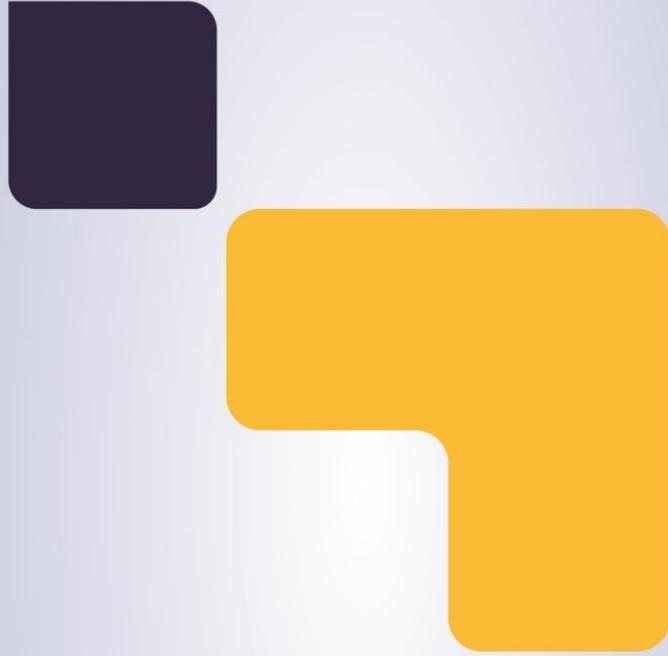


Quarterly Overview of Asylum Case Law





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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

AG	Advocate General at the Court of Justice of the European Union
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)
APR	Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU
BAMF	Federal Office for Migration and Refugees (Germany)
BFA	Federal Office for Immigration and Asylum Bundesamt für Fremdenwesen und Asyl (Austria)
CEAS	Common European Asylum System
CESEDA	Code on the Entry and Residence of Foreigners and the Right 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)
COA	Central Agency for the Reception of Asylum Seekers (The Netherlands)
CPR	Pre-Removal Centre Centro di Permanenza per il Rimpatrio (Italy)
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)
Fedasil	Federal Agency for the Reception of Asylum Seekers
FGM/C	female genital mutilation/cutting
Frontex	European Border and Coast Guard Agency
General Court	General Court of the European Union
Hague Convention	Hague Convention on Private International Law
IND	The Immigration and Naturalisation Service (The Netherlands)
IPAC	International Protection Administrative Court Διοικητικό Δικαστήριο Διεθνούς Προστασίας (Cyprus)
IPO	International Protection Office (Ireland)
OFPRA	Office for the Protection of Refugees and Stateless Persons (France)
PTSD	post-traumatic stress disorder
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
RCD	Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)
SAR	State Agency for Refugees (Bulgaria)
SEM	The State Secretariat for Migration Staatssekretariat für Migration Secrétariat d'État aux migrations Segreteria di Stato della migrazione (Switzerland)
SCNC	Southern Cameroons National Council





TIRA	Tigrayan Interim Regional Administration (Ethiopia)
UN	United Nations
UNE	The Immigration Appeals Board (Norway)
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 1/2026” were pronounced from December 2025 to February 2026.

Court of Justice of the European Union (CJEU)

Seven significant judgments were pronounced by the CJEU during the last quarter. These included the responsibility of the European Border and Coast Guard Agency (Frontex) in joint operations in Greece; how to calculate the 6-month transfer time limit in the Dublin procedure when an appeal has a suspensive effect; the application of the safe third country concept; sanctions when an applicant refuses to be transferred between reception centres; the applicant’s liability for delayed processing of an asylum application, resulting in a refusal to access the labour market; and the right to access information by asylum applicants and judicial authorities on the investigation carried out by national authorities in the applicant’s country of origin.

Notably, for the first time, the Grand Chamber of the CJEU affirmed that EU agencies may be held accountable for activities within the scope of their mandate which violate fundamental rights and the rule of law.

On 18 December 2025, the CJEU, sitting in Grand Chamber formation, pronounced two highly awaited judgments confirming the liability of Frontex in joint operations involving alleged pushbacks during the implementation of a return ([Hamoudi v Frontex](#), C-136/24, 18 December 2025; [WS and Others v Frontex](#), C-679/23 P, 18 December 2025). The CJEU set aside the decisions of the General Court of the European Union (General Court) in the cases concerning an action for damages submitted by Syrian nationals. Departing from the General Court’s findings that there was no causal link between the involvement of Frontex and the applicants’ requests for damages, the CJEU reinforced judicial scrutiny and shed light on key aspects of Frontex’s accountability in the context of its operational activities. It centred its reasoning around the vulnerability of asylum applicants, who may be unable, or practically prevented, from gathering evidence.

In [Hamoudi v Frontex](#), the CJEU clarified that the right to an effective remedy means that the burden of proof may be adapted. In this case, the applicant provided sufficiently detailed proof, specific and consistent proof to constitute *prima facie* evidence, so the General Court must adopt measures to gather from Frontex all relevant information in the context of an alleged pushback. Furthermore, in line with the jurisprudence of the European Court of Human Rights (ECtHR), the CJEU highlighted the significantly vulnerable position of asylum applicants faced with limited access to evidence which is under the control of an authority such as Frontex.

Similarly, [WS and Others v Frontex](#) (C-679/23 P, 18 December 2025) addressed the responsibility of Frontex in the context of a return operation of third-country nationals from Greece to Türkiye, in which the agency provided support to transfer a Syrian family to Türkiye





without the existence of a return decision. Contrary to the findings of the General Court, the CJEU affirmed that, in joint return operations, Frontex has the obligation to verify the existence of a return decision for all persons included in the operation and that any infringements of fundamental rights during a return flight may result in the liability of the Member State concerned and that of Frontex being liable. It reinforced that Frontex must ensure respect for fundamental rights in the conduct of its operations, clarifying that even when a conduct is imputable to a Member State, the agency's responsibility is not automatically excluded.

The court concurred with the [opinion](#) of Advocate General (AG) Capeta that Frontex had an obligation under EU law to establish the existence of a return decision before conducting a return operation, and in view of the applicant's vulnerability and circumstances of the case, there was a clear link between the breach of fundamental rights, including the principle of *non-refoulement*, and the damage incurred.

The CJEU also added to its previous jurisprudence on the concept of a safe third country. In [NP v Predsedatel na Darzhavna agentsia za bezhantsite \[Aleb\]](#), (C-718/24, 5 February 2026), the CJEU interpreted the recast Asylum Procedures Directive (recast APD), focusing specifically on the clarity of the act through which the designation of safe third countries is made and the sources used when determining safe third countries. Importantly, the CJEU clarified that Article 38(2)(b) of the recast APD must be interpreted as meaning that the determining authority may apply the concept of a safe third country on the basis of information from publicly available sources and a decision of the executive which draws up a list of safe third countries. In addition, Member States must lay down rules in national law to establish a methodology for competent authorities, which must include a case-by-case consideration of the safety of the country for a particular applicant or a national designation of countries considered to be generally safe. Irrespective of the method chosen to apply the concept of 'safe third country', Member States must provide rules for individual assessment considering the particular circumstances of the applicant, the possibility for the applicant to challenge the existence of a connection and, in case of an act of general application, whether the third country satisfies the conditions for being regarded as safe for the applicant.

On the right to an effective judicial remedy when the application is rejected based on the concept of a safe third country, the CJEU recalled its previous findings in [Alace and Canpelli](#) (C-758/24 and C-759/24, 1 August 2025) that national courts must ensure that the applicant can state their point of view in person about the application of the concept in their particular case and challenge the existence of a connection with the third country. It affirmed that national courts have their own duty to verify "whether there is a connection, within the meaning of Article 38(2)(a) of that directive, between the applicant and the third country concerned, even if its national law does not grant it such a power".

The CJEU interpretation provides guidance to national authorities on the designation of safe third countries, ahead of the changes brought by the Pact's Asylum Procedure Regulation which sets a common procedure across EU Member States (APR). Specifically, the court emphasised that Member States must base the designation on reliable sources, including from Member States, the EUAA, UNHCR and the Council of Europe, and are obliged to establish national rules for competent authorities to assess its application on a case-by-case basis. These national rules must include an applicant's right to dispute the application of the





concept to their particular case. In addition, the CJEU established a specific duty for national courts, even if not provided under their domestic law, to investigate whether there is a connection between the applicant and the third country.

The European Parliament recently adopted [Regulation 2026/463 amending Regulation 2024/1348 as regards the application of the concept of safe third country](#), allowing the application of the concept: i) when there is connection between the applicant and that country and when it is reasonable for the applicant to go to that country; and ii) when the applicant transited through the third country or “there is an agreement or an arrangement concluded between the Union, one or more Member States or one or more Member States and third countries, on the one hand, and the third country concerned, on the other hand, requiring the examination of the merits of any requests for effective protection made in the third country concerned by applicants covered by that agreement or arrangement”.

In the context of appeals with a suspensive effect against a decision on a Dublin transfer, the CJEU held in [H v Danish Immigration Service \(Udlændingestyrelsen, DIS\) \[Tang\]](#) (C-560/23, 18 December 2025) that the 6-month transfer time limit under Article 29(1) of the Dublin III Regulation begins to run only from the date of the final judicial decision determining the substantive legality of the transfer. Strengthening the right to an effective remedy, the court clarified that an annulment of a first transfer decision and administrative reassessments following an annulment are part of a single, continuous transfer procedure. By contrast, AG Richard de la Tour [considered](#) that the initial time limit for the transfer cannot be reset with each new decision or judgment, as this would undermine the strict nature of the deadline, leading to potential arbitrary delays.

To anticipate such delays, the court recalled that the objective of expedited processing of applications implies that both the administrative procedure and the judicial review must be conducted within a short period, so that if the overall duration exceeds what is necessary, responsibility shifts to the requesting Member State. Thus, this judgment serves for the future implementation of the Asylum Migration Management Regulation (AMMR), in which the rules are streamlined and allow for longer time limits to transfer an asylum applicant to the responsible Member State.

With regard to sanctions for breaching the rules of a reception centre, the CJEU affirmed in [AF, BF v Ministry of the Interior \(Ministero dell'Interno\) \[Sidi Bouzid\]](#) (C-184/24, 18 December 2025) that an applicant’s refusal to be transferred to another reception centre cannot justify withdrawing all material reception conditions or depriving the applicant of the most basic needs. The CJEU concurred with the [opinion](#) of AG Richard de la Tour that Member States have limited powers to sanction applicants under the recast Reception Conditions Directive (RCD). Member States cannot make assumptions and deem an applicant’s behaviour as ‘abandonment of the place of residence’ since the concept of ‘abandonment’ has a strict interpretation under the recast RCD, encompassing only a permanent and justified absence. However, Member States do have the power to implement a transfer to another accommodation centre, so a persistent non-compliance which leads to a risk of disrupting the management of reception facilities may amount to a serious breach of reception rules, allowing the imposition of a sanction. Importantly, the measure cannot totally withdraw material reception conditions and cannot be applied without the Member State’s





responsibility to respect proportionality, access to basic needs, particularly in cases concerning minors, and respect for human dignity.

Of relevance for integration in the host country, in [International Protection Appeals Tribunal, Minister for Justice, Ireland, Attorney General v L.K.](#) (C-742/24, 15 January 2026), the CJEU clarified the manner in which competent authorities must calculate the 9-months timeline to access the labour market when there are delays in the processing of an asylum application due to the applicant's conduct. When delays are due to actions of both the applicant and the competent authority, national authorities must determine the fraction of the time interval corresponding to the share of responsibility attributable to the applicant as a basis to reject mission to access to the labour market. In contrast, the court clarified that if an applicant does not submit the information requested from them to decide on their application for more than 9 months after he lodged an application, the applicant cannot access the labour market at the end of that period on grounds of a lack of cooperation.

Moreover, the CJEU strengthened the right to access information for both asylum applicants and judicial authorities concerning investigations carried out by national authorities in the applicant's country of origin and to supporting documents which were used in the decision-making of an asylum application. In [W v State Secretary for Justice and Security \(Staatssecretaris van Justitie en Veiligheid\)](#) (C-431/24, 29 January 2026), the CJEU ruled that Article 23(1) read jointly with Article 46 of the recast APD and Article 47 of the EU Charter must be interpreted as meaning that: i) the information related to an investigation in the country of origin of the applicant, conducted within the scope of determining protection needs, is covered by the concept of 'information in the applicant's file' when it is relevant for the court's assessment of the national authority's compliance with the principle of *non-refoulement*; and ii) the asylum applicant and the national court ruling on the lawfulness of a negative decision concerning the applicant must have access to the information. While the court established that the reviewing court must have full access to the investigation and the supporting documents, asylum applicants' access may be restricted for reasons related to national security, provided that they are given access to at least the essence of the decisive elements, in respect of the right to an effective remedy and the right to defense. The court reaffirmed the guiding principles established in [GM](#) (C-159/21, 22 September 2022) on access to classified information.

European Court of Human Rights (ECtHR)

The European Court of Human Rights (ECtHR) pronounced judgments related to claims of a violation of the fundamental right to family life in return proceedings when one family member suffers from a serious illness and has a short life expectancy. In a separate judgment, the court highlighted the importance of exhausting domestic remedies by Syrian nationals.

In a judgment concerning the right of the applicant to stay within a Member State when their spouse has a short life expectancy after being diagnosed with cancer, the ECtHR concluded that Sweden did not violate Article 8 of the ECHR by not granting a residence permit in these circumstances ([V.N. and others v Sweden](#), 19 February 2026). The ECtHR concluded that the national authorities struck a fair balance between the applicant's right to family life and the



state's interest in controlling immigration, considering that the two applicants had limited ties with Sweden; the husband could be considered a threat to national security in Sweden given the serious crimes committed in Azerbaijan between 2010-2013; and his repeated unsuccessful asylum applications and refusal to comply with return orders. Contrary to this conclusion, in a dissenting opinion, Judge Kučs focused on the time elapsed since the commission of the crimes, the applicant's conduct during that period and the applicant's family situation.

In [H.M. v Sweden](#) (9 December 2025), the ECtHR rejected the application of a Syrian national as inadmissible under Articles 3 and 8 of the ECHR on grounds of non-exhaustion of domestic remedies. The applicant claimed a risk of ill treatment in Syria and an interference with his private life if returned. The court found that the fall of the Assad regime was a significant change in the country of origin which took place after the ECtHR communicated the case to the Swedish government, and considering this new development, the applicant should have lodged a request for a re-examination, an extraordinary remedy available at the national level with an automatic suspensive effect. The court established that even in such exceptional circumstances, an applicant must first make use of national remedies before claiming a violation before the ECtHR, as national authorities are better placed to assess the change in factual circumstances.

National courts

Referral for a preliminary ruling on the impact of humanitarian conditions on the level of indiscriminate violence in Syria

In the context of assessing the level of indiscriminate violence in the rural area of Damascus, Syria and eligibility for subsidiary protection, the District Court of the Hague seated in Roermond [referred](#) one question to the CJEU for a preliminary ruling on whether the assessment must include humanitarian circumstances that could contribute to a serious and individual threat to the life of a person, resulting from indiscriminate violence in the context of an international or internal armed conflict. In case of an affirmative reply, the court asked about the required degree of a causal link between the humanitarian circumstances and the indiscriminate violence.

Relying on country of origin information (COI) and country guidance, including from the EUAA, and case law from the Council of State and EU courts, the referring court already suggested an answer in the sense that the humanitarian conditions, resulting directly or indirectly from the acts or omissions of an actor of serious harm who is a party to an armed conflict within the meaning of Article 15(c) of the recast Qualification Directive (QD), must be included in the assessment of indiscriminate violence. The referring court underlined that a reasonable approach would be to apply a less strict requirement on the actor of serious harm since, in contrast, a strict interpretation of this concept may disproportionately impact the burden of proof that falls on the applicant, depriving subsidiary protection of its effectiveness.

Safe return of Syrian nationals

In assessing the security situation and the possibility of safely returning to Syria, national courts extensively relied on the most recent COI reports and country guidance, with the



EUAA [COI Report - Syria: Country Focus](#) (July 2025), the EUAA [COI Query Syria: Major human rights, security, and socio-economic developments](#) (October 2025), and the EUAA [Country Guidance on Syria](#) (December 2025) guiding a common approach. However, the assessment of indiscriminate violence may lead to different outcomes depending on the region of origin and individual circumstances of an applicant.

For example, the District Court of the Hague seated in 's-Hertogenbosch [quashed](#) a return decision, finding that the Minister for Asylum and Migration had insufficiently assessed the situation in Syria, particularly in Aleppo, which was the province with the highest number of casualties while not characterised by an exceptional level of violence. Notably, the court emphasised that determining authorities cannot omit all humanitarian conditions from 14 years of conflict when undertaking an assessment, including severe destruction of Syrian infrastructure, critical healthcare conditions and generalised poverty and displacement. In addition, since the applicant claimed to be suffering from a medical condition that was not addressed by the minister, the court remitted the case for a re-examination.

In contrast, for a Syrian national from Idlib, the International Protection Administrative Court (IPAC) in Cyprus [held](#) that he did not present a real, personal and present risk in a clear and specific way that would demonstrate a risk of serious harm upon a return. The court noted that several COI characterised Idlib as 'relatively stable', being under the control of the transitional government, which launched security operations to maintain a firm control.

Refined framework for assessing westernisation grounds and integration in the host societies

In the context of an asylum application submitted by an Afghan national, the French National Court of Asylum (CNDA) [refined](#) and clarified the framework to assess asylum claims based on grounds of westernisation due to a stay in Europe and acquisition of norms and values governing in the host society, as opposed to those in force in his country of origin. Specifically, the fact of learning French, attending associative activities and making efforts towards social and professional integration did not demonstrate a long-lasting identification with the values, cultural model, way of life, uses or customs of western countries. Based on the [Country Guidance: Afghanistan](#) (May 2024) and the EUAA COI Report [Afghanistan: Targeting of individuals](#) (16 August 2022), the court found that the mere stay in Europe does not systematically expose Afghan nationals to persecution if returned. Therefore, the CNDA affirmed that an applicant must adduce serious evidence of a genuine and definitive renunciation of his lifestyle in Afghanistan and of acquisition of western norms and values, in a way that the person can be perceived as non-Afghan or non-Muslim. The court held that the applicant failed to demonstrate that his stay in Europe for 10 months, his activities and efforts for social and cultural integration could give rise to a fear of persecution or serious harm, also since they remained unknown to the Taliban.

Already in [K and L v State Secretary for Justice and Security \(Staatssecretaris van Justitie en Veiligheid\)](#) (C-646/21, 11 June 2024), the CJEU ruled with regard to women from Iraq who claimed before Dutch authorities to be members of a particular social group on account of their identification with western values. The court clarified that the first condition is met when applicants demonstrate a common background that cannot be changed, such as "a characteristic or belief that is so fundamental to identity or conscience that those women





should not be forced to renounce it". Second, a genuine identification with western values must result in being perceived as different by the society in the country of origin on account of that common characteristic. Fulfilment of both cumulative conditions along with an assessment of the situation in the country of origin may lead to being regarded as belonging to a particular social group, constituting a ground for persecution and qualification for protection.

Exclusion from international protection of a former member of the Wagner Group

The Immigration Appeals Board (UNE) in Norway [ruled](#), in Grand Chamber formation, that a former soldier in the Wagner Group who was involved in the war in Ukraine and had subjected Ukrainian prisoners to torture, murder, sexual abuse, detention in inhuman conditions and lack of contact with family members was excluded from international protection for committing war crimes and serious non-political crimes. For his attributed acts of international terrorism, serious cross-border criminal offenses carried out with the purpose of intimidating a population and forcing a government to take or refrain from taking an action, the UNE held that he could also be excluded from international protection due to committing acts contrary to the purposes and principles of the UN. The UNE clarified that the applicant was not a privileged combatant entitled to immunity from national criminal laws for acts of war, as the Wagner Group was not part of the regular Russian forces until 4 November 2022, thus he was considered a civilian without the right to fire on Ukrainian forces.

Referral to the CJEU for a preliminary ruling on measures which withdraw access to a financial allowance

The Constitutional Court in Belgium [suspended](#) on 26 February 2026 new rules which were introduced in July 2025, according to which access to a financial allowance is eliminated for applicants who received a decision on a previous application submitted in another Member State and for first-time asylum applicants who cannot be assigned a reception place. The contested provisions were adopted during a saturation of the reception system in Belgium, which was unable to respond to the high demand experienced for the last 2 years despite having a record number of reception places.¹

The court stayed the proceedings and referred a question to the CJEU for a preliminary ruling on the compatibility of the provisions with the recast APD, the recast RCD and the APR. The referring court held that withdrawing financial allowance when an application is deemed to be subsequent, without a clear legal basis, and when the reception system is saturated or unable to cater to special needs, may result in a risk of serious and irreparable harm to applicants.

Referral to the CJEU for a preliminary ruling on the obligation to provide a full assessment of a protection decision adopted in another Member State and on the issuance of a return decision when the first protection decision is still valid in the other Member State

In a case concerning two Somali nationals who were granted protection in Greece and later rejected in the Netherlands, the District Court of The Hague seated in Haarlem [made](#) a request for a preliminary ruling to the CJEU on 19 February 2026. The court sought

¹ EUAA, [Asylum Report](#) 2025, June 2025 and Asylum Report 2026 (upcoming in June 2026).





clarification on the interpretation of the judgment in [QY](#) (C-753-22, 18 June 2024), in particular about the obligation of Member States to take full account of a prior positive decision issued by another Member State when examining a new asylum application. It asked whether the principle of *non-refoulement* precludes issuing a return decision when the person still enjoys international protection in another Member State, and whether compliance with that principle must already be assessed when adopting the return decision, or whether the decision may still be issued while postponing a removal, including for an indefinite period due to the risk of a breach. Clarification by the CJEU on these issues appears necessary to address the risk of a limbo situation in which applicants have no right to reside in the Member State where the new asylum application was lodged (in this case the Netherlands), cannot return to the granting Member State (in this case Greece) and cannot be removed to their country of origin until the protection status has not been withdrawn.

In with a similar situation, the Federal Administrative Court in Germany [ruled](#) that, when a new application is rejected in Germany based on a new, individual assessment, also by taking into account the granting of refugee status in Greece and the supporting evidence in that positive decision, the German determining authority can issue a threat of deportation to the country of origin of the applicant (Iraq) since a transfer to Greece would subject the applicant to a risk of inhuman or degrading treatment.

Referral before the CJEU for a preliminary ruling on the difference in treatment between beneficiaries of international protection in the framework of family reunification

The Constitutional Court in Belgium suspended on 26 February 2026 newly-introduced rules since July 2025 which restrict access to family reunification for beneficiaries of subsidiary protection. The court referred five questions before the CJEU for a preliminary ruling on the compatibility of these rules with EU law due to a difference in treatment between refugees and their family members who are not present on the territory of a Member State and family members of beneficiaries of subsidiary protection in the same situation, as well as a distinct treatment for family members of beneficiaries subsidiary protection who are not present on the territory than for those who are present in Belgium. The referring court questioned the validity of the Family Reunification Directive, in conjunction with the recast QD and the Qualification Regulation about the disparate treatment between beneficiaries of international protection for the purpose of family reunification, by relying on the principles of equality, non-discrimination, the right to family life and the best interests of the child.





Access to the asylum procedure

CJEU on adapted burden of proof

CJEU, [Hamoudi v Frontex](#), C-136/24 P, 18 December 2025.

The CJEU clarified the rules governing the burden of proof and taking evidence in the context of an alleged pushback case against Frontex, noting that respect of the right to effective judicial protection requires an adaptation of the burden of proof. When an applicant provides evidence that is sufficiently detailed, specific and consistent to constitute prima facie evidence, the General Court should adopt measures to obtain from Frontex all relevant information at the agency's disposal.

A Syrian national requested the General Court to order Frontex to compensate him for non-material damage suffered because of a pushback on the island of Samos in Greece on 28 April 2020, together with a group of 22 people, during which Frontex was allegedly involved. The General Court dismissed the request on grounds of a lack of a legal basis and a lack of documentary evidence supporting his allegations. The court rejected the applicant's requests to order Frontex to submit certain documents which were in its possession and capable of supporting that action.

Recalling Frontex's legal responsibility for activities that the agency coordinates, with an emphasis on the respect for the

principle of *non-refoulement*, the CJEU affirmed that the General Court infringed the applicant's right to effective judicial protection for failing to correctly apply the rules on the burden of proof. The court reiterated that, in view of Article 47 of the EU Charter, the right to an effective remedy would be rendered illusory if victims of pushbacks, in an area of operations of Frontex, would be required to produce conclusive evidence that a pushback occurred and prove their presence.

Moreover, given Frontex's mandate to collect operational data and to ensure the respect for fundamental rights, it is more likely for the agency to be in possession of information allowing to prove the existence of pushbacks. Nonetheless, the applicant provided statements as a witness and submitted a press article which detailed the pushback operation, with specific and consistent elements to constitute *prima facie* evidence.

The court concluded that the right to an effective remedy requires an adaptation of the burden of proof, meaning that when *prima facie* evidence suggests that a pushback occurred and the person was present, it is for the General Court to adopt measures or to organise the investigation in a way to obtain from Frontex all relevant information at its disposal.



Access to asylum at the border with Belarus

Lithuania, Supreme Administrative Court of Lithuania [Lietuvos vyriausiasis administracinis teismas], [C. P. U. D. v State Border Guard Service and Migration Department of the Ministry of the Interior of the Republic of Lithuania](#), eA-820-552/2025, 30 December 2025.

The Supreme Administrative Court reaffirmed that every third-country national has the right to apply for international protection, including at the border, regardless of irregular entry or the likelihood of success of the application; however, it rejected the request for non-pecuniary damages lodged by an applicant, holding that the recognition of a violation of the applicant's right to asylum and to access the asylum procedure due to a pushback to Belarus was sufficient just satisfaction.

The Supreme Administrative Court partly allowed the appeal of a third-country national who complained before the Regional Administrative Court against the refusal of non-pecuniary damage on account of alleged danger to his life and health because of having been pushed back to Belarus and restricted freedom of movement between 26 October and 29 November 2023. It found that the lower court merely relied on the statements provided by the State Border Guard Service, failing to properly assess all available evidence, including the applicant's statements.

Referring to the CJEU judgments in [X v State Secretary for Justice and Security](#) (C-392/22, 29 February 2024) and [FM and Others](#) (C-924/19 and C-925/19, 14 May 2020), it emphasised that pushbacks violate Article 6 of the recast APD, and

pursuant to Article 18 of the EU Charter, third-country nationals have the right to apply for asylum, including at the border, regardless of an irregular entry and irrespective of the prospects of success of their application. The Supreme Administrative Court recognised that the applicant was subjected to a pushback due to the unlawful conduct of the State Border Guard Service who forcibly pushed the applicant to Belarus, failing to grant the applicant a real opportunity to apply for asylum.

While acknowledging that the pushback had contributed to the physical damage and suffering of the applicant who was stranded at the border in cold conditions for several days, the court considered that this negative impact did not suffice to warrant monetary compensation. The court considered the overall context of the incident and the authority's conduct which did not seek to worsen the applicant's legal position. It held that the finding of a violation constituted sufficient and reasonable satisfaction.

The court also upheld the lawfulness of the restriction of the applicant's freedom of movement for about 1 month, adopted at the instruction of the Migration Department. Referencing the CJEU judgment in [FMS and Others](#) (C-924/19 and C-925/19, 14 May 2020), it noted that the restriction had been subject to a judicial review, which was not appealed by the applicant.





Dublin procedure

CJEU on the start of the 6-month transfer time limit when the appeal has a suspensive effect

CJEU, *H v Danish Immigration Service (Udlændingestyrelsen, DIS) [Tang]*, C-560/23, 18 December 2025.

The CJEU ruled that, when an appeal against a transfer decision has a suspensive effect, the 6-month transfer time limit under Article 29(1) of the Dublin III Regulation begins to run only from the date of the final judicial decision ruling on the substantive legality of the transfer.

An Afghan national who applied for international protection in Denmark was subject to a Dublin transfer to Romania. Romania suspended all inbound transfers due to the large influx of displaced Ukrainian nationals in 2022, and when the measure was lifted, the transfer of the applicant was confirmed, also in appeal, on 2 December 2022.

On 2 February 2023, the applicant requested the reopening his asylum claim, alleging that the time limit for the transfer lapsed and Denmark became responsible. The Refugee Appeals Board ruled that the 6-month transfer time limit started to run only from the final decision of 2 December 2022. However, in reopening the case upon a request by the Refugee Council, it decided to stay the proceedings and sought clarification from the CJEU on the

rules for time limits under Article 29(1) and (2) of the Dublin III Regulation in a situation when a national court or tribunal makes a decision on the substantive legality of a second transfer decision with a suspensive effect and involving a remittal for a re-examination by the competent authority.

The CJEU clarified that, where a first transfer decision is annulled and remitted for re-examination, the 6-month transfer time limit only starts to run on the date of the final decision on the substantive legality of the transfer and, to ensure that the duration of the procedure is reasonable, the final decision on the action for an annulment brought against that decision must be adopted within a short period of time.

The court affirmed that postponing the start of the 6-month transfer time limit until the appeal against a transfer decision has been finally resolved preserves the equality of arms and ensures the effectiveness of appeal proceedings. It emphasised that, while the execution of the transfer decision is legally impossible because an appeal with a suspensive effect is pending, the approach prevents the time limit from expiring.

In the present case in which the applicant brought two actions for an annulment of the two transfer decisions, both with a suspensive effect, the court clarified that, in view of Recital 19 and Article 29(1) of the Dublin III Regulation, an effective remedy covers both the examination of the application of the Dublin III Regulation and also the legal and factual situation in the country of the transfer. Therefore, the single procedure means that the decision which annuls the first transfer decision on the basis of a change in circumstances must be considered as an interim decision which does not terminate the procedure.



First instance procedures

CJEU on the concept of a safe third country

CJEU, [*NP v Predsedatel na Darzhavna agentsia za bezhantsite*](#) [Aleb], C-718/24, 5 February 2026.

The CJEU interpreted the provisions on the concept of a safe third country in the recast APD, focusing specifically on the act through which the designation of safe third countries is made, the sources used when determining safe third countries, the connection between the applicant for international protection and the third country, and the judicial review provided by courts when applying the concept of safe third country.

A Syrian national from Aleppo contested before the Administrative Court of Sofia City the rejection of his asylum application by the State Agency for Refugees (SAR). SAR held that he was not eligible for refugee status but found that he would be at risk of a real threat to his life or person due to the internal armed conflict and indiscriminate violence in Syria. However, the application was rejected as inadmissible on the basis that Türkiye was deemed a safe third country since the applicant had family connections and spent 1 month there. SAR consulted COI according to which stateless persons and refugees from Syria who arrived in Türkiye due to events in Syria since 28 April 2011 were receiving temporary protection in

Türkiye, were protected against a forced return and their basic needs were satisfied.

The Administrative Court of Sofia City noted that the SAR applied the Decision no 247 which included Türkiye as a safe third country, that there was no methodology under Article 38(2)(b) of the recast APD, and that the applicant had not been informed of the possibility of challenging the application of the concept to him, nor the existence of a connection with Türkiye.

Given a divergent case law at national level on the concept of safe third country, the court submitted questions before the CJEU for a preliminary ruling on the interpretation of the inadmissibility ground under Article 33(2)(c) of the recast APD in conjunction with Article 38.

With the first two questions, the referring court sought clarification on whether the inadmissibility ground related to the concept of safe third country must be applied when examining the merits of an application for international protection and whether a substantive examination can reject the application based in this concept even if it is found that the applicant would meet the requirements for protection.

The CJEU affirmed that “the ground for inadmissibility set out in Article 33(2)(c) of that directive does not necessarily have to be applied when examining the merits of an application for international protection”. Also, “an application under substantive examination may be rejected as inadmissible on the ground that a third country is considered to be a safe third country for the applicant, even when the competent authority has found that the applicant meets the conditions for granting international protection under the recast QD. In contrast, an application may be rejected as unfounded, or even manifestly



unfounded only under the conditions set out in Article 32 of the recast APD and may not, in any event, be rejected as unfounded on the grounds of inadmissibility provided in Article 33(2)(c) of that directive.”

The third and fourth questions concerned the interpretation of Article 38(2) of the recast APD in view of the requirements set in the same article under paragraphs 1-4. The CJEU explained that Article 38(2) requires Member States to lay down in national legislation rules to determine the existence of a sufficient connection between the applicant and the third country, rendering the movement of that applicant to that country reasonable.

Then, Article 38(2)(b) of the recast APD must be interpreted as meaning that the determining authority may apply the concept of a safe third country based on information from publicly available sources and on a decision of the executive which draws up a list of safe third countries provided that the national law also defines a specific methodology for that authority. The methodology must provide for a case-by-case examination of the safety of the country for a particular applicant or the designation by the Member State of countries considered to be generally safe. Such individual examination would also allow an applicant to challenge the application of the concept considering their particular situation and the existence of a connection with that country.

On the fifth question concerning the right to an effective remedy and the scope of the judicial review, the CJEU answered that the court ruling on an appeal against a decision which rejected an application on the basis of the safe third country concept is required to determine whether the third country can be regarded as a safe third

country for the applicant, and whether each of the cumulative conditions is satisfied, including the one concerning the connection between the applicant and the third country. Also, the reviewing court must request, when necessary, relevant documents and factual evidence from the determining authority and, before adopting a decision, ensure the applicant’s right to be heard in person on the applicability of the ground of inadmissibility, also by challenging the existence of a connection with the third country.

Safe third country: Türkiye

Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration](#), NL24.31128, 8 December 2025.

The Court of The Hague seated in Arnhem annulled the inadmissibility decision against a Syrian applicant for insufficient reasoning on Türkiye as a safe third country, but it upheld its legal effects after supplementary information established the availability of protection in Türkiye.

A Syrian national who left his country in 2011 due to the conflict and resided in Türkiye for a long period of time contested the rejection of his asylum application as inadmissible on the basis that Türkiye constituted a safe third country. The District Court of the Hague seated in Arnhem found that the minister failed to substantiate its assessment in the applicant’s case, as it did not mention the sources used for such a conclusion, nor how they related to the assessment.

The minister supplemented its reasoning by letter of 5 December 2024 and statements of June 2025, where it referred to several reports indicating that Türkiye implemented a special asylum procedure





for Syrians (called temporary protection), the principle of *non-refoulement* is generally respected and removals concern mainly Syrians who breached the registration obligation. Given the applicant's individual circumstances, her marriage to a Turkish national and the possibility to lawfully reside in Türkiye, the court upheld the legal effects of the contested decision.

Insufficient assessment of a specific harm related to prostitution and gender identity for a transgender woman in Venezuela

Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration](#), NL25.12745, 10 December 2025.

The District Court of The Hague seated in Middelburg annulled the rejection of an asylum claim by a Venezuelan transgender woman, holding that the credibility assessment was flawed because the minister wrongly separated prostitution-related harm from gender identity and failed to integrate relevant country of origin information.

A Venezuelan national, assigned male at birth and identifying as a woman, requested international protection in the Netherlands claiming that she had been discriminated against, verbally abused, assaulted and threatened in Venezuela because of her identity as a transgender woman. The Minister for Asylum and Migration rejected her application for international protection as unfounded, considering that her claims that she fled Venezuela due to problems related to her gender identity were not credible and finding instead that her problems stemmed from prostitution. It relied on COI that

indicated that there was discrimination against transgender people in Venezuela, but it did not prove systematic persecution.

Upon appeal, the District Court of the Hague seated in Middelburg found that the minister's credibility assessment was insufficient. The minister wrongly separated the applicant's problems related to prostitution from her transgender identity, despite the applicant's consistent statements that she was forced into prostitution precisely because she could not find other work due to discrimination related to her gender identity. According to the court, the minister did not find the applicant's statements implausible and therefore should have assumed their truth. The court further held that the minister failed to properly consider relevant COI submitted by the applicant, and it should have integrated it into the credibility assessment.

The court concluded that the minister had wrongly deemed parts of the asylum account implausible and had therefore conducted an incorrect assessment of the risk of serious harm upon a return to Venezuela. The court also noted that the minister had incorrectly relied on case law concerning homosexuals in Venezuela, which did not concern transgender people but related to a group with a fundamentally different position in the country.

Gathering supporting evidence while processing applications under the accelerated procedure

Ireland, High Court, [E.I. v Chief International Protection Officer, Minister for Justice, International Protection Appeals Tribunal](#), [2025] IEHC 690, 5 December 2025.



The High Court emphasised that accelerated safe country processing must ensure a fair and comprehensive examination and sufficient time for the applicant to gather supporting evidence; it held that the IPO breached its duty of cooperation by deciding without awaiting a promptly requested psychological report that could have affected the credibility assessment.

A Georgian national who claimed to have endured physical violence from her father due to her sexual orientation sought a judicial review before the High Court, arguing that the decision of the International Protection Office (IPO) was unlawful because it was taken without considering medical evidence.

The IPO had denied protection to the applicant on the same day that the psychological assessment was scheduled, without allowing a request to delay the decision pending the completion of the psychological assessment. The psychologist's report, which was submitted 6 days after the decision, diagnosed the applicant with post-traumatic stress disorder (PTSD) and severe trauma.

The High Court emphasised that accelerated processing does not remove the duty to cooperate with the applicant and to assess all relevant elements. The court stressed that prioritised procedures must still ensure a fair and comprehensive examination and allow applicants enough time to gather supporting evidence.

The court rejected the authority's argument that the applicant's solicitor had delayed the production of the psychological report, finding the solicitor acted promptly, obtained an expedited appointment and asked only for a short postponement.

The court also rejected the authority's contention that the report was not decisive. The correct test was whether the omitted evidence might have affected the credibility assessment. The court held that, considering that the report confirmed severe trauma and PTSD, it could have supported her narrative and may have led to a different credibility finding.

Country of origin information on the forced recruitment of Afghan minors by the Taliban

Slovakia, Administrative Court in Košice [Správny súd v Košiciach], *A.B. v Ministry of the Interior, Migration Department, Slovakia*, 12Saz/2/2025, 18 December 2025.

The Administrative Court in Košice annulled the decision of the Ministry of the Interior denying refugee protection to an Afghan minor, finding that the ministry disregarded relevant country of origin information on forced recruitment of minors by the Taliban and failed to conduct a prospective assessment.

An Afghan unaccompanied minor challenged the Ministry of the Interior's refusal to grant refugee protection, which had instead granted him subsidiary protection. The ministry had concluded that the applicant's fear was not well-founded, and Taliban attempts to recruit him did not constitute persecution linked to a protected ground under the Asylum Act. The Administrative Court in Košice upheld the applicant's appeal, referring to the EUAA [Afghanistan – Country Focus: Country of Origin Information Report](#) (November 2024) and other sources that documented serious abuses against boys recruited by the Taliban and indicated that, according to some sources, forced and underage recruitment continued in Afghanistan even after the regime change.



The court held that the ministry failed to prospectively assess whether the applicant's fear of persecution or the risk of serious harm was justified in the future, noting that a well-founded fear suffices even when the applicant has not yet suffered actual harm. With reference to Article 10 of the recast QD, it stated that it is not decisive whether the applicant was politically active but whether political opinion may be imputed to him by the actor of persecution.

The court also referred to the CJEU judgment in [A, S v Staatssecretaris van Veiligheid en Justitie](#) (C-550/16, 12 April 2018), confirming that an asylum application lodged by a minor must continue to be assessed with child specific safeguards, even if the applicant reaches majority during the procedure.

The Administrative Court in Košice annulled the decision which denied refugee protection and instructed the ministry to reassess the applicant's eligibility by examining the risk of harm arising from his repeated refusal to join the Taliban and taking into account his status as a minor.

Subsequent application after unsuccessful procedure in another Member State

Germany, Federal Administrative Court [Bundesverwaltungsgericht], [Federal Office for Migration and Refugees \(BAMF\) v Applicant](#), BVerwG 1 C 7.25, 28 January 2026.

The Federal Administrative Court clarified that an asylum application submitted by an applicant in Germany did not qualify as a second application under national law, because the unsuccessful asylum procedure initiated earlier in Finland had

not become final. The court concluded that the date of the application in Germany is the decisive factor when assessing whether an application can be considered as a second application.

An applicant requested asylum in Germany after having applied for international protection in Finland. The procedure was not finalised in Finland when he applied in Germany and a transfer of responsibility to Germany happened afterwards.

BAMF rejected the application as inadmissible on grounds that it constituted a subsequent application, within the meaning of Section 71a of the Asylum Act. On appeal, the Higher Administrative Court overturned this decision, holding that the conditions for a second application were not met since the procedure was not concluded in Finland at the time when the new application was submitted in Germany.

BAMF appealed on points of law before the Federal Administrative Court, arguing that the application in Germany must be considered as a subsequent application.

Citing the CJEU judgment in [N.A.K. and Others v Bundesrepublik Deutschland](#) (joined Cases C-123/23 and C-202/23, 19 December 2024), the court clarified that a second application presupposes that an unsuccessful asylum procedure was completed in a safe third country. It ruled that the only decisive factor for qualifying as a subsequent application under Article 2(q) of the recast APD or as a second application under Section 71a of the Asylum Act is the date of making of the application. Therefore, it held that Section 71a(1) of the Asylum Act covers also the situation of a further asylum application submitted in Germany



after the unsuccessful conclusion of an asylum procedure in another Member State.

Based on this interpretation, the court found that, since the applicant submitted the application in Germany before its conclusion in Finland, the application in Germany could not be qualified as a subsequent application and rejected BAMF's appeal.



Assessment of applications

Single woman qualified as being at risk under national policy if returned to Iraq and Somalia

Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration, NL25.35886](#), 5 December 2025.

The Court of The Hague seated in Rotterdam upheld the minister's rejection as manifestly unfounded of a request for international protection by an Iraqi Yazidi widow, finding her account of abuse by her in-laws not credible, ruling that she did not qualify as a single woman at risk under national policy and concluding that return to the Khanke displacement camp did not entail a real risk of serious harm under Article 3 of the ECHR.

An Iraqi national of Yazidi ethnicity appealed the negative decision of the Minister for Asylum and Migration to the District Court of the Hague seated in Rotterdam. The court found her account of abuse by her in-laws implausible and had further concluded that the applicant did not qualify as a single woman at risk as formulated in paragraph C7/16.3.2 of the Aliens Circular 2000. It also held that she was not at real risk of serious harm upon a return to Iraq, since evidence did not show that she was discriminated against as a Yazidi in the Kurdish Autonomous Republic to such an extent that she was unable to function socially and professionally.



The court upheld the minister's decision and declared the appeal unfounded. First, it agreed with the minister that the applicant's statements were inconsistent and implausible. The court confirmed that the applicant did not fall within the risk profile, as she maintained contact with her family, had support from her brother and had demonstrated an ability to sustain herself and her children in the camp for several years. In this context, the applicant had not substantiated that she would be forced to leave her children behind or that her family ties were broken and could not be restored.

The court determined that the Khanke camp was the applicant's habitual place of residence in view of her 9-year stay, the access to schooling for her children and the access to work and medical care. Thus, on the risk of serious harm upon a return to Iraq, specifically to the Khanke camp, the court considered relevant COI, including the General Official Report on Iraq (November 2023) and the thematic Official Report on Iraq (November 2025), as well as information from the Dutch Council for Refugees. These sources indicated a deteriorating humanitarian situation in displacement camps, including shortages of shelter, food, medical care and psychosocial support. However, the court held that humanitarian conditions alone play a limited role in the assessment under Article 3 of the ECHR. This would be the case for humanitarian conditions that do not occur in the context of an armed conflict.

Referring explicitly to the ECtHR judgments in *Sufi and Elmi v The United Kingdom* (Nos 8319/07 and 11449/07, 28 June 2011), and *S.H.H. v The United Kingdom* (No 60367/10, 29 January 2013), the court reiterated that only in very exceptional

cases when compelling grounds are shown, it may find a violation of Article 3 of the ECHR for humanitarian conditions. This would be the case for humanitarian conditions that do not occur in the context of an armed conflict.

The court concluded that, although conditions in the camps in the KAR (including Khanke) were difficult, the available COI reported that some assistance and services remained available and that the applicant had not demonstrated exceptional circumstances specific to her individual situation.

Court of The Hague [Rechtbank Den Haag], *Applicant v The Minister for Asylum and Migration*, NL25.29051, 5 December 2025.

The Court of The Hague seated in Groningen upheld the rejection of international protection for a Somali applicant, finding that she did not fall within the single woman risk policy and had not substantiated a real risk of serious harm from Al-Shabaab or due to indiscriminate violence in Mogadishu.

A Somali national contested the rejection of her request for international protection as unfounded. The Minister for Asylum and Migration considered the applicant's account credible, but it concluded that it did not give rise to a well-founded fear of persecution or a real risk of serious harm upon a return to Somalia. The minister's policy is to consider that single women in Somalia are a risk profile, but the applicant was not considered a single woman. Also, the minister found that the applicant did not come from an area under Al-Shabaab control, but from a region under the control of the Somali authorities, thus it found that the risk of being a victim of indiscriminate violence was not greater than for others.





On appeal, the District Court of the Hague seated in Groningen upheld the minister's decision. On her qualification as single woman, the court acknowledged that the applicant's mother was still living in Somalia and could be considered part of her social network. It held that the applicant's assertion that she no longer had contact with her mother was insufficiently substantiated.

On the risk of serious harm under Article 3 of the ECHR, the court accepted the minister's position that the Daynille district in Mogadishu is not under the control of Al-Shabaab. While documents submitted by the applicant showed that incidents had occurred in the district, they did not demonstrate that Al-Shabaab exercised control there. The minister relied on the EUAA [Country Guidance: Somalia](#) (October 2025), which included a map indicating that Mogadishu is under the control of the federal government. This was found consistent with the General Official Report on Somalia of April 2025, which also stated that Mogadishu remained under government control despite ongoing fighting between government forces and Al-Shabaab. The General Official Report further indicated that the applicant would not have to travel through areas under Al-Shabaab control upon a return.

The court also held that the minister was not required to assume a higher level of indiscriminate violence than reflected in the EUAA country guidance, as the document did not present a significantly different security picture from the General Official Report. The applicant had not demonstrated that she faced an increased individual risk of serious harm due to indiscriminate violence.

Membership of a particular social group: Transgender persons in Peru

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], [B. v French Office for the Protection of Refugees and Stateless Persons \(OFPRA\)](#), 25000720 C+, 12 January 2026.

The CNDA recognised transgender people in Peru as constituting a particular social group. It granted refugee protection to a transgender woman due to repeated threats and violence and the Peruvian authorities' refusal to provide her with adequate protection.

A Peruvian national requested international protection claiming a risk of persecution and serious harm in Peru by the authorities and society on the one hand, and by a criminal group on the other, on account of gender identity. On appeal, the CNDA overturned the decision and granted refugee protection.

Relying on COI concerning transgender persons in Peru, the CNDA found that they are subject to social stigmatisation, widespread discrimination and violence, and are particularly vulnerable to police abuse and impunity. The court noted that sexual and gender minorities face discrimination in employment, housing, education and healthcare.

Although a presidential decree classifying trans identity, non-binarism and intersexuality as mental illnesses was withdrawn, in practice transgender persons often lack valid identity documents, limiting their access to public services and increasing their vulnerability, including to trafficking in human beings.



The court further observed that, while the Peruvian Criminal Code criminalises discrimination on grounds of sexual orientation and gender identity and provides for aggravating circumstances, an effective protection is lacking in practice. Referring to multiple COI sources, the court highlighted a hostile political discourse towards transgender persons, significant societal rejection, and evidence that members of the national police were responsible for arbitrary detention and sexual violence against transgender women.

The court found the applicant's account of discrimination and violence by family members, neighbours and a criminal group to be credible and consistent. It therefore concluded that the applicant had a well-founded fear of persecution on account of membership of the particular social group of transgender persons in Peru.

Membership of a particular social group: Transgender and homosexual persons in Egypt

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], [R. v French Office for the Protection of Refugees and Stateless Persons \(OFPRA\)](#), 25010445 C+, 19 December 2025.

The CNDA provided refugee protection to a transgender applicant from Egypt, recognising that homosexual and transgender people in Egypt constitute a particular social group.

The asylum application of a national of Egypt, who claimed a risk of persecution on account of gender identity and past abuse, was rejected. On appeal, the CNDA overturned the decision and granted refugee status.

The court noted that, although same-sex sexual acts are not expressly criminalised under Egyptian law, general provisions are used to prosecute homosexual behaviour, including the 1961 law on combating prostitution and the 2018 cybercrime law. It further observed evidence of physical assaults and blackmail by members of the police, as well as widespread hostility from families, media outlets and religious leaders towards non-conforming sexual orientations and gender identities.

Referring to various COI sources, the court concluded that, in light of societal ostracism and the inadequacy of state protection, homosexual and transgender individuals constitute a particular social group in Egypt.

The CNDA found that the past homophobic persecution, the applicant's self-identification as a transgender person and the broader context of social stigmatisation in Egypt provided substantial grounds for considering the fear of persecution to be well founded. It further held that an effective protection from the Egyptian authorities would not be available in the event of a return.

Membership of a particular social group: Forced marriage in Yemen

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], [A. v French Office for the Protection of Refugees and Stateless Persons \(OFPRA\)](#), 23028255 C+, 20 February 2026.

The CNDA ruled that women in Yemen who refuse to submit to forced marriage or those who attempt to escape it by leaving their homes after being forced into marriage constitute a particular social

group at risk of persecution, including through domestic and family violence, both physical (including sexual) and psychological. The court noted that the authorities do not provide effective protection to women in such a situation given the legal context which does not encourage them to report the abuse, as well as the social and moral obstacles they may face.

The CNDA examined the conditions prevailing in Yemen for women with regard to matrimonial and family law, noting that the legislation, specifically the Personal Status Code, which is based on Sharia law, discriminates against them and is particularly unfavourable in matters of marriage, divorce, inheritance and child custody.

According to the sources consulted by the court, early and forced marriages are realities of Yemeni society that have been exacerbated by the conflict. Marriages are used as financial mechanisms to combat the prevailing economic insecurity, and women have no bargaining power over their own marriage contracts, as the agreement is between the wife's male guardian and the future spouse.

If a woman protests against a marriage, she risks being ostracised and beaten by her father, husband or in-laws. Women may also be beaten for refusing sexual relations, and the husband's physical and sexual violence against his wife is considered normal, with social rules prohibiting the victim from complaining about it. Furthermore, the criminal code provides that a woman's testimony is less valuable than that of a man and allows for the reduction of the punishment imposed on a man who killed a woman in his family for an alleged disgraceful act. Finally, one source also showed that women may be charged and imprisoned for adultery.

The court concluded that forced marriage constitutes a social norm and the surrounding society in Yemen perceives those who escape it differently, so that such women constitute a particular social group and are therefore at risk of persecution, including domestic and family violence, both physical (including sexual) and psychological. To reach this conclusion, the court noted also that national authorities do not provide effective protection to women in such situation since the legal context does not encourage them to report the abuse they suffer as well as the social and moral obstacles they may face. In this case, the applicant was provided refugee protection, considering her detailed and personalised account of the facts.

Female genital mutilation in the Gambia

Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration](#), NL24.21897, 11 December 2025.

The Court of The Hague seated in Middelburg upheld the rejection of a Gambian applicant's asylum claim based on fears of a forced marriage and female genital mutilation/cutting (FGM/C). Relying on COI showing a low prevalence of FGM/C among Christians and the Aku tribe, the court held that a small statistical risk did not amount to a real risk of serious harm and further accepted that protection was available from The Gambian authorities and NGOs.

The Minister for Asylum and Migration rejected the application for international protection of a Gambian national of Christian faith belonging to the Aku tribe,

who claimed a fear of being forced into marriage and subjected to FGM/C.

Upon an appeal, the District Court of The Hague seated in Middelburg confirmed the minister's assessment, noting the absence of substantiation and objective evidence. It held that, as a Christian woman belonging to the Aku tribe, the applicant did not belong to a group in which FGM/C is commonly practised. Relying on COI from the Immigration and Naturalisation Service (IND), the court acknowledged that FGM/C is not common within the Aku community and prevalence rates are higher among Muslim women than among Christian women. It concluded that, while the risk of FGM/C could not be entirely excluded, a low statistical risk does not automatically amount to a real risk of serious harm. It further found it unlikely that the applicant would face social pressure within her community to undergo FGM/C.

The court also noted that FGM/C is criminalised in The Gambia and that governmental measures aimed at its eradication are in place. It observed that organisations which are active in preventing FGM/C also provide protection and support. The court found that the applicant had not demonstrated that she would be unable to access this protection.

Political opinion: Sri Lankan Tamil

Netherlands, Court of The Hague [Rechtbank Den Haag], *Applicant v The Minister for Asylum and Migration*, NL24.30115, 3 December 2025.

The Court of The Hague seated in Arnhem upheld the minister's rejection as manifestly unfounded for the seventh request for international protection lodged

by a Sri Lankan Tamil applicant, finding that her political activities in the Netherlands did not give her a prominent role, COI showed returnees faced only brief questioning and she had not demonstrated a real risk of serious harm under Article 3 of the ECHR upon a return to Sri Lanka.

A Sri Lankan national of Tamil ethnicity submitted a seventh asylum application, reiterating previous allegations and adding claims related to political activities in the Netherlands, including attendance at demonstrations, rallies and commemoration days organised by Tamil diaspora organisations (such as the Tamil Coordinating Committee and the Tamil Forum). She claimed that, due to these activities and her political beliefs, she would attract the negative attention of the authorities, resulting in persecution or a real risk of serious harm if returned to Sri Lanka. The applicant lodged an appeal against the rejection of her claims by the Minister for Asylum and Migration.

The District Court of the Hague seated in Arnhem determined that the claim concerned solely the risk of serious harm upon a return on grounds of political activities and cited COI according to which the Sri Lankan authorities focused on Tamils who played a significant or prominent role in organised separatist activities or shaping public opinion in favour of Tamil Eelam. This risk profile included holders of leadership positions or those with a significant public profile, and not every Tamil who participated in demonstrations. The court assessed the applicant's activities as limited to attending meetings, commemorations and demonstrations, without exhibiting a public or influential profile.



Recalling the CJEU findings in [S, A v State Secretary for Justice and Security](#) (C-151/22, 21 September 2023), the court reiterated that the seriousness of the fear depends on how the applicant intends to express political beliefs upon a return and the consequences thereof, taking into account both the individual situation and the general context of the country of origin. In view of COI, it noted that post-war, multiple Tamil political parties operated legally, Tamil leadership no longer campaigned for an independent Tamil Eelan, and demonstrations and commemorations were allowed.

As the applicant did not display any intention to further engage in political activities upon a return, entailing a risk or assuming a prominent political role, her allegations of restrictions in her political beliefs upon a return were deemed unfounded.

Refined framework to assess the grounds of westernisation

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], [S. v French Office for the Protection of Refugees and Stateless Persons \(OFPRA\)](#), 25008029 C+, 11 December 2025.

The CNDA updated and redefined the framework to analyse the grounds of westernisation alleged by applicants due to their stay in Europe and their integration into host societies governed by norms and values which oppose those in force in their country of origin. The court held that learning the French language, involvement in associative activities, taking steps towards social and professional integration, and presence on social networks do not, in themselves, demonstrate the lasting acquisition of all or a part of the values, cultural model, way

of life, uses or customs of western countries.

An Afghan national claimed asylum on grounds of a fear of persecution or serious harm due to imputed political opinion and his westernisation. Upon a rejection by OFPRA, he lodged an appeal contesting the refusal to be granted refugee status and arguing eligibility for subsidiary protection on account of indiscriminate violence prevailing in Nangarhar.

Citing the EUAA [Country Guidance: Afghanistan](#) (May 2024) and the EUAA [COI Report Afghanistan: Targeting of individuals](#) (16 August 2022), the CNDA noted that a mere stay in Europe would not lead to a systemic exposure to persecution upon a return to Afghanistan. The court emphasised that an Afghan who claims such risk bears the burden of proof and must submit all evidence specific to his profile to substantiate a risk due to westernisation. Looking at his individual circumstances, the court found that he stayed for 10 months in Europe and did not present any particular elements to characterise him as 'western'.

On the contrary, mere stereotypical mentions of acquiring French language skills, presence on social media and in associative environments did not suffice in the absence of serious evidence of genuine and definitive identification with western norms and a renunciation of the Afghan lifestyle in a way that he would likely be perceived as non-Afghan or non-Muslim. Language acquisition and efforts of integration into a host society as an asylum applicant do not equate with a voluntary westernisation since, by their nature, they cannot give rise to fears of persecution on political or religious grounds since they are unknown to the Taliban. In addition, the CNDA dismissed





the untranslated screenshots of publications from social networks to be irrelevant and inconclusive evidence due to insufficient reliability and probative value.

On the security situation in Nangarhar, the CNDA referred to the CJEU judgment in [CF, DN v Bundesrepublik Deutschland](#) (C-901/19, 10 June 2021) to note that the assessment of a threat is not dependent on a threshold calculated by the number of civilian casualties, but it requires an overall consideration of all individual circumstances, particularly elements characterising the situation in the country of origin and adding to the quantitative criteria on the intensity of armed conflicts, the level of organisation of the armed forces involved, the duration of the conflict, the geographical extent of violence, or the possibly intentional aggression against civilians.

Citing the EUAA [Country Guidance: Afghanistan](#) (May 2024), the court affirmed that no province in Afghanistan was characterised by an exceptional level of indiscriminate violence, thus a high level of individual circumstances was required to justify the need for subsidiary protection. In the absence of a particular vulnerability of the applicant, exposing him to insecurity in Kabul, as a transit area to reach his district, the court concluded that he was not eligible for protection on this ground.

Cessation of assistance from UNRWA

National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], [R. v French Office for the Protection of Refugees and Stateless Persons \(OFPRA\)](#), 24019510 C+, 8 December 2025.

The CNDA recognised that a stateless Palestinian from the West Bank must be granted refugee status ipso facto after finding that the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)'s protection had ceased, within the meaning of Article 1(D) of the Refugee Convention, due to the collapse of the security and humanitarian situation after the events of October 2023.

A stateless Palestinian from the West Bank who was registered with UNRWA appealed to CNDA against the rejection of his request for a re-examination and adding that the political and security context since October 2023 made it impossible for UNRWA to ensure decent living conditions in line with its mission.

On admissibility, the CNDA first noted that, although some facts predated the first decision, the vast deterioration of the security and humanitarian conditions in the West Bank constituted new circumstances that could alter the assessment. The court added that alongside the military offensive, the humanitarian response had been severely hampered by the entry into force on 30 January 2025 of two Israeli laws prohibiting UNRWA from operating on Israeli territory and forbidding any interaction between Israeli officials and UNRWA personnel, even though UNRWA is the primary provider of humanitarian aid in the Palestinian territories, including in the West Bank.

The court also noted that on 3 November 2024 Israel notified the UN of its immediate withdrawal from the 1967 Comay-Michelmores Agreement, which obliged Israel to facilitate UNRWA's work in the Palestinian territories. It could therefore be concluded that the security and humanitarian situation in the West Bank had deteriorated since the last decision of 4 January 2024. The aspects





presented by the applicant significantly increased the likelihood that he would meet the conditions required for protection, justifying the admissibility of the request for a re-examination.

On the application of Article 1(D) of the Refugee Convention, the CNDA recalled the considerations of the CJEU in [LN, SN](#) (C-563/22, 13 June 2024) and found that UNRWA could no longer fulfil its mandate for any stateless Palestinian in that region, given the extreme deterioration of the West Bank since late 2023 and the fact that UNRWA was barred from operating in Israel by Israeli legislation adopted in January 2025.

As the applicant was a registered UNRWA beneficiary and no exclusion grounds applied, the CNDA held that the conditions of the second paragraph of Article 1(D) of the Refugee Convention were met given UNRWA's inability to fulfil its mandate. Consequently, the CNDA found that the applicant was entitled to refugee protection *ipso facto*.

Exclusion: Former member of the Wagner Group

Norway, Immigration Appeals Board [Utlendingsnemnda (UNE)], [Applicant v Directorate of Immigration \(UDI\)](#), 6 February 2026.

The UNE ruled in Grand Chamber that a former soldier of the Wagner Group who was involved in the war in Ukraine was excluded from international protection for the commission of war crimes and serious non-political crimes and could be excluded for the commission of acts contrary to the purposes and principles of the UN. The UNE noted that the applicant was not a privileged combatant entitled to immunity from national criminal laws for acts of war, as the Wagner Group was not part of the

regular Russian forces until 4 November 2022.

A former soldier of the Wagner Group challenged the exclusion decision adopted by the Directorate of Immigration (UDI) for the commission of a serious, non-political crime, by arguing that he was a privileged combatant and the Wagner Group belonged to one of the parties of the conflict which was entitled to immunity from national criminal laws for acts of war.

The UNE, sitting in a Grand Chamber formation, reviewed international legal norms established in international criminal law and international humanitarian law, the practice of international *ad hoc* courts, the Geneva Conventions, the Rome Statute of the International Criminal Court and Article 1F of the Refugee Convention to affirm that the decisive factor is whether the act was committed in connection with an armed conflict. Therefore, the question of whether one is a lawful combatant in one of the parties' armed forces or whether one participates in the war as a civilian combatant, or a hybrid, as in the case of the Wagner Group is not decisive.

The UNE upheld the exclusion decision and relied on COI which documented the involvement of the Wagner Group in war crimes in Ukraine, which included acts of torture, murder, sexual abuse, detention in inhumane conditions and a lack of contact with family as routine treatment of Ukrainian prisoners of war.

On the allegation that the applicant was a privileged combatant, the UNE held that the Wagner Group did not form part of the regular Russian armed forces until 4 November 2022 and noted that a possible state responsibility does not exclude individual responsibility for war crimes. In contrast, it found that the applicant was to



be considered a civilian without the right to fire on Ukrainian forces since the Wagner Group was not part of the armed forces in Russia at the time.

On exclusion for the commission of a serious, non-political crime, the UNE noted that acts of torture and inhuman or degrading treatment are covered by the concept of a serious crime, thus the applicant, who confessed to have joined the Wagner Group for economic and not political reasons, was held liable for such acts and could be excluded under Section 31(1)(b) of the Immigration Act.

Finally, UNE also held that there was also a serious reason to assume that the applicant was guilty of acts contrary to the purposes and principles of the UN, and could be excluded also under Section 31(1)(c) of the Immigration Act, as he contributed to international terrorism, serious cross-border criminal acts carried out with the purpose of intimidating a population or forcing a government to take or refrain from taking an action.

Considering all humanitarian conditions when determining the level of indiscriminate violence under Article 15(c) of the recast QD

Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration](#), NL24.31749, 29 December 2025.

The District Court of the Hague seated in Roermond submitted a question for a preliminary ruling by the CJEU on whether, when determining the level of indiscriminate violence for the scope of Article 15(c) of the recast QD, all humanitarian circumstances which are a direct or indirect consequences of the

actions or omissions of an actor causing serious harm should be taken into account to assess the need for subsidiary protection.

A Syrian national from rural Damascus challenged the refusal of subsidiary protection and claimed that his request was justified by the general level of violence and the security and humanitarian conditions in Syria. The District Court of the Hague seated in Roermond established that Syria was experiencing indiscriminate violence within the meaning of Article 15(c) of the recast QD, especially in the area of rural Damascus. The court referenced the EUAA [COI Query Syria: Major human rights, security and socio-economic developments](#) (1 October 2025) and the EUAA [Country Guidance: Syria](#) (December 2025) and held that the area was not characterised by an exceptional situation resulting in a risk of a serious and individual threat to his life or person merely by presence in the area. The applicant claimed that all humanitarian conditions due to the armed conflict should be considered in the assessment of the level of indiscriminate violence and his eligibility for subsidiary protection, emphasising that the fall of the Assad regime did not end the conflict.

The District Court of the Hague seated in Roermond suspended the proceedings and sought guidance from the CJEU by referring a question on whether humanitarian circumstances that could contribute to a serious and individual threat to the life of a civilian or person, resulting from indiscriminate violence in the context of an international or internal armed conflict must be considered when determining the level of indiscriminate violence referred to in Article 15(c) of the recast QD. In the affirmative, it asked what degree of causal link is required between

the indiscriminate violence in the context of an international or internal armed conflict and these humanitarian circumstances.

The referring court also suggested the answer in the affirmative, referring to the EUAA reports and case law of the Council of State, in which humanitarian circumstances were considered in the assessment of the level of indiscriminate violence in Yemen and the Tigray region of Ethiopia. It ruled that humanitarian circumstances resulting directly or indirectly from the acts and/or omissions of an actor of serious harm who is a party to an armed conflict within the meaning of Article 15(c) of the recast QD must be included as a relevant factor in the overall assessment.

Importantly, the referring court addressed in its assessment the question of the actor requirement in the determination of the level of indiscriminate violence. It affirmed that a less strict approach would alleviate the burden of proof of both the applicant and the minister, is in line with the assessment for *non-refoulement* and it is adequate in a context where, even based on COI, it is difficult to identify which actor of serious harm caused which humanitarian circumstances, when and to which extent.

Netherlands, Court of The Hague [Rechtbank Den Haag], [Applicant v The Minister for Asylum and Migration](#), NL 25.21118, 11 December 2025.

The District Court of the Hague seated in 's-Hertogenbosch confirmed the exclusion from international protection of a Syrian national from Aleppo due to war crimes committed when he was a minor, finding his individual responsibility in view of his fanatic attitude and long-term

engagement with the combat group. However, the court annulled the return decision for failure of the Minister for Asylum and Migration to assess, in view of recent COI reports including from the EUAA, the level of indiscriminate violence in Aleppo and the humanitarian circumstances as having a substantial weight in the assessment due to a direct or indirect link with the actions or omissions of the actor of serious harm.

A Syrian applicant from Aleppo contested the exclusion from international protection and the return decision issued by the Minister for Asylum and Migration, claiming insufficient investigation of the facts and the situation in his country of origin. The District Court of the Hague seated in 's-Hertogenbosch confirmed his exclusion on account of having committed, as a minor, war crimes between 2014-2018.

The court considered his fanatic and loyal attitude to the combat group, demonstrated by the material found on social media, his statements and his involvement, without coercion or pressure, the extrajudicial execution and detention, torture and grievous ill treatment of enemies and/or civilians who were captured by the combat group.

The court further assessed whether the return decision was lawful and found that the minister insufficiently reasoned its findings of a low level of indiscriminate violence in Aleppo. Recalling the CJEU judgments in [Ararat](#) (C-156/23, 17 October 2024) and [Adrar](#) (C-313/25 PPU, 4 September 2025), in which the CJEU ruled on compliance with the principle of *non-refoulement* under the Return Directive, the Court of the Hague reiterated that the assessment of indiscriminate violence cannot be limited to the number of civilian casualties as a sole decisive factor for the purpose of Article 15(c) of the recast QD.

Relying on recent COI, including the EUAA [COI Report - Syria: Country Focus](#) (July 2025) and EUAA [COI Query Syria: Major human rights, security, and socio-economic developments](#) (October 2025), the court noted that the Aleppo province is one of the areas with the highest number of civilian casualties and underlined that armed confrontations have in fact always been present in Aleppo since the fall of the Assad regime, with an increase since mid-May 2025.

In addition, the court took into account all humanitarian conditions as a significant factor when determining the severity of indiscriminate violence, by underlying the harsh consequences of almost 14 years of conflict. It mentioned the severe damages of Syrian infrastructure, including water, critical condition of healthcare, more than 90% of Syrians living below the poverty line and insufficient access to food. The court held that the fact that the Assad regime is no longer an actor in the conflict did not alter the assessment on the prevailing humanitarian conditions in Syria.

In addition, the applicant claimed that his medical condition was not assessed, and the court assessed this failure as even more compelling in light of the already critical healthcare in Syria.

Individual circumstances to substantiate a risk under Article 15(c) of the recast QD upon return to Syria

Cyprus, International Protection Administrative Court [Διοικητικό Δικαστήριο Διεθνούς Προστασίας], *J.D. v Republic of Cyprus through the Asylum Service (Κυπριακή Δημοκρατία και/ή μέσω Υπηρεσίας Ασύλου)*, No 2340/2025, 29 January 2026.

The International Protection Administrative Court (IPAC) upheld the rejection of the asylum request and the return decision of a Syrian applicant from Idlib, concluding that there were no substantial reasons to believe that he would be at risk of persecution or at real risk of serious harm upon a return to Syria. The court referred to several sources, including the EUAA COI Country Focus Syria (July 2025) and EUAA Country Guidance on Syria (December 2025).

A Syrian national from Idlib contested the rejection of his asylum application and argued in appeal that there was no security in his country. During the court hearing, he alleged that in his area of Idlib there were still incidents of armed violence, intimidation and arrests.

IPAC upheld the negative decision, noting that during the interview no critical data or facts were presented to substantiate a real, personal and present risk in a clear and specific way. Citing the EUAA [COI Report - Syria: Country Focus](#) (July 2025), and the EASO [COI Report - Syria: Targeting of Individuals](#) (March 2020), the court noted that rebel attacks by Assad's Alawite militias against the transitional government and Sunni communities had declined and were currently occurring with less frequency than in March 2025. Citing paragraph 62 of the UNHCR [Handbook on Procedures and Criteria for Determining Refugee Status](#), IPAC agreed with the Asylum Service finding that, based on the evidence in the file, the applicant was an economic migrant.

On a real risk of serious harm in Idlib, IPAC referenced the EUAA [COI Report - Syria: Country Focus](#) (July 2025) to note that the governorate was almost entirely under the control of the transitional government, although its forces remained fragmented. It further noted that, in March 2025,

transitional government forces launched targeted security operations and set up checkpoints across the province to enhance security in the region. In addition, the Harmoon Centre described Idlib as 'relatively stable' compared to other provinces, with new security forces maintaining firm control despite occasional external threats.

Citing the EUAA [Country Guidance: Syria](#) (December 2025), the court concluded that indiscriminate violence was taking place in Idlib but it did not reach a high level. Following the consideration in CJEU judgments [Diakite](#) and [Elgafaji](#) to apply Article 15(c) of the recast QD, individual elements are required that would increase the risk for the applicant compared to the average population of the area. IPAC noted that the applicant was an adult man, married, father of seven children, without health problems or vulnerabilities, who had not experienced any previous persecution, with a work background and a strong family support network. Based on these, IPAC concluded that the applicant had failed to demonstrate a well-founded fear of persecution on any of the Refugee Convention grounds and there were no substantial grounds to believe the applicant would be at risk of suffering serious harm if returned to Syria.

Subsidiary protection: Tigray region in Ethiopia

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], [The Minister for Asylum and Migration v Applicant](#), BRS.25.000585

The Council of State ruled that there was no indiscriminate violence or armed conflict in Mek'ele, the capital of the Tigray region in Ethiopia, as the security situation improved since the ceasefire of November

2022, with a significant decrease in armed confrontations, human rights violations and the number of civilian deaths. The court distinguished between this area which is controlled by the Tigrayan Interim Regional Administration (TIRA) and the rest of the disputed areas in the north, south and west of Tigray, where various militias are active. Therefore, an asylum applicant from this region must demonstrate that they are at risk due to their personal situation.

An Ethiopian national from Mek'ele, the capital of the Tigray region, had her asylum application rejected in the Netherlands. The negative decision was annulled by the District Court of The Hague but upheld by the Council of State upon an appeal by the Minister for Asylum and Migration.

Based on COI and referencing the CJEU judgment in [Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides](#) (C-285/12, 30 January 2014), the Council of State ruled that the post-ceasefire security situation in Mek'ele did not amount to indiscriminate violence arising from an internal armed conflict within the meaning of Article 15(c) of the recast QD, and the humanitarian situation could not be attributed to an actor of serious harm who was a party to an armed conflict. In a judgment pronounced on the same day ([202500654/1/V2](#), 17 December 2025), the Council of State reached a similar conclusion with regard to Aksum (Tigray).

Relying on Article 4(4) of the recast QD, the Council of State considered that it was not plausible that the past persecution experienced by the applicant will recur, because the situation upon a return to Mek'ele had changed since the conflict in Tigray, when she was detained and threatened with rape in Addis Ababa because of her Tigrayan ethnicity. In view



of the improved security and human rights situation in Mek'ele following the ceasefire and where TIRA controls the area, the council held that the past persecution was not an indication that harm will recur.

It further held that the applicant did not substantiate that sexual violence was so prevalent in Mek'ele that returning women would systematically fear or face a real risk of such violence.

Subsidiary protection: Mali

France, National Court of Asylum [Cour Nationale du Droit d'Asile (CNDA)], *M.C. v French Office for the Protection of Refugees and Stateless Persons (OFPRA)*, 25032534 C+, 18 December 2025.

The CNDA ruled that the Kayes region in Mali is affected by indiscriminate violence resulting from an internal armed conflict, the intensity of which is not, however, such that there are serious and substantiated grounds to believe that every civilian returning there, simply by virtue of their presence in that city and region, would face a real risk of serious threat to their life or person.

A Malian national who claimed to face persecution on account of his sexual orientation appealed the negative asylum decision before the CNDA.

The CNDA acknowledged that Mali has been affected by an internal armed conflict since 17 January 2012, involving non-state armed groups such as the Group for the Support of Islam and Muslims, the Islamic State in the Greater Sahara and the Azawad Liberation Front, which are opposing the Malian Armed Forces, supported by foreign mercenaries.

The court specifically found that the Kayes region was affected by indiscriminate violence resulting from this conflict. However, it held that the level of violence in this region did not reach such an exceptionally high level to constitute substantial grounds to believe that a civilian returned to the area would, solely by reason of their presence there, face a real risk of being subjected to a serious threat to life or person. In such cases, subsidiary protection may only be granted when the applicant demonstrates personal circumstances placing them at a heightened risk of harm, such as age, gender, disability, particularly precarious living conditions, or a specific professional activity.

In this case, the court found that the applicant had not provided evidence capable of establishing that he would face a specific or increased risk in the event of a return there.





Reception

CJEU on refusal of access to employment due to delays attributable to the applicant

CJEU, *International Protection Appeals Tribunal, Minister for Justice, Ireland, Attorney General v L.K.*, C-742/24, 15 January 2026

The CJEU interpreted Article 15(1) of the recast RCD as meaning that, for the existence of a delay attributable to an applicant, national authorities must establish a causal link between the applicant's conduct and the delay incurred, with the result that the applicant can be held liable only for the delays caused by their own actions. The court also clarified that, for partial delays attributable to the conduct of an applicant, national authorities must determine the fraction of the time interval corresponding to the share of responsibility attributable to the applicant as a basis to refuse access to the labour market.

A Georgian national, applicant for international protection in Ireland, was granted several extensions to complete his application with requested information, which led to a delay in the processing and issuance of a decision. The delay was partly attributable to his conduct and overlapped for few months with the COVID-19 pandemic. When he sought access to the labour market, his request was denied on grounds that the delay in the examination of his asylum application was attributable to his conduct. The applicant appealed against the refusal, and

the High Court set aside the contested decision, finding it unreasonable to deny access due to the applicant's failure to comply with his obligations.

The Minister for Justice further appealed before the Supreme Court, which decided to stay the proceedings and referred questions to the CJEU on the interpretation of Article 15(1) of the recast RCD, seeking guidance on the meaning of a "delay that cannot be attributed to the applicant".

The CJEU distinguished between a total lack of cooperation and a partial failure to cooperate. First, the non-submission by an applicant of the requested information allowing national authorities to process the application, for a period exceeding 9 months from the lodging of the application, equates with a lack of cooperation. Consequently, an applicant is unable to access the labour market because the 9-month period did not run. In contrast, when an applicant only fails to cooperate for a part of the period, the consequences will not be the same as for a total lack of cooperation.

The CJEU ruled that Article 15(1) of the recast RCD does not preclude national legislation which allows competent national authorities to refuse permission to access the labour market to an applicant for international protection whose application was pending a decision for at least 9 months, for reasons that may be attributed to the applicant's conduct, only for the period during which a causal link was established between the conduct of the applicant and the occurrence of the delay. It further clarified that, in situations where "there is a time interval the lapse of which is due to mixed causes, the fraction of that interval corresponding to the share of responsibility attributable to that

applicant is taken into account as a basis for that refusal”.

CJEU on proportionate sanctions for a refusal to be transferred to another reception centre

CJEU, *AF, BF v Ministry of the Interior (Ministero dell'Interno) [Sidi Bouzid]*, C-184/24, 18 December 2025.

The CJEU ruled that an applicant’s refusal to be transferred to another reception centre cannot justify withdrawing all material reception conditions or depriving the applicant of the possibility of meeting the most basic needs. However, national authorities may impose a proportionate sanction that respects the applicant’s fundamental rights and dignity and use their powers of coercion to enforce the transfer.

Due to repeated refusals to be transferred to another accommodation in Milan, a mother and her child, asylum applicants, had their material reception conditions withdrawn. In judicial proceedings against this measure, the applicants alleged the measure resulted in their inability to meet their basic needs. The Regional Administrative Court in Lombardy asked the CJEU whether national legislation which allows the withdrawal of all material reception conditions as a sanction against a refusal to be transferred to another accommodation was compatible with the recast RCD.

The CJEU first noted that the applicants never abandoned the reception facility and did not withdraw their application for asylum, either explicitly or implicitly, so there was no ground to reduce or withdraw material reception conditions.

Whereas the recast RCD allows for sanctions for serious breaches of reception centres rules, the persistent refusal of the applicants to comply with the transfer, without a legitimate reason, resulting in a risk of jeopardising the accommodation system, may constitute a serious breach of rules governing the accommodation centre where the applicants were housed and may lead to the imposition of a sanction. However, national authorities must impose sanctions by respecting the proportionality principle and the human dignity of the applicants, which cannot be the withdrawal of all material reception conditions or a measure depriving them of the possibility to meet their minimum basic needs.

Consequently, the CJEU ruled that the recast RCD precludes national legislation which allows national authorities to withdraw all material reception conditions in these situations. Nonetheless, the recast RCD does not preclude national authorities to exercise their coercive powers to ensure the implementation of the transfer to another centre, provided that the measure adopted is proportional and respects human dignity.

Referral for a preliminary ruling on the elimination of access to financial allowances in specific cases

Belgium, Constitutional Court [Cour constitutionnelle], *Applicants v Federal Agency for the Reception of Asylum Seekers (Fedasil)*, 23/2026, 26 February 2026.

The Constitutional Court provisionally suspended new rules removing access to financial allowance for first-time asylum applicants who cannot be assigned a reception place and for applicants who have already received a decision in



another Member State, finding that the withdrawal of this support creates a risk of serious and irreparable harm. It also stayed the proceedings and referred a question to the CJEU on the compatibility of the legislation with CEAS.

By legislative provision introduced in July 2025, the Belgian authorities amended the rules for international protection and the reception of asylum applicants by removing the financial allowance in two situations. First, Fedasil can refuse to grant the financial allowance to applicants whose first asylum application was submitted and decided in another EU Member State, considering the second application in Belgium as ‘subsequent’. The Constitutional Court noted that Article 20 of the recast RCD includes an exhaustive list of cases when material reception conditions can be withdrawn, and it was not clear whether asylum applications lodged after a decision has been taken in another Member State on a prior application can be considered as ‘subsequent’.

In the second situation, the new rules removed the possibility of a financial allowance for first-time applicants who do not have an assigned a place of registration. When there are no places in reception facilities due to a saturation of the system and no other form of material assistance is available, or when the conditions are inadequate for applicants with special needs, then the impossibility to be granted a financial allowance entails a risk of substantially breaching the right to respect of human dignity.

The Constitutional Court affirmed that the application of these provisions risks causing serious and irreparable harm to applicants and appears to be contrary to EU law and fundamental rights.

Consequently, it suspended their application and referred a question to the CJEU for a preliminary ruling:

Are Article 33 of the recast APD and Articles 3, 19 and 55(2) of the APR to be interpreted as allowing to treat applications lodged in a second Member State after a first Member State has granted international protection to the applicant as subsequent applications and, consequently, to limit or withdraw the benefit of material reception conditions with regard to that applicant on the basis of Article 20(1)(c) of the RCD?

Sanction for continued occupancy after the end of material reception conditions

France, Council of State [Conseil d'État], Minister of the Interior v B., 505411, 15 December 2025.

The Council of State held that continued occupation in an asylum accommodation after a decision to end material reception conditions remained final constitutes a serious breach justifying eviction, irrespective of the continuation of the asylum procedure.

An Afghan national accommodated in a reception centre for asylum applicants and awaiting a transfer under a Dublin decision had his material reception conditions terminated for refusing to comply with the summons for the transfer. Consequently, France became responsible for processing the asylum application.

The applicant remained in the facility and unsuccessfully requested restoration of his reception conditions. A formal notice to vacate was issued against the applicant. In



an urgent procedure, the Prefect of Bas-Rhin's request for the applicant's eviction was rejected by the referee-judge and the Minister of the Interior appealed before the Council of State.

The latter ruled that Article L. 552-15 of Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA) allows the eviction of persons who commit serious breaches of internal rules governing asylum accommodation facilities and affirmed that, in this case, the applicant was liable for continued occupation of accommodation after a definitive termination of his right, which constituted a serious breach of reception rules and justified an eviction. In view also of the saturation of the reception system in the Grand-Est region with a 99% occupancy rate and in the absence of any particular vulnerability to outweigh public interest, the Council of State found that the conditions of urgency and necessity were met and confirmed the eviction measure.

Reception conditions for unaccompanied minors

Spain, Supreme Court [Tribunal Supremo], [Autonomous Community of Madrid v Central Government](#), ATS 11562/2025, 11 December 2025.

The Supreme Court issued interim measures requiring the central administration to guarantee access to the reception system for unaccompanied minors who applied for or expressed interest in international protection and who were under the care of Madrid's regional child protection services.

Following the Supreme Court's interim measures issued on [25 March 2025](#) and [4 June 2025](#) which ordered the central government to assume responsibility for

the reception of asylum-seeking unaccompanied children on the Canary Islands, the regional government of Madrid requested the same treatment. After receiving no response from the central government, it applied to the Supreme Court for interim measures.

Citing the recast RCD, the recast APD, relevant national law and its precedent on the Canary Islands, the Supreme Court stressed that unaccompanied minors seeking asylum, including those who have not yet formally lodged an application but have expressed their intention to do so, are entitled to dignified reception conditions and specialised protection. While finding a concurrence of competences between the State, which is responsible for asylum, and the regional governments, which are responsible for child protection, the court observed that reception conditions were in practice being ensured solely by the regional authorities and provisionally assessed that, insofar as the State bore responsibility in this area, it was not assuming its corresponding share.

Invoking the principle of the best interests of the child, the court ordered the State administration to guarantee, within 30 days, access to the national reception system for all asylum-seeking unaccompanied minors under the care of Madrid's child protection services.

Personal contribution to reception costs

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], [Applicant v Central Agency for the Reception of Asylum Seekers \(COA\)](#), 202107338/1/V1, 14 January 2026.

The Council of State ruled that COA may take into account penalty payments paid by the Immigration and Naturalisation Service (IND) to asylum applicants for delays in processing their asylum applications when determining whether they possess assets above the capital limit and must therefore pay a personal contribution toward reception costs.

The Council of State ruled that penalty payments from the Immigration and Naturalisation Service (IND) due to the late processing of an asylum application could be taken into account when assessing whether an applicant has assets above the capital limit which would require the payment of a personal contribution for reception costs.

The council ruled that the sharing of information on penalty payments by the IND with COA complied with the GDPR. It held that the data shared, including the V-number, case number, amount of the penalty payment and payment date, constitute personal data because they can be linked to an identifiable individual.

However, the council found that Article 107 of the Aliens Act 2000 provides a sufficiently clear legal basis for the processing and sharing of this information, which is required for COA to fulfil its statutory duty to determine whether asylum seekers must contribute to reception costs when their assets exceed the applicable threshold. It held that reception is intended only for those unable to support themselves, and the financial burden on public resources justifies assessing an asylum seeker's assets.



Detention

Detention under the Italy-Albania Protocol

Italy, Court of Appeal [Corte di Appello], [Rome Police Headquarters](#), RG 2025/6637, 10 December 2025.

The Court of Appeal of Rome did not validate the detention measure of a Togolese applicant at the Gjader Repatriation Detention Centre (CPR) in Albania, holding that the renewed detention was manifestly disproportionate in light of his prior detention, during which the authorities had failed to execute his removal.

A Togolese national was issued an expulsion order and detained at the CPR of Potenza–Palazzo San Gervasio. He was later transferred to the CPR in Gjader, Albania, where he requested international protection. The Chief of Police of Rome ordered his detention pursuant to Article 6 of Legislative Decree No 142 and sought validation of that measure before the Rome Court of Appeal.

The Rome Court of Appeal held that the lawfulness of the detention measure depended directly on the resolution of the question referred to the CJEU by the Court of Cassation in [Ministero dell'Interno and Questura di Roma v S.H.,A.H.](#) (R.G. 23105/25, 20 June 2025). As it could not stay the proceedings, both because domestic law does not provide for such a possibility in these circumstances and

because of the obligation to rule on measures affecting personal liberty within 48 hours, the court rejected the request for validation.

The court further found that detention for the purpose of an expulsion was unlawful, as the applicant had already been detained for approximately 6 months at the CPR of Palazzo San Gervasio and had been released by the Justice of the Peace due to the administration's failure to carry out his removal. The court held that the new detention order was clearly disproportionate to the aim of expulsion, since during the intervening period the authorities had taken no steps to execute the removal.

Detention of applicants at the Polish-Belarusian border

Poland, Voivodship Administrative Court [Wojewodzki Sąd Administracyjny], [P.K.O. v Commander of the Border Guard Unit \(Komendanta Oddziału Straży Granicznej\)](#), VII Kz 557/25, 9 January 2026.

The Regional Court in Olsztyn revoked the detention of an asylum applicant, finding that the refusal to accept his application for international protection was unlawful because the regulation implementing the temporary restriction at the Polish-Belarusian border exceeded the scope of the statutory delegation permitted under the Polish Constitution.

An applicant who was prevented from lodging an asylum application under a new amendment in the Asylum Act, introduced to address migrant instrumentalisation at the Polish-Belarusian border, was issued a return decision and detained pending removal.

On appeal against the extension of his detention, the Regional Court in Olsztyn held that neither the Polish Constitution nor international and EU laws permit a general suspension of the right to seek international protection. It reasoned that the restriction breached the principle of *non-refoulement* as enshrined in the Refugee Convention, the EU Charter, the Return Directive and the recast APD, and deprived applicants of essential safeguards.

The court held that the Asylum Act's delegation to the Council of Ministers to determine, by ordinance, the time and place of restrictions on access to asylum violated the requirement that any limitation of constitutional rights must be laid down in a statute containing all essential elements of the restriction. The court also observed that, in practice, the authorities applied the restriction beyond the border context provided by the legal framework, refusing to accept applications submitted from a hospital or from detention facilities.

Concluding that the applicant had been unlawfully deprived of his right to seek asylum, the court found that his detention, ordered under the Law on Foreigners rather than the Asylum Act, was procedurally flawed. It therefore quashed the detention order and upheld the applicant's appeal.

Unlawful detention of an unaccompanied minor in Malta

Malta, First Hall Civil Court, [Applicant v Ministry for Home Affairs, Security, Reforms and Equality, and Others](#), No 375/22 GG, 13 January 2026.

The First Hall Civil Court (Constitutional Jurisdiction) delivered its first ruling on the detention of unaccompanied minors

following the ECtHR's judgments against Malta. The court found that the holding of an unaccompanied minor asylum applicant in Hal Far and Hal Safi detention centres was arbitrary and illegal, violated his best interests as a child, and the detention conditions amounted to inhuman or degrading treatment, in violation of the EU Charter, the ECHR and the Constitution of Malta.

A Liberian unaccompanied minor was held in the Hal Far and Hal Safi detention centres in Malta for nearly 2 months without a detention order, without the possibility to call his relatives or clothing adequate for the climate. He was accommodated together with adults and remained without a legal guardian for a prolonged period of time.

The applicant argued that his detention was contrary to Article 8 of the recast RCD, and he could not challenge its legality. The First Hall Civil Court upheld that he had been deprived of his liberty in an arbitrary and illegal manner, in breach of Article 6 of the EU Charter, Article 5 of the ECHR and Article 34 of the Constitution of Malta. The court also held that the authorities failed to treat him as a minor pending the age assessment and the child protection mechanism was not followed timely, violating his best interests as a child under Article 24 of the EU Charter.

Recalling the ECtHR's judgments in [A.D. v Malta](#) (No 12427/22, 17 January 2024) and [J.B. and Others v Malta](#) (No 1766/23, 22 January 2025), the court also found that the detention conditions in Hal Far and Hal Safi amounted to inhuman and degrading treatment, in violation of Articles 1 and 4 of the EU Charter, Article 3 of the ECHR and Article 36 of the Constitution.



Second instance procedures

CJEU on access to information on an investigation conducted in the country of origin

CJEU, [W v State Secretary for Justice and Security](#), C-431/24, 29 January 2026.

The CJEU ruled that Article 23(1) read jointly with Article 46 of the recast APD and Article 47 of the EU Charter must be interpreted as meaning that the national court which is ruling on the lawfulness of a negative decision against a third-country national must have access to the information on the way an investigation in the country of origin was conducted to determine protection needs. Such information is covered by the concept of "information in the applicant's file", provided that it is relevant for the court's assessment of the national authority's compliance with the principle of non-refoulement.

A Christian national from Pakistan challenged the refusal to be granted asylum and submitted a subsequent application after a fatwa was issued against him. The Minister for Foreign Affairs conducted an investigation in the country of origin, at the request of the determining authority, to determine whether he needed protection. The State Secretary based its negative decision on the individual report and supporting documents in the investigation, which were not fully accessible to the applicant nor his lawyer.

In the appeal, the Ministry for Foreign Affairs provided the unredacted supporting documents to the District Court of the Hague and concomitantly submitted a request under national law, to the same court but a different chamber, for restricted access to certain parts of the supporting documents. The request was allowed.

In view of doubts about compliance of such legislation with the recast APD, the District Court of the Hague seated in Roermond referred questions to the CJEU on whether information relating to the manner in which an investigation was conducted for the purpose of establishing a need for international protection is covered by the concept of “information in the applicant’s file upon the basis of which a decision is or will be made”, within the meaning of Article 23(1) of the recast APD.

The CJEU reiterated that the standards enshrined in the recast APD are compliant with the fundamental principle of *non-refoulement*, which may be hampered, as provided under Article 30 of the directive, because of the manner in which an investigation is conducted by a national authority in the country of origin of the applicant for international protection. In addition, for an applicant to be able to assert their rights to be protected from disclosure to alleged actors of persecution or serious harm, they must rely on relevant information pertaining to the manner in which an investigation was conducted in the country of origin.

Therefore, the court concluded that such information, including the supporting documents and the investigation report, is covered by the concept of “information in the applicant’s file”, pursuant to Article 23(1) of the recast APD, whereby this information is likely to be relevant

when that court assesses if the principle of *non-refoulement* was respected.

The court emphasised that, according to well-established case law, Article 46(3) of the recast APD provides that the full and *ex nunc* assessment by a court or tribunal of both facts and legal aspects implies that the judicial authority has access to the evidence based on which the competent authority made or should have made its decision.

Importantly, the right to defence under Article 47 of the EU Charter is intrinsically linked to the right to access the file. Consequently, the court concluded that the applicant for international protection and the court having jurisdiction must be able to access the information by the means provided for in points (a) and (b) of the second subparagraph of Article 23(1) of the recast APD. The court emphasised that these are two separate and cumulative requirements, meaning that the court’s access to the file does not replace the applicant’s or his representative right to such access.

Nonetheless, the CJEU reiterated, by citing its previous findings in [GM](#) (C-159/21, 22 September 2022), that in exceptional and very specific cases, access can be restricted for reasons of national security. In such cases, Member States must guarantee the right to an effective remedy and the right to a defence by putting in place a mechanism to ensure at least access to the substance of the decisive elements in the file, possible by requesting a security check for the applicant or his representative.



Remittal to the asylum authority in exceptional cases

Austria, Supreme Administrative Court [Verwaltungsgerichtshof - VwGH], Federal Office for Immigration and Asylum (BFA) v Applicant, Ra 2025/14/0320, 4 December 2025.

The Supreme Administrative Court held that deficiencies in the assessment of evidence do not justify a remittal to the asylum authority where usable investigation results exist, and administrative courts must carry out any necessary supplementary investigations themselves.

By decision of 19 March 2024, the Federal Office for Immigration and Asylum (BFA) rejected the asylum application submitted by an applicant who was assumed, based on personal account, statements and evidence, to be a national of Bangladesh. The BFA considered earlier statements when the applicant stated he was a national of Myanmar to be an attempt to conceal identity in order to construct a more favourable claim for international protection. Upon an appeal, the Federal Administrative Court remitted the case for a re-examination, but the BFA contested the outcome before the Supreme Administrative Court.

Recalling that Section 28 of the Act on Administrative Procedure before administrative courts establish the principle that administrative courts must assess cases on their merits, it affirmed that a remittal back to the BFA constitutes an exception applicable only to cases of particularly serious deficiencies in the examination. When the investigation before the BFA was inconclusive about nationality and ethnicity, but based on statements and evaluation of evidence, it is

then for the lower court to conduct any supplementary investigation, to organise hearings, to obtain relevant COI or to engage an expert for language determination. The Supreme Administrative Court emphasised that remittals lead to unnecessary prolongation of procedures, against the legislative aim of expedited procedures.

Competences of the first instance court within a full and *ex nunc* review

Cyprus, Administrative Court of Appeal, [Διοικητικού Εφετείου Κύπρου], Republic of Cyprus through the Asylum Service v B.A., No 12/2025, 18 December 2025.

*The Administrative Court of Appeal set aside IPAC's decision and remitted the case for reconsideration, highlighting that, within the competence of a full and *ex nunc* review, the court may conduct an oral hearing during judicial proceedings or order the Asylum Service to conduct an additional interview during the judicial proceedings and submit the interview record and its views to allow courts to decide on the merits of the case.*

The Asylum Service issued an exclusion decision to a Syrian national, arguing that his voluntary work in an area controlled by paramilitary groups involved in war crimes gave rise to individual criminal responsibility for such crimes. Upon an appeal, IPAC annulled the decision, finding an essential procedural breach and substantive errors in the application of the exclusion clauses.

The Asylum Service appealed IPAC's decision, arguing that the court violated fair trial and separation of power principles because, while ruling that it would not review the decision in substance, it annulled the decision-making factual



findings binding on the Asylum Service, depriving it of the opportunity to re-examine them.

The Court of Appeal held that under relevant national law, IPAC is required to carry out a dual review of legality and merits of exclusion decisions. The court clarified on the investigative discretion that IPAC has in the context of such a dual review: it may decide itself on the merits, including by conducting an oral hearing or by ordering the Asylum Service to conduct an additional interview during the proceedings and submit the interview record and its views. Exceptionally, when the Asylum Service violated the right to be heard and the court is unable to remedy that deficit while fully safeguarding the procedural guarantees required by EU law, the court annuls and remits the case for reconsideration to the administration (following the considerations in CJEU *Milkias Addis v Bundesrepublik Deutschland* (C-517/17, 16 July 2020).

Based on this, the Court of Appeal concluded that IPAC had erred when annulling and remitting the case on the premise that the lack of a prior hearing on exclusion could not be remedied within the judicial procedure. It set aside the judgment and remitted the case to IPAC to select among the available procedural options and decide the application on the merits in accordance with the provided guidance.



Temporary protection

Eligibility as family members of Ukrainian nationals

France, Administrative Courts of Appeal [Cours administratives d'appel], *A. v Prefect of Haute-Garonne*, 24TL00807, 2 December 2025.

The Administrative Court of Appeal of Toulouse annulled the refusal of temporary protection for a Cameroonian spouse of a Ukrainian national, holding that Article 2 of the Council Implementing Decision 2022/382 does not require non-Ukrainian family members to hold a Ukrainian residence permit or to prove cohabitation with a Ukrainian national.

A Cameroonian national, married with a Ukrainian national and displaced from Ukraine following the Russian invasion, challenged the refusal of temporary protection pursuant to the Temporary Protection Directive (TPD) and the Council Implementing Decision 2022/382. Recalling the provisions of Article 2(1)(c) of the Council Implementing Decision, as transposed into the CESEDA, the Administrative Court of Appeal of Toulouse found that temporary protection extends to family members of displaced Ukrainian nationals provided that the family existed and resided in Ukraine prior to displacement.

The court found no requirement for non-Ukrainian family members to condition their eligibility for temporary protection by proof of a residence permit or



cohabitation. As such, the decisive factor was the existence of the family and their presence in Ukraine prior to the war. The court noted that the applicant was legally married with a Ukrainian national since 2015, they have three minor children and lived in Ukraine, thus he fell within the eligibility criteria for family members and was entitled to be granted temporary protection.

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], [Applicant v The Minister for Asylum and Migration](#), 202407803/1/V1, 8 December 2025.

The Council of State allowed the appeal of a third-country national against the refusal of temporary protection, clarifying that a legal and valid marriage was sufficient to demonstrate eligibility for the status, as provided under Article 15 (1)(a) of the TPD.

A third-country national displaced from Ukraine due to the outbreak of the war challenged the rejection of his request for temporary protection on grounds of a lack of eligibility as a spouse of a Ukrainian national. The District Court of the Hague followed the reasoning of the State Secretariat for Migration in holding that the applicant was *de facto* separated from his spouse, with whom he had no contact since the end of 2022 and who allegedly arrived in the Netherlands accompanied by a different man.

In an onward appeal, the Council of State overturned the contested decisions and affirmed that, for eligibility as a spouse and family member, the decisive element pursuant to Article 2(1)(c) of the Council Implementing Decision 2022/382 was the legal and valid marriage with a Ukrainian national. Once this requirement was demonstrated by the applicant, he met the

requirements of Article 15 of the TPD, read in conjunction with Article 2(4)(a) of the Council Implementing Decision 2022/382, and must be granted protection as a family member.

Secondary movements

Czech Republic, Supreme Administrative Court [Nejvyšší správní soud], [Ministry of the Interior v D. Ch.](#), 5 Azs 248/2025 - 18, 10 December 2025.

The Supreme Administrative Court ruled that the new inadmissibility ground introduced in September 2025 for applications for temporary protection from beneficiaries of temporary protection in another EU Member State is contrary to EU law. The court also held that the ministry's notification to the European Commission of a risk of capacity exhaustion does not allow the ministry to reject temporary protection requests from those who are or were status holders in another EU Member State as inadmissible, given that the TPD does not provide for a legal basis.

A Ukrainian national, beneficiary of temporary protection in Romania, applied again for temporary protection in Czechia. The Ministry of the Interior relied on Section 5(1)(f) of Act No 65/2022 to return the application as inadmissible on the basis of the same status held in another Member State and based on the ministry's notification to the European Commission of a risk of exceeding Czechia's capacity to manage the consequences of a mass influx of displaced persons. The Municipal Court in Prague found this approach unlawful, against which the ministry lodged a cassation complaint.

The Supreme Administrative Court dismissed the ministry's cassation complaint as unfounded. It upheld that the right to temporary protection stems directly



from the TPD, which does not allow Member States to unilaterally restrict this right. The court referred to its settled case law following the CJEU rulings in [P \(C-244/24, Kaduna\)](#), [Al, ZY, BG \(C-290/24, Abkez\) v State Secretary for Justice and Security](#) (C-244/24 and C-290/24, 19 December 2024) and [A.N. \(Krasiliva\) v Ministerstvo vnitra](#) (C-753/23, 27 February 2025), affirming that, under Council Implementing Decision No 2025/1460, temporary protection rights cannot be enjoyed simultaneously in several Member States but can be exercised consecutively in another Member State.

The court ruled that the ministry must admit and examine such applications, verify whether previous temporary protection is still valid, and, if necessary, allow applicants time to end protection in the other Member State.



Content of protection

Referral to the CJEU for a preliminary ruling on stricter conditions for family reunification of beneficiaries of subsidiary protection and their family members

Belgium, Constitutional Court [Cour constitutionnelle], [Applicants v Belgian State represented by the Minister for Asylum and Migration and Social Integration](#), Nos 8579 and 8580, 26 February 2026.

The Constitutional Court submitted five questions before the CJEU for a preliminary ruling on the compatibility of national legislation imposing stricter conditions for the family reunification of beneficiaries of subsidiary protection with their family members, particularly when the latter are not present on the Belgian territory, also in light of the right to family life and best interests of the child. Relying on the principles of equality and non-discrimination, the court also questioned the validity of the Family Reunification Directive, the recast QD and the Qualification Regulation for the difference in treatment between status holders.

Two Yemeni nationals requested the Constitutional Court to suspend and annul the provisions of the Law of 18 July 2025, which allegedly restrict the access to family reunification for beneficiaries of



subsidiary protection and their family members. The Constitutional Court decided to join the examination of both cases and to adopt a single judgment.

The Constitutional Court noted that the applicants alleged that, in view of the new provisions, beneficiaries of subsidiary and their family members who are not present in Belgium can receive less favourable treatment than refugees in the same situation in the framework of family reunification. Citing the CJEU judgments in [K and B v State Secretary for Security and Justice, Netherlands](#) (Case C-380/17, 7 November 2018) and in [Kreis Warendorf and Ibrahim Alo v Region Hannover](#), (joined Cases C-443/14 and C-444/14, 1 March 2016), it decided to refer questions before the CJEU for a preliminary ruling on the validity of the Family Reunification Directive due to the difference in treatment, emphasising on the principles of equality and non-discrimination.

The court also sought clarification on the concept of family members as defined by the recast QD and the Qualification Regulation and which is limited to those present on the territory of the Member State for the purpose of requesting international protection, asking also if national provisions permitting less favourable conditions for family members who are not present on the Belgian territory are contrary to the EU Charter.

In a final question, the referring court questioned whether the contested national provisions are in breach of the right to family life and best interests of the child under the EU Charter.

The referring court allowed the request for a provisional suspension of the contested provisions, finding that the first family was at risk of irreparable harm due to the

separation of the applicant, beneficiary of subsidiary protection in Belgium, from his spouse and minor child, aged 12 months, and who remained in Yemen at a heightened risk for their lives due to the conflict and the humanitarian conditions.

Duty to hear the parents when establishing the child's nationality

Finland, Supreme Administrative Court [Korkein hallinto-oikeus], [Applicants v Finnish Immigration Service \(FIS\)](#), KHO:2025:79, 15 December 2025.

The Supreme Administrative Court annulled the decision on nationality status determination concerning a child born in Finland, holding that the Finnish Immigration Service must hear the parents and properly assess whether the child acquires the parents' nationality automatically or only through procedures involving the authorities of the parents' State, which could trigger Finnish citizenship under Section 9(2) of the Nationality Act.

The parents of a child born in Finland on 29 August 2022 were nationals of X State but were granted refugee protection in Y State. The family requested international protection in Finland, and because a nationality was not yet established for the child, the Finnish Immigration Service opened proceedings by its own motion and determined that the child must be considered a citizen of X State as automatically acquired at birth.

The applicants unsuccessfully contested the determination before the Helsinki Administrative Court, which refused to hear the parents. They further appealed before the Supreme Administrative Court which affirmed that the legal consequences of



nationality status were exceptionally serious for the child and the family, which meant that the Immigration Service could not treat a parental hearing as manifestly unnecessary. The parents can provide essential information to clarify whether the child can obtain or demonstrate X citizenship, thus the Supreme Administrative Court annulled the contested decision and remitted the case for a proper establishment of facts by the Finnish Immigration Service.

The court also emphasised that the case raised the possibility that the child might fall under Section 9(2) of the Nationality Act and thus acquire Finnish citizenship at birth, because the parents' refugee status may prevent them from contacting X State authorities to complete any formalities needed for the child to obtain X citizenship in practice.

Right of minor siblings to family reunification

Sweden, Migration Court of Appeal [Migrationsöverdomstolen], [AA v Swedish Migration Agency \(SMA\)](#), UM 13683-24, MIG 2025:14, 9 December 2025.

The Migration Court of Appeal held that the unconditional right of an unaccompanied refugee child to reunification with his or her parents entails that minor siblings must also be granted residence permits when the parents are admitted, unless specific circumstances show that the siblings are not dependent on their parents.

The parents and minor siblings of an unaccompanied minor, AA, beneficiary of refugee status in Sweden, requested family reunification. The parents' application was allowed on grounds of family ties, and they were granted

temporary residence permit since AA could not act as a sponsor. The sibling's request was denied due to a lack of a special dependency relationship with AA, and they appealed before the Migration Court in Stockholm and subsequently to the Migration Court of Appeal.

Citing the CJEU judgment in [CR, GF, TY v Landeshauptmann von Wien](#) (C-560/20, 30 January 2024) and relying on the EU Charter and the principle of best interests of the child, the Migration Court of Appeal affirmed that, under EU law, a residence permit was required for a sibling when a refusal would deprive the unaccompanied refugee child of the effective exercise of the unconditional right to reunification with the parents. In such a context, the court considered that the principle applied broadly, encompassing situations when the refusal of a permit to minor siblings would result in that refugee child losing the unconditional right to family reunification with the parents. In this context and when the sibling relationship was confirmed by DNA analysis, the court quashed the contested decision and remitted the case to the Swedish Migration Agency for a re-examination.

Sanctions for non-compliance with mandatory integration measures

Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], [Applicant v State Secretary for Participation and Integration \(Staatssecretaris van Participatie en Integratie\)](#), 202405598/1/V6, 18 February 2026.

The Council of State ruled that a status holder who did not comply in time with Dutch integration requirements, was not obliged to pay the penalty or to repay her

loan in full for the integration courses and examinations. It held that the authority's decision to impose this obligation was contrary to Article 34 of the recast QD as mandatory integration measures must be free of charge for status holders, in view of the CJEU judgment in Keren (C-158/23).

The Council of State ruled on the penalties related to non-compliance with mandatory integration measures under the Dutch Civic Integration Act, considering EU law. It found that the requirement for a status holder to pay a fine and to repay the loan in full for courses and examinations was contrary to Article 34 of the recast QD. It relied on the CJEU judgment in [T.G. v Minister van Sociale Zaken en Werkgelegenheid \[Keren\]](#) (C-158/23, 4 February 2025), in which the court ruled Article 34 must be interpreted as meaning that the costs for mandatory integration measures must not be fully borne by beneficiaries.

Therefore, the council held that the Civic Integration Act was non-binding in respect of its provisions relating to status holders, and that the State Secretary for Participation and Integration issued an incorrect decision by obliging the applicant to pay penalties and to repay her loan in full for not complying in time with her integration requirements.



Return

CJEU on Frontex's obligations in joint return operations

CJEU, [WS and Others v Frontex](#), C-679/23 P, 18 December 2025.

The CJEU ruled that in joint return operations Frontex has the obligation to verify that return decisions exist for all persons whom a Member State intends to include in an operation, and the Member State and Frontex may be liable for any infringements of fundamental rights during a return flight. The court set aside the judgment of the General Court, which had dismissed the action for damages brought by a Syrian family after their transfer from Greece to Türkiye.

A Syrian family, two adults and four children, arrived in Milos, Greece and expressed their wish to apply for international protection. A few days later, they were transferred to Türkiye, following a joint return operation carried out by Greece and Frontex. Fearing that they would be sent back to Syria by the Turkish authorities, the family then fled to Iraq.

They complained before the General Court of the EU that their transfer to Türkiye was an unlawful *refoulement*, in breach of their fundamental rights and requested damages from Frontex for its alleged conduct before, during and after the transfer. The action was dismissed in 2023 by the General Court, which considered that there was no causal link between the alleged illegal conduct by Frontex and the damage incurred by the applicants. Subsequently, they appealed before the

CJEU, which set the contested ruling aside and remitted the case for a re-examination.

In order to do so, the CJEU first affirmed that Frontex has a set of legal obligations to ensure respect for fundamental rights in the framework of joint return operations and highlighted that these operations concern only those who are subject to a written and enforceable return decision. In this context, Frontex's role is not limited to technical and operational assistance, but it is also required to verify the existence of return decisions for each person included in the operations, in view of the principle of *non-refoulement*.

Consequently, the CJEU allowed the appeal and ruled that the General Court erred in law when finding that any infringements of fundamental rights occurring during a return flight fall within the mere responsibility of the host Member State, totally excluding Frontex's liability.

ECtHR on non-exhaustion of national remedies after the fall of the Assad regime in Syria

ECtHR, *H.M. v Sweden*, No 10859/24, 9 December 2025.

The ECtHR dismissed as inadmissible, for non-exhaustion of domestic remedies, the complaints raised by a Syrian national against Sweden under Articles 3 and 8 of the European Convention (risk upon return and right to family life). The court held that he should have lodged an application for a re-examination with the domestic authorities, as the fall of the Assad regime, which took place after he had lodged the application before the ECtHR and after the case was communicated to the government, could be effectively examined by domestic authorities in a

procedure which has an automatic suspensive effect.

A Syrian national claimed asylum in Sweden in 2019 on grounds of opposition to the Assad regime, imprisonment in Syria and non-compliance with a summons for military reserve in Syria. Upon a refusal of protection and a return order by the Swedish authorities, the applicant lodged a complaint before the ECtHR alleging violations of the ECHR, specifically Article 3 on grounds of risk of ill treatment upon a return and Article 8 on interference with his family life.

The court dismissed the claim as inadmissible for non-exhaustion of domestic remedies, finding that, in view of the exceptional circumstances of the case after the fall of the Assad regime, the applicant had at his disposal a specific mechanism before national authorities, namely an application for a re-examination. The court contended that this extraordinary remedy did not constitute a reopening of the application but granted the possibility of a re-examination if there are new circumstances related to the need for asylum and to ensure safeguards against *refoulement*. The court emphasised that this remedy had a certain autonomous suspensive effect until a decision was taken by the Swedish Migration Agency to determine the need for a re-examination.

In this context, the court held that the applicant had to avail himself of that remedy to assert his rights under Articles 3 and 8 of the ECHR, because they were intrinsically linked to the assessment of whether he would be subject to ill treatment upon a return to Syria.



ECtHR on family unity in the context of return

ECtHR, [*V.N. and others v Sweden*](#), No 42101/23, 19 February 2026.

The ECtHR found no violation of Article 8 of the Convention by Sweden for refusing to grant a residence permit after refusing asylum or to suspend the deportation to Azerbaijan of the first applicant, whose wife had a short life expectancy after being diagnosed with cancer. The court held that the authorities struck a fair balance between the right to private life and the fact that he was considered a threat to public order and security in Sweden due to serious crimes committed in Azerbaijan between 2010-2013 in connection with debt collecting, including torture, bodily harm, kidnapping, extortion and threats.

The asylum applications of a family of four Azerbaijani nationals were rejected, and the authorities subsequently refused to grant the first applicant a residence permit on the grounds that he posed a threat to public order and security due to serious crimes committed in Azerbaijan between 2010-2013. Several deportation orders were issued against him, but they were not enforced, and his removal was later stayed by the ECtHR under interim measures. The applicants complained under Article 8 of the ECHR about the Swedish Migration Agency's decisions refusing to grant the first applicant a residence permit or to suspend the deportation order, despite the serious illness of his wife.

The ECtHR examined whether, at the time of those decisions, Sweden had a positive obligation to grant him a residence permit or suspend the deportation order in view of his wife's short life expectancy. It

reiterated that immigration control constitutes a legitimate aim and Article 8 does not impose a general obligation to respect a couple's choice of country of residence.

The court noted that it only became clear in March 2024 that the second applicant was receiving palliative care. It further found that the applicants had not demonstrated that the daughter's well-being was at risk, as she reached adulthood in April 2024 and had been supported by her mother and adult brother, both lawfully residing in Sweden. The court also observed that the applicants' ties to Sweden were limited, whereas their links to Azerbaijan remained strong. The first applicant had continued to resist deportation, lodged a further asylum application several years later and was suspected of withholding his passport and submitting false documents.

Considering these elements, the court held that the domestic authorities had struck a fair balance within their margin of appreciation and found no violation of Article 8 in respect of the first, second and third applicants.

Referral for a preliminary ruling on the obligation to take “full account” of a protection decision adopted in another Member State and the issuance of a return decision when the first protection decision is still valid in the other Member State

Netherlands, Court of The Hague [Rechtbank Den Haag], [*Applicants v The Minister for Asylum and Migration*](#), NL25.29729 and NL25.29731, 19 February 2026.





The District Court of The Hague seated in Haarlem referred questions to the CJEU concerning the interpretation of the judgment in QY and the scope of the obligation it established for Member States, when examining an asylum application, to take “full account” of a prior positive decision issued by the authorities of another Member State, as well as the elements underlying that decision. The court asked whether a Member State can order the return to the country of origin of a third-country national who enjoys international protection in another Member State.

The applications of two Somali nationals who had previously been granted international protection in Greece were rejected in the Netherlands as manifestly unfounded following a language analysis questioning their origin.

On appeal, the District Court of The Hague seated in Haarlem stayed the proceedings and referred several questions to the CJEU for a preliminary ruling. Referring to the CJEU judgment in [QY](#) (C-753/22, 18 June 2024) and to the Council of State judgment in case [202203031/2/V3](#) (2 July 2025), the court questioned how the obligation for Member States to take “full account” of a prior protection decision issued by another Member State should be interpreted when examining a new asylum application.

Specifically, the court asked whether a Member State examining a new asylum application, which cannot be declared inadmissible due to the risk of inhuman or degrading treatment in the granting Member State, may reject it solely on the basis of its own assessment of origin (e.g. a language analysis) without addressing the prior protection decision and reasoning of the granting Member State.

It also questioned whether the principle of *non-refoulement* precludes the adoption of a return decision when the applicant still holds international protection in another Member State, but the Member State examining the new application concludes that the applicant is not entitled to international protection.

When the principle of *non-refoulement* precludes a removal, the court asked whether compliance with the principle must be assessed already when adopting the return decision so that no return decision may be issued or whether a return decision must nevertheless be adopted with the removal postponed under Article 9(1)(a) of the Return Directive until the protection status granted by the other Member State is withdrawn. In the latter case, it also asked whether the postponement of the removal must be confirmed in writing. A similar question submitted by the District Court of The Hague in [Applicant v The Minister for Asylum and Migration](#) (NL24.24991, 12 March 2025) is currently pending as [C-202/25](#).

Finally, the court asked whether, under EU law and in light of the CJEU judgments in [AA](#) (C-663/21, 6 July 2023) and [Ararat](#) (C-156/23, 17 October 2024), a return decision is precluded when it provides for the immediate and indefinite postponement of a removal due to the risk of a breach of the principle of *non-refoulement*. It noted that the issue has also been referred to the CJEU by the Council of State in [Applicants v The Minister for Asylum and Migration](#) (202304482/1/V3 and 202304625/1/V3, 27 August 2025).



Return to Russia: Risk of being subjected to forced military recruitment

Switzerland, Federal Administrative Court [Bundesverwaltungsgericht - Tribunal administratif fédéral - FAC], [A. v State Secretariat for Migration \(SEM\)](#), D-6598/2025, 1 December 2025.

The Federal Administrative Court (FAC) upheld the removal of a young Russian applicant, finding that alleged risks of forced military recruitment for deployment to Ukraine were not substantiated and did not engage Article 3 of the ECHR, and no dependency relationship under Article 8 of the ECHR precluded a return.

A Russian applicant was rejected asylum on grounds that his allegations of a risk of persecution due to forced recruitment was not credible nor substantiated. In the appeal submitted by the applicant only against the return decision, FAC found that the applicant failed to adduce any documentary proof of a valid military summons to compulsory military service or forced recruitment attempt, thus it confirmed SEM's adverse credibility assessment. Citing several COI reports, including the EUAA [COI Query Response – The Russian Federation. Major developments concerning human rights and military service](#) (21 November 2024), FAC found that, even if there were attempts to recruit the applicant, COI did not reveal a major wave of forced mobilisation for direct involvement in the war in Ukraine.

With regard to Article 8 of the ECHR and an alleged dependency between the applicant and his brother, FAC ruled that this provision primarily covers parents and minor children from the same household. Moreover, as a young, healthy and

educated adult, the applicant was not found at risk of danger upon a return.

Threat of deportation despite protection granted in another Member State

Germany, Federal Administrative Court [Bundesverwaltungsgericht], [Applicants v Federal Office for Migration and Refugees \(BAMF\)](#), No.1 C 16 25 and 1 C 24.25, 19 February 2026.

The Federal Administrative Court ruled that, when applicants are beneficiaries of international or subsidiary protection in another Member State where they cannot be returned due to a risk of ill treatment and when the new application made in Germany is rejected following a new, individual assessment, the German competent authority can issue a threat of deportation of the applicant to the country of origin.

Iraqi nationals unsuccessfully applied for asylum in Germany and were threatened with a return to their country of origin, after having been granted protection in Greece and where they could not be transferred due to a risk of ill treatment. Lower administrative courts adopted different views in appeals against BAMF decisions, one considering that the Greek positive decision had a limited binding effect and revoked the threat of deportation.

In appeals on points of law, the Federal Administrative Court ruled that the prohibition of deportation provided under Section 60(1), paragraph 3, sentence 2 of the Residence Act does not oppose a situation as in the present case because it is based on a presumption that the other Member State granted protection. In contrast, in line with the CJEU judgment in [QY v Bundesrepublik Deutschland](#) (C-753/22, 18 June 2024), the principle

of *non-refoulement* does not preclude a threat of deportation of the applicant to the country of origin since Greece cannot fulfil its obligations deriving from the granting of international protection, and Germany has conducted a new, individual examination and by taking into account the decision adopted in Greece and its supporting elements.



Resettlement

Visa procedure for Afghan nationals with declarations of admission for resettlement under the ‘Bridging List’ programme

Germany, Federal Constitutional Court [Bundesverfassungsgericht], [Applicants v Federal Ministry of the Interior \(BMI\)](#), 2 BvR 1511/25, 4 December 2025.

The Constitutional Court ruled that an Afghan family demonstrated an urgent and substantive need of having a decision on their pending visa applications, as they were facing an increased risk of being deported to Afghanistan. This occurred when the ‘Bridging List’ programme for the admission of Afghans from the justice sector was suspended, pending the new federal admission programme.

An Afghan national, a former judge of the Supreme Court in Afghanistan before the Taliban took power, and his family, currently in Pakistan, were included in December 2022 in the “Bridging List” programme by the Federal Ministry of the Interior (BMI). In the absence of a decision on their request to be issued visas, they successfully appealed before the Regional Administrative Court of Berlin. It noted that the admission programme related to Afghan nationals was suspended in May 2025, pending a political decision by the federal government on its further implementation, but it found that the applicant proved in a credible manner that they would be threatened with serious and unreasonable disadvantages, which the



outcome in the main proceedings would not be able to remedy retroactively.

Upon an onward appeal by the Republic of Germany, the Higher Administrative Court of Berlin-Brandenburg rejected the applicant's request to be issued visas and for interim injunction, holding that a declaration of admission has a pure political nature with no legal effect.

In a constitutional complaint, the applicants disputed that their right to effective legal protection was violated. The Constitutional Court partly allowed the request and ordered the competent authorities to take a decision on the request to issue visas. It affirmed that the urgency was demonstrated by the increased risk of deportation from Pakistan after December 2025, and the need to have certainty about the outcome of the visa procedure.



