applicant's statements vague and general. In the appeal, the Athens Administrative Court of First Instance quashed the contested decision as it found that the applicant's statement of facts was not adequately evaluated and the contested decision lacked sufficient reasoning since the facts were corroborated by country of origin information. It noted that according to international country of origin information, Kuwait authorities exclude stateless Bidoon from public health, education and the issuance of documents and treat them as illegal residents. It noted that the applicant provided a clear, detailed and coherent account of his personal experiences of being refused schooling, issuance of documents and living in dire conditions at the outskirts of Kuwait City.

Reception

Obligation to provide material reception conditions during mass influx of applicants

Ireland, Supreme Court, *Irish Human Rights and Equality Commission v Minister for Children Equality Disability Integration and Youth & Ors*, [2025] IESCDET 142, 3 November 2025.

The Supreme Court of Ireland granted the Irish Human Rights and Equality Commission leave to appeal against the Court of Appeal ruling which concluded that Ireland was not in breach of its human rights obligations over failing to provide basic needs, such as housing, to international protection applicants. The Supreme Court emphasised the wider impact of the resolution of the issues at hand and the fact that the High Court and Court of Appeal had reached conflicting conclusions leading to different outcomes.

The Irish Human Rights and Equality Commission sought leave to appeal the Court of Appeal's judgment [2025] IECA 156 of 30 July 2025, which resulted[7] following the state's appeal against the High Court judgment *Irish Human Rights and Equality Commission* v *Minister for Children, Equality, Disability, Integration and Youth & Ors* (1 August, 2024). In [2025] IECA 156, the Court of Appeal evaluated the evidence of the commission and concluded that, although it had proven that unaccommodated international protection applicants were living in circumstances of extreme material poverty resulting from the state's failure to provide accommodation, the evidence fell short of establishing that their conditions caused damage to their physical or mental health or that the degrading conditions were incompatible with human dignity.

The commission argued that the appeal raised issues of general 'very significant public importance' on the interpretation of Article 1 of the EU Charter. It submitted also that the appeal raised fundamental questions of Irish and EU laws on the standard of protection for human rights in Ireland, and clarification had to be allowed due to the different conclusions reached by the Court of Appeal and the High Court. The Commission also stressed that a further appeal should be permitted in the interests of justice. It argued that the Court of Appeal engaged on its own examination of the evidence rather than remitting the case to the High Court or reopening the hearing to allow parties to make submissions. The Commission submitted to the Supreme Court that the proceedings could be resolved based on the existing jurisprudence of the CJEU.

Sitting in a three-judge panel, the Supreme Court issued a determination concluding that the appeal satisfied the constitutional criteria. It noted that several matters of public importance had been identified by the parties, namely: the meaning and application of Section 41 of the 2014 Act, and the status, scope and application of Article 1 of the EU Charter. The case was considered as having priority for hearing and resolution.

[7] See the EUAA Asylum Appeals Systems for an overview of asylum-related appeals in Ireland.

Detention

ECtHR on detention conditions in Greek police station

ECtHR, *B.F. v Greece*, 59816/13, 14 October 2025.

The ECtHR found a violation of Article 3 of the Convention due to the detention conditions of an Iranian applicant for 2.5 months in a police station in Greece while being placed in administrative detention for his irregular status.

The ECtHR examined the complaints of an Iranian national who was detained at Kolonos police station in Greece for 2 months and 18 days.

The court recalled its previous rulings finding detention in Greek police stations contrary to Article 3 of the ECHR due to overcrowding, lack of exercise facilities, poor sanitation and their inherently short-term design. Since the applicant was held for over 2 months in unsuitable conditions and the government did not provide convincing justification, the court found a violation of Article 3.

It also found a violation of Article 13 on the basis that domestic courts failed to conduct a meaningful assessment of the substance of the applicant's objections and supporting documentary evidence, including consideration of the impact of detention on his health, the adequacy of medical care and the conditions of detention.

Finally, the court held that the applicant did not present any specific vulnerabilities, and his decision was ordered by a competent authority under an explicit legal basis and for a legitimate purpose. Therefore, it concluded that there had been no violation of Article 5(1) of the ECHR.

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

Italy, Court of Appeal [Corte di Appello], *Ministero dell'Interno and Questura di Roma v Applicant*, 5 November 2025.

The Rome Court of Appeal submitted two questions to the CJEU for a preliminary ruling on whether Italy was competent to conclude an international agreement such as the Italy-Albania Protocol or it is under the exclusive competence of the EU, in view of Article 4(3) of the Treaty on the EU (TEU), Articles 3(2) and 216(1) of the Treaty on the Functioning of the EU (TFEU). In case of a negative answer to the first question, the court sought clarification on whether the provisions of the protocol are compatible with the rules and safeguards for asylum and detention of third country nationals as enshrined under the CEAS.

A Moroccan national, detained in the Gjadër CPR in Albania with the purpose of being removed pursuant to an expulsion order, applied for international protection. The Questore of Rome ordered his continuous detention on grounds that he applied for asylum to merely delay the expulsion, and the Rome Court of Appeal was requested to validate the measure. The court asserted that the applicant had no substantial grounds for asylum or special protection, thus the requirements for his detention were met and his asylum

claim assessed as being made to delay the removal.

However, the court expressed concerns and doubts about the Italy-Albania Protocol: i) whether a Member State has the competence to conclude international agreements on managing migration flows, an area which would fall into the exclusive EU competence based on Article 4(3) of the TEU and Articles 3(2) and 216(1) of the TFEU; and ii) whether such an agreement is compatible with the CEAS and the EU Charter, especially the procedural safeguards with regard to asylum and detention.

The two questions referred by the Rome Court of Appeal were:

1) Does Article 4(3) of the TEU, Articles 3(2) and 216(1) of the TFEU — according to which the EU has exclusive competence to conclude international agreements where such conclusion is provided for in a legislative act of the EU or is necessary to enable it to exercise its internal competences, or where such agreements may affect common rules or alter their scope — with the consequence that, in accordance with the principle of sincere cooperation, the power to conclude agreements with third States which affect common rules or alter their scope, or which affect a field fully governed by EU law and falling within the EU's exclusive competence, is centralised in the EU itself, must be interpreted as precluding a Member State from concluding an international agreement with a non-EU country for the management of migration flows, such as the Italy–Albania Protocol?

2) If the answer to the first question is in the negative, does EU law, in particular: - Article 26 of the recast APD, Article 8(1), (2), (4) and 9(2), (3) of recast RCD, the latter also read in conjunction with Recital 15 thereof, all interpreted in the light of Article 6 of the EU Charter, with regard to detention, as well as Article 46 of the recast APD and Article 10(4) of the recast RCD, on the right to defence, interpreted in light of Article 47 of the EU Charter, and Articles 17(2), (3) and 19 of the recast RCD on the right to health of asylum seekers, - preclude the transfer and detention of third country nationals, including asylum applicants, in areas located outside the EU territory pursuant to an international agreement such as the Italy-Albania Protocol?

Healthcare safeguards in detention centres

Italy, Council of State [Consiglio di Stato], *ASGI, Cittadinanzattiva APS v Ministry of the Interior (Ministero dell'Interno)*, No 7839/2025, 25 September 2025.

The Council of State partially annulled CPR tender specifications due to deficiencies in the safeguards for detainees' health and suicide-risk prevention, holding that the Ministry of the Interior failed to carry out a thorough assessment and consult the competent actors, including the National Coordination Table, the Ministry of Health and the National Guarantor for the Rights of Persons Deprived of Liberty.

The Association for Juridical Studies on Immigration (ASGI) and Cittadinanzattiva APS challenged the Minister of the

Interior's Decree of 4 March 2024, which approved the tender specifications for managing CPRs, arguing that it failed to guarantee adequate healthcare for detainees. The Lazio Regional Administrative Court rejected their appeal, and the Council of State later upheld it.

The council held that the tender specifications conflicted with essential requirements laid down in the binding Ministerial Directive of 19 May 2022 on the organisation of CPRs. The specifications did not properly incorporate the directive's obligations on several aspects, such as timely reassessment of fitness for detention, access to medical records, transmission of socio-health reports to judicial bodies, and the systematic recording and monitoring of episodes of self-harm.

The council also found that the ministry had failed to carry out the required inter-institutional consultation before approving the specifications, noting that contributions from the National Coordination Table, the Ministry of Health and the National Guarantor for the Rights of Persons Deprived of Liberty were necessary. This omission was especially serious in light of the legislative gap identified by the Constitutional Court in its judgment in Justice of the Peace of Rome (96/2025, 9 June 2025), which highlighted the absence of clear statutory rules governing the methods of deprivation of liberty in CPRs.

Italy, Court of Appeal [Corte di Appello], *Rome Police Headquarters*, R.G. No 2025 5967, 12 November 2025.

The Court of Appeal did not validate detention in a CPR of a Moroccan national for whom there were indications of psychiatric disorders and substance-dependence issues, due to the lack of a proper medical assessment of his condition and fitness for detention.

A Moroccan national was issued an expulsion order and was subsequently detained. After he expressed his intention to apply for asylum, the Rome Chief of Police issued a new detention order, considering the application merely instrumental to delay the removal. The Rome Police Headquarters then sought validation of the detention measure in the CPR of Ponte Galeria before the Rome Court of Appeal.

The applicant's lawyer argued that his drug addiction, prior convictions and psychiatric vulnerabilities required ongoing treatment and rendered detention incompatible. Citing the Council of State judgment in ASGI,Cittadinanzattiva APS v Ministry of the Interior (Ministero dell'Interno) (No 7839/2025, 25 September 2025), he challenged his fitness for detention in the absence of an updated medical assessment.

The Court of Appeal found serious and consistent indications of psychiatric disorders and substance-dependence issues that were likely incompatible with detention. It held that the medical certificate attesting to the applicant's fitness for detention in the CPR failed to take account of his specific condition. The court reiterated that a proper medical assessment is an essential precondition for the validity of detention, also in light of the structural shortcomings identified by the Constitutional Court in Justice of the Peace of Rome (96/2025, 9 June 2025).

It ruled that where the circumstances of a case reveal a potential violation of fundamental rights, and in the absence of a legal framework ensuring adequate

provision of care and services for applicants with mental health condition, detention cannot be validated and must be regarded as unlawful. In this case, the lack of a clear legal framework for detention conditions directly affected the applicant's right to health, making the detention unlawful already at the validation stage.

Detention at the border

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], *Applicant v Head of the Police Headquarters (Questura) of Bari*, R.G.N. 23258/2025, 4 September 2025.

The Court of Cassation requested the Constitutional Court to review the practice based on Article 6(2-bis) of Legislative Decree No 142/2015 (amended by Legislative Decree No 37/2025) of keeping a person in detention in a CPR, if detention was 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 held 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.

A Senegalese national was issued an expulsion order and was detained in the Bari CPR and later transferred to the Gjader CPR in Albania. While in the transit zone of Schengjin, Albania, he requested international protection, which was rejected by the Territorial Commission of Rome. The Rome Police Chief requested validation of his detention under Article 6(3) of Legislative Decree No 142/2015, but the Rome Court of Appeal rejected the request. The Bari Police Chief then issued a new detention order at the Bari-Palese CPR, which was validated by the Court of Appeal of Bari.

The applicant appealed to the Court of Cassation, arguing that Article 6(2-bis) of Legislative Decree No 142/2015, as amended by Legislative Decree No 37/2025, was unconstitutional as it conflicted with Articles 3, 11, 13, 24, 111 and 117 of the Constitution.

The court ruled that detention under Article 6(2-bis) of Legislative Decree No 142/2015, as amended by Legislative Decree No 37/2025, was unlawful if it was not validated while the validation decision is pending and if no new detention order was issued within 48 hours. It noted that the provision allows a person's liberty to be limited simply because they are already in a CPR, legitimising the restriction only *ex post*. The court also referred the practice under Article 6(2-bis) of Legislative Decree No 142/2015, as amended by Legislative Decree No 37/2025, to the Constitutional Court for a constitutional review.

Detention pending a return

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], *Applicant v Ministry of the Interior (Ministero dell'Interno), Milan Police Headquarters*, 27143/2025, 25 September 2025.

The Court of Cassation set aside the CPR detention validation order issued by the Tribunal of Milan for an applicant from El Salvador, finding that the tribunal had failed to examine whether his asylum application was genuinely grounded or merely aimed at evading expulsion, despite the applicant having substantiated his fear of persecution on account of past gang affiliation.

A national of El Salvador was subjected to an expulsion order and subsequent detention in the CPR of Milan, which the Justice of the Peace and later the Tribunal of Milan validated. He requested international protection on the same day that his detention began and filed two appeals challenging, respectively, the validation and the extension of the detention measure.

The Court of Cassation joined the appeals and upheld the third ground of the first appeal, identical to the sole ground of the second appeal. It found that the tribunal had failed to assess whether the asylum application was genuine or merely aimed at evading expulsion. The court observed that the applicant had substantiated his fear of persecution with evidence of past gang affiliation, tattoos linked to the M13 gang and the serious risks faced by suspected gang members in El Salvador.

The court found that the tribunal limited its analysis to the timing of the application submitted only after the expulsion order, without examining the substance of the asylum claim. The court held that a proper assessment of the merits of the asylum request was required. It therefore annulled the decrees validating and extending the applicant's detention.

Temporary protection

Temporary protection and applying for subsidiary protection

CJEU, *AA, BA, CA, DA, EA, FA* v *Swedish Migration Agency (Migrationsverket, SMA) [Framholm]*, C-195/25, 20 November 2025.

The CJEU ruled that a Member State may not reject an application for international protection, namely an application for subsidiary protection status, on the sole ground that the applicant enjoys temporary protection. It further noted that Article 18 of the recast QD and Article 33 of the recast APD have direct effect, and if a national court finds that it cannot interpret its national law in conformity with these provisions, it would be required, if needed, to disapply national law in order to protect individuals in accordance with EU law.

Six beneficiaries of temporary protection in Sweden requested international protection in Sweden, which was rejected by the Swedish Migration Agency (SMA) as unfounded with regard to their request for refugee status and either as inadmissible or left unexamined on the merits with regard to their request for subsidiary protection. The SMA argued that national legislation did not allow beneficiaries of temporary protection to apply for subsidiary protection status.

The applicants challenged the decision before the Administrative Court for

Immigration Matters in Gothenburg, which referred several questions for a preliminary ruling to the CJEU.

The CJEU ruled that a Member State may not reject an application for international protection on the sole ground that the applicant is under temporary protection. The court noted that Article 17 of the TPD provides that beneficiaries of temporary protection "must be able to lodge an application for asylum at any time and that the examination of any asylum application not processed before the end of the period of temporary protection must be completed after the end of that period". Furthermore, the wording, objective and broader context of the TPD do not imply that beneficiaries of temporary protection may not be granted subsidiary protection.

The court also observed that Article 33(2) of the recast APD, relating to inadmissible applications, sets out an exhaustive list of cases in which applications may be rejected as inadmissible without examining the merits, and the fact that a person is a beneficiary of temporary protection is not one of these grounds of inadmissibility.

The CJEU ruled that 'where it is not possible to interpret national legislation in a manner consistent with the requirements flowing from Articles 18 of the recast QD and Article 33 of the recast APD, it is for the national courts to disapply that legislation'. Thus, in the event of ineffective implementation of EU law, individuals would still benefit from rights provided under EU law.

Content of protection

Rejection of family reunification based on exclusion grounds

Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant v The Minister for Asylum and Migration (de Minister van Asiel en Migratie)*, NL24.50566, 19 September 2025.

The District Court of the Hague seated in Utrecht upheld the Minister's conclusion that there were serious reasons to believe that an applicant's father had personally participated in excludable acts under Article 1(F) of the Geneva Convention, justifying a refusal of his family reunification visa. Furthermore, it held that, although the applicant's mobile phone was searched without consent, the evidence obtained was admissible since it was not gathered in a manner contrary to proper government conduct and did not harm his interests since he was granted international protection.

A Syrian unaccompanied minor granted asylum in the Netherlands applied for family reunification for his parents and siblings. During his asylum procedure, authorities searched his mobile phone without consent and found material linking his father to armed groups in Syria suspected of committing international crimes. Following two interviews with the father, the ministry rejected the family reunification visa request on the basis of exclusion grounds under Article 1(F) of the Geneva Convention. The applicant

appealed, arguing that the phone search was unlawful and the evidence should not be taken into consideration.

The District Court of the Hague seated in Utrecht acknowledged the lack of a legal basis for such searches without consent but held that the evidence was admissible because it was gathered during legitimate identity and asylum investigations and did not harm the applicant's interests, as he was granted protection.

Regarding the applicant's father, the court found that he was associated with armed groups responsible for widespread and systematic crimes and the minister bore the burden of proving both that he knew or should have known of these crimes and that he personally participated in them. The court deemed it undisputed that the applicant's father knew about the crimes, and personal participation was sufficiently established through membership cards indicating fighter roles and his involvement in recruitment and fundraising videos, which constituted facilitation of the groups' criminal activities. Accordingly, it ruled that serious grounds existed to believe the applicant's father had committed acts falling under Article 1(F)(a) and (b), rendering him ineligible for family reunification.

Humanitarian protection

Provisional residence permit for parents of a seriously ill child

France, Administrative Courts of Appeal [Cours administratives d'appel], *C.D., B.E v Prefect of Hérault*, 24TL01866, 21 October 2025.

The Toulouse Administrative Court of Appeal annulled the refusal of a provisional residence permit for the Georgian parents of a child suffering from spina bifida, causing paralysis of the lower limbs, an inability to stand and a speech disorder. The court found that a removal from France to Georgia would interrupt the multidisciplinary care which the child had received in France and would lead to the child's regression in autonomy and physical function, in breach of the child's best interests.

After the refusal of their asylum applications, the Georgian parents of a child suffering from spina bifida, a congenital malformation of the spinal cord, applied for a provisional residence permit as parents of a seriously ill child under Article L. 425-10 of the CESEDA. The Prefect of Hérault rejected their request, and they appealed to the Toulouse Court of Appeal.

The court observed that medical reports from paediatric neurology and neurosurgery of the head and neck departments confirmed severe lower limb paralysis, incontinence and the need for neuro-orthopaedic monitoring and

physiotherapy four times a week. They also documented that, in France, the child would be enrolled in mainstream schooling with the help of a student support person for students with disabilities, after already having been enrolled in elementary school with the assistance of a teaching assistant and additional support. Furthermore, the department of neurosurgery of the head and neck indicated that the child should be offered both a bladder and urinary assessment and monitoring of the lower spinal cord, and the rehabilitation centre of the Saint-Pierre Institute in Palavas (Hérault) carried out a neuro-orthopaedic evaluation and recommended orthopaedic support to facilitate walking. The same documents also attested to the strong involvement of the parents in their son's care and education and to the significant progress made by the child within the framework of this multidisciplinary support, facilitated by the Departmental Centre for Persons with Disabilities.

In these circumstances, the Toulouse Court of Appeal ruled that the interruption of the multidisciplinary care received by the child in France would lead to regression in autonomy and physical function, which would be in breach of the child's best interests.

Weight of the right to private and family life

Italy, Supreme Court of Cassation [Corte Suprema di Cassazione], *M.F. v Ministry of the Interior (Ministero dell'Interno)*, RG 29593/2025, 4 November 2025.

The Court of Cassation ruled that, following the amendments introduced by Decree Law No 20 of 2023 (converted into Law No 50 of 2023), complementary protection remains available where the conditions for safeguarding private and family life under Article 8 of the ECHR as interpreted by the ECtHR's jurisprudence are met, such as where sufficiently strong ties or integration developed in Italy would make a removal disproportionate under a concrete proportionality assessment.

The Tribunal of Venice referred a question to the Court of Cassation on how Articles 19(1.1) and 5(6) of Legislative Decree 286/1998 (TUI) should be interpreted following the 2023 repeal of the provisions on special protection based on private and family life.

The Court of Cassation clarified that the reform of complementary protection did not eliminate the safeguard of private and family life, as the legal framework continues to require compliance with constitutional and international obligations. It held that such protection may be granted where the foreign national has developed sufficiently strong ties in Italy such that a removal, in the absence of overriding reasons of national security or public order, would result in a violation of the right to private or family life.

The court further affirmed that the protection of private and family life requires a concrete, case-specific proportionality and balancing assessment, consistent with its own case law and that of the ECtHR. This assessment must take into account the family ties formed in Italy, the duration of the person's presence on the national territory, the social relationships established, the degree of work integration achieved and the individual's connection with the community, including respect for its rules. These factors must be balanced against the applicant's family, cultural or social ties to the country of origin, and the severity of the difficulties they may encounter upon a return.

Return

CJEU judgment on the power of a judicial authority to review the *non-refoulement* principle when assessing the lawfulness of a detention order pending a removal

CJEU, *GB [Adrar] v The Minister for Asylum and Migration (de Minister van Asiel en Migratie)*, C-313/25 PPU, 4 September 2025.

The CJEU ruled that a judicial authority called upon to review the lawfulness of the detention of an illegally-staying, third-country national, with a view to a removal pursuant to a final return decision, is required to examine, if necessary of its own motion, whether the principle of non-refoulement precludes that removal, and whether the best interests of the child and family life, referred to in Article 5(a) and (b) respectively of the Return Directive, preclude such removal.

The CJUE ruled on a request for a preliminary ruling submitted by the district court of the Hague seated in Roermond in the context of an appeal brought by an Algerian national who was issued a return decision and was detained based on Article 15 of the Return Directive to prepare his return or carry out his removal to Algeria. Before being detained, the applicant stated that he feared a return to Algeria due to a risk of being subjected to inhuman or degrading treatment and that he had a child in France who he wished to take care of.

The CJEU emphasised that the primary objective of the Return Directive is to implement an effective return policy while fully respecting the fundamental rights of the person. Detention under the directive constitutes a serious interference with the right to liberty, serves solely to ensure the effectiveness of the return procedure and must be as short as possible. Detention is only permissible when less coercive measures cannot be applied effectively, such as where there is a risk of absconding or obstructing the removal procedure. If conditions for a lawful detention are no longer met or a removal is no longer realistic, the person must be released immediately.

The court ruled that national authorities must consider the principle of *non-refoulement* at all stages of return procedures, including when ordering, reviewing or extending detention. Authorities must assess whether a removal would expose the individual to a genuine risk of treatment prohibited by EU law, and judicial authorities must be able to raise any such concerns even if not invoked by the applicant. The court clarified that the applicant cannot be required to lodge an application for international protection to be ensured full compliance with the principle of *non-refoulement* referred to in Article 5 of the Return Directive, read in conjunction with Article 19(2) of the EU Charter.

Finally, the CJEU stressed that authorities must also consider family life and the best interests of the child throughout the return procedure, including for detention and a removal decision, recalling however that these rights are not absolute and may be subject to lawful restrictions. In conclusion, the court held that national courts reviewing compliance with the conditions

for lawful detention must, if necessary, of its own motion, determine whether *non-refoulement*, family life or the best interests of the child preclude a removal, in line with Articles 5 and 15 of the Return Directive and Articles 6, 7, 24(2) and 47 of the EU Charter.

ECtHR on the removal of a Russian applicant from Switzerland

ECtHR, *R.G. v Switzerland*, No 30036/22, 23 October 2025.

The ECtHR found that there would not be a violation of Article 3 concerning the removal by Switzerland of a Russian applicant of Chechen ethnic origin, because the applicant failed to demonstrate a risk of ill treatment upon a return or a risk of forced military conscription.

A Russian national of Chechen origin challenged a removal order issued by the Swiss authorities after his asylum application was rejected. He complained before the ECtHR that his expulsion to Russia would expose him to risks to his life and to ill treatment, in breach of Articles 2 and 3 of the ECHR, claiming persecution by Chechen authorities due to alleged involvement in opposition and separatist activities.

The court noted that the Swiss authorities had rejected his application on the basis that key elements were not credible, inconsistent or implausible: he had applied for a visa in 2015 using a passport issued in a central Russian region despite claiming long-term residence in Chechnya, his accounts of detention and searches were vague and contradicted by his voluntary travels to Chechnya, and there was no corroboration for his assertion that students had been arrested on 1 May 2012. FAC upheld this assessment, finding no indication of an individualised risk and noting that the applicant could live safely elsewhere in Russia, where he had both experience and social ties.

In assessing the alleged risk under Article 3, the ECtHR reiterated that the applicant bears the burden of presenting substantial and credible material demonstrating that he would face a real risk of ill treatment if returned. The court found that the Swiss authorities had conducted a sufficiently thorough and careful examination of the case in line with their procedural obligations. It also rejected the applicant's argument that the ongoing hostilities in Ukraine created a generalised risk for civilians in Russia, noting that country information, including the EUAA COI query: Major developments regarding human rights and military service, Q82-2024, (21 November 2024) did not indicate any such situation.

The court further observed that the applicant, being over 30 years old, fell outside of the age group subject to mandatory military service and the 2022 partial mobilisation had not been repeated since then. Although there had been reports of Chechens being forced to 'volunteer' for military service in 2022, there was no evidence that such practices were ongoing or that the applicant faced a particular or heightened risk of conscription. The court concluded that there would not be a violation of Article 3 of the Convention if the applicant is removed to Russia.

Returns to Syria

ECtHR, *A.F. v Austria*, 24394/25, 23 September 2025.

The ECtHR decided not to extend the interim measure to prevent the removal of a Syrian national from Austria, finding that the security situation and the individual

circumstances did not show a real and imminent risk of serious harm under Articles 2 and 3 of the Convention.

By decision of 23 September 2025, the ECtHR did not extend interim measures adopted on 11 August 2025 in a case concerning the removal of a Syrian national from Austria. The court held that the applicant did not demonstrate that his individual circumstances and the current situation in Syria amounted to a risk of irreparable harm upon return under Articles 2 and 3 of the ECHR.

Germany, Regional Administrative Court [Verwaltungsgericht], 4 November 2025.

- ***Applicant v Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)*, 17 L 3613/25.A**
- ***Applicant v Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)*, 17 L 3620/25.A**

The Regional Administrative Court of Düsseldorf rejected a request for a suspensive effect of the appeal lodged by a Syrian national against a negative and return decision by BAMF, dismissing his allegations on impediments to a return since it found, based on country of origin reports including from the EUAA, that the general security situation in Syria (Damascus and Latakia) did not indicate a risk of serious harm. Citing CJEU and ECtHR cases, the court also dismissed the applicant's claims on aspects related to health and a risk of material deprivation.

The Regional Administrative Court of Düsseldorf rejected the request for a suspensive effect of negative decisions by BAMF concerning two Syrian nationals and confirmed that they can safely return to their home regions of Damascus and Latakia. The court found that Syrian returnees would no longer face significant risks there because the level of indiscriminate violence is not at a level to trigger a risk of exposure to a serious individual threat to their life or physical safety simply by virtue of their presence. The court also noted that the general security situation in Syria did not change in 2025, and any violence remained an isolated and insignificant incident in the overall context.

Based on updated COI reports, including also the EUAA Syria: Country Focus (July 2025), the court concluded that Syrian nationals were not at risk of inhuman or degrading amounting to a risk of violation of Article 3 of the ECHR. The court noted that Syrians can access return assistance programmes which would prevent them to fall into material deprivation. The court reiterated the ECtHR standards on protection against removal and ruled that the applicant did not substantiate exceptional circumstances reaching the high threshold of Article 3 of the ECHR.

Resettlement

Implicit right to admission for resettlement

Germany, Higher Administrative Court (Oberverwaltungsgericht/Verwaltungsgerichtshöf), *Applicant v Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge, BAMF)*, OVG 3 S 113/25, 29 October 2025.

The Higher Administrative Court of Berlin-Brandenburg allowed the appeal of a South Sudanese applicant who requested admission to the territory as a resettled refugee and found that BAMF actions, conduct and procedural steps led to an implicit notification of a favourable decision to admit the applicant. The court also took into account the applicant's serious medical condition and deterioration of her health.

A South Sudanese applicant was selected by UNHCR for resettlement to Germany due to her serious medical condition, including a neurological condition resulting in significant weakened physical state, limited mobility and specific regular medication and diet. The applicant and her five family members underwent the admission procedure up to the point of visa issuance and travel arrangements which ended with a flight cancellation to Germany and a return to the Kakuma refugee camp.

The applicant unsuccessfully requested the Berlin Administrative Court to order BAMF to grant her admission to enter German territory based on her alleged selection as a resettled refugee as the court considered that the applicant did not receive an official notification of an admission commitment, thus she could not derive a right to admission and to the issuance of a visa.

On the onward appeal, the Higher Administrative Court of Berlin-Brandenburg quashed the contested decision and clarified that Section 37(2), sentence 1 of the Administrative Procedure Act stipulates that an administrative act can be issued and communicated not only in writing or orally, but also in other ways as for example, through implied conduct. It took into consideration that BAMF effectively issued a signed document dated 1 February 2025 where it stated that the applicant and her family members were granted a commitment to admission pursuant to Section 23(4) of the German Residence Act. BAMF conducted several steps of the admission procedure which implied a favourable decision for its actions, which included travel arrangements with the support of other agencies, documents stating that the visa was issued and correspondence with a supporter of the applicant which suggested, in an unequivocal manner, that the applicant would be admitted to Germany.

In view of all the circumstances of the case, the court concluded that the applicant successfully proved that she and her family members were implicitly granted a commitment for admission to Germany and ordered BAMF to facilitate their admission.


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