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Quarterly Overview of Asylum Case Law

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Disclaimer

The decisions and judgments presented in this edition of the "EUAA Quarterly Overview of Asylum Case Law, Issue No 2/2026" were pronounced from March to May 2026.

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

1. Court of Justice of the European Union

Six judgments were pronounced by the CJEU in the last quarter.

Detention during the assessment of an application in the border procedure

The CJEU provided legal certainty for Member States who are preparing their infrastructure for border procedure and screening under the Pact on Migration and Asylum. The court ruled that a detention centre used to detain asylum applicants whose applications are processed under the asylum border procedure does not necessarily have to be located at the border of the Member State (*X and others v Commissioner General for Refugees and Stateless Persons [Danané and others]*, C-50/24 to C-56/24, 16 April 2026). Applicants may remain in detention at the same facility after the applicable time limits of the border procedure have expired, provided that the grounds and conditions for the detention are met. The CJEU also ruled that the investigative steps taken during the border procedure remain valid in subsequent procedures and, focusing on the fundamental rights of applicants, emphasised that detention cannot be applied automatically or systematically.

The court confirmed in this judgment its previous stance on individual safeguards which govern detention, since it requires that a new detention ground exist in order to hold the person in detention beyond the 4-week period of the border procedure (12 weeks under the Pact). Nonetheless, the judgment was criticised for the fact that, in the same facility, legal classification can shift from border to territorial detention while the applicant's material situation remains unchanged.

Dublin transfers when the responsible Member State refuses to accept transfers

The CJEU decided on a case which was referred after Italy's refusal in 2022 to accept Dublin transfers. The court ruled in *DO v Bundesrepublik Deutschland [Daraa]* (C-458/24, 5 March 2026) that the Member State designated as responsible under the Dublin III Regulation cannot discharge itself, by a mere unilateral announcement, of its responsibilities under that regulation and if, due to its failure to reply to a request, it was deemed to have accepted responsibility, the transfer must take place within 6 months. If an appeal is lodged against the transfer decision and that appeal has suspensive effect, the 6-month time limit runs from the

final decision on the appeal. If the transfer does not take place within 6 months, responsibility shifts to the requesting Member State.

The court also noted that Member States must use a decision to transfer and refuse the examination when the Member State responsible is not willing to accept the take charge or take back request and they must not use an inadmissibility decision. The court highlighted that the Asylum Procedures Directive (APD) does not provide in Article 33(2) a ground for inadmissibility when the responsible Member State is not willing to take back the applicant. Thus, Germany's practice of using inadmissibility decisions for Italy's unilateral refusal to accept Dublin transfers is not in accordance with the APD, so Germany and any other Member States with the same practice must change their legal provisions. The same logic is kept in the Asylum Procedures Regulation.

Furthermore, the court also added that the European Commission or another Member State may bring an action for failure to fulfil obligations against a Member State that does not comply with the Dublin III Regulation. Thus, infringement proceedings are a possibility against Member States' non-compliance.

Time limit to examine applications for international protection at first instance

The CJEU further clarified the rules applicable to repeated extensions of the 6-month time limit to examine applications for international protection (*State Secretary for Justice and Security* v *X [Safita]*, C-489/24, 5 March 2026). The CJEU ruled that, after an initial extension of the 6-month time limit for examining an application for international protection, the Member State may extend that time limit again if it can show that two cumulative conditions are fulfilled:

i) that despite efforts, it did not have sufficient time to provide the determining authority with appropriate and sufficient means for an adequate and complete processing of a large inflow of applications; and

ii) provided that the cumulative duration of successive extensions does not exceed the time necessary to comply with that obligation or the maximum time limit of 21 months from the lodging of the application.

This judgment follows the court's previous judgment in *Zimir*, where it was ruled that the 6-month time limit may be extended by 9 months by the determining authority if three conditions are met cumulatively:

i) the applications for international protection must be lodged 'simultaneously';

ii) the applications must be lodged by 'a large number' of third-country nationals or stateless persons; and

iii) it must be 'very difficult in practice to conclude the procedure within the 6-month time limit'.

The CJEU judgments establish clear limits on the ability of Member States to manage asylum processing pressures by extending procedural deadlines, reinforcing instead the obligation under Article 4(1) of the recast APD to maintain adequate processing capacity rather than

resorting to deadline extensions as a remedy for systemic backlogs or gradually increasing caseloads. The impact of the cases in the Dutch context is demonstrated by a recent ruling of the Dutch Council of State in 202300717/2/V1, pronounced on 25 March 2026. It confirmed that the Minister of Asylum and Migration acted unlawfully in extending the statutory 6-month decision period for asylum applications by 9 months through WBV 2022/22, as the three conditions set out in *Zimir* were not met. The gradual nature of the increase in asylum applications between mid-2021 and late 2022, combined with the minister's acknowledged reliance on pre-existing backlogs as a contributing factor, fell outside the narrow circumstances in which an extension is permissible under EU law. The practical implications of the ruling are significant as the council ruled that WBV 2022/22 is non-binding in its entirety, meaning that all asylum applicants covered by the decree were entitled to a decision within 6 months rather than 15, and those whose applications were not decided within that period had a valid basis to appeal against the failure to decide in time. The ruling of the Council of State also led to a decision by the Dutch Minister for Migration and Asylum to reverse the extension for applications which were received from 1 January 2023. This has resulted in the withdrawal of all extensions for a decision as of 1 June 2026. While the reversal of the extensions does not necessarily lead to a faster settlement of the case, it is expected to affect the penalty payments for non-timely decision-making by the determining authority.

Access to employment measures and social assistance for beneficiaries of international protection

For the first time, the CJEU assessed measures related to employment and access to social assistance for beneficiaries of international protection. It ruled that the Italian 'citizens income', a social benefit coupled with measures for occupational and social integration, was covered by the principle of equality (*K.H.* v *Istituto nazionale della previdenza sociale (INPS)*, C-747/22, 7 May 2026). According to the CJEU, the condition of having 10 years of residence in Italy to receive that social assistance, with the last 2 years being continuous, was affecting primarily non-nationals and constituted indirect discrimination contrary to EU law. Since the length of stay is not provided in EU law as a criterion to grant social benefits to beneficiaries of international protection, the court emphasised that Member States cannot provide for conditions or limitations additional to those laid down by EU law, the objective of which is to ensure a minimum level of benefits. This ruling will remain as a guideline for Member States' practice under the Qualification Regulation, which provides for access to employment and social assistance for beneficiaries of international protection.

Calculation of the maximum period of detention pending a return

The CJEU clarified that the maximum period of detention in view of a return must include all periods of detention, even non-consecutive ones, completed in a Member State for the purpose of enforcing the same return decision (*A* v *Rikoskomisario B [Aroja]*, C-150/24, 5 March 2026). The court ruled that if detention is combined with periods of liberty or if there is a change in the person's factual circumstances, these aspects do not give rise to a new period of detention. The court further provided guiding principles for the speediness of judicial review of detention pending a return. It held that the absence of the judicial review does not automatically lead to the annulment of the extension decision or the lifting of the detention, provided the substantive conditions for detention are met.

Return after international protection is revoked and removal to the country of destination would be contrary to *non-refoulement*

The CJEU clarified that Member States cannot issue a return decision against a third-country national whose subsidiary protection has been revoked on grounds of being a threat to national security, when it is established that a removal to the country of destination is not possible due to the principle of *non-refoulement* (*HG v The Minister for Asylum and Migration (de Minister van Asiel en Migratie) [Tadmur]*, C-202/25, 26 March 2026). The CJEU had previously found that Article 5 of the Return Directive precludes the adoption of a return decision when a removal to the intended country of destination is not possible due to *non-refoulement* (see *AA*, C-663/21, 6 July 2023, concerning revocation of refugee status due to the commission of a serious crime). *Tadmur* extends this prohibition to beneficiaries of subsidiary protection who are a threat to national security and confirms that the principle of *non-refoulement* is absolute, not limited by national security concerns. It does however leave Member States in a challenging position, not being able to issue a return decision without specifying a destination country, but also not providing applicants with reception rights since their subsidiary protection was revoked.

A second important point in *Tadmur* is that a return decision cannot be issued without indicating a country of destination when a return is not possible to the country of origin. The country of destination could be a country of transit when there is a readmission agreement between the states or another third country when the person agrees to voluntarily return there. The CJEU interpretation is aligned with the observations of the Council of Europe Commissioner for Human Rights, which raised concerns about the proposed EU returns framework that included return decisions without a destination being provided and the possibility to indicate multiple return destinations without a thorough assessment of individual circumstances and risks upon a removal to each of the destinations *(see here).*

During the reference period of this quarterly, courts in the Netherlands have referred additional questions to the CJEU concerning return decisions so that further aspects should soon be clarified by the CJEU *(see Section 3).*

2. European Court of Human Rights

The European Court of Human Rights (ECtHR) pronounced judgments related to the reception system in Belgium, reception of minors, immigration detention, returns to Afghanistan and diplomatic assurances for returns between Contracting States of the European Convention.

Reception system in Belgium

During the reference period, the ECtHR issued two rulings concerning the reception system in Belgium. Examining the saturation of the reception system in 2022 and 2023, the ECtHR found that, despite the crisis situation, the delays by national authorities in providing accommodation to asylum applicants, as ordered by national courts and an interim measure by the court, constituted a failure to observe domestic legislation and court decisions, contrary to the rule of law. Reaffirming its previous findings in *Camara v Belgium* (18 July 2023), the court found in *M.V. v Belgium* (9 April 2026) that the applicants lived in extremely precarious conditions for several months including in winter in violation of Article 3 of the European Convention, reaching a high level of severity, due to the authorities' failure to adequately address their situation although they were aware of it. The delays in enforcing domestic court orders resulted in a breach of Article 6, which was acknowledged by the government. The execution was not timely and was carried out only after interim measures were ordered by the ECtHR, with financial penalties still unpaid although ordered by the domestic courts.

While a certain delay may be expected in the context of a crisis, in the present case the delays were not reasonable since the interim measure only confirmed obligations previously imposed by national courts. Pursuant to Article 46, the court found that the systemic deficiencies identified in the *Camara* case persisted and indicated the Committee of Ministers to re-examine the situation in September 2026.

Given the authoritative standing of the ECtHR, this ruling is expected to have a significant impact on Dublin transfers to Belgium, which has been a point of divergence across national jurisdictions. While systemic deficiencies were already identified by the Dutch Council of State in 202404274/1/V3 (23 July 2025), in contrast, only a day prior to the ECtHR ruling, the Supreme Court in Slovenia had confirmed a decision to transfer an applicant to Belgium in *Applicant v Ministry of the Interior* (VS00092307, 8 April 2026). The Slovenian court ruled that there was no objective data from relevant sources such as judgments from the ECtHR or reports issued by bodies of the Council of Europe or the United Nations to substantiate the existence of systemic deficiencies in the asylum procedure and reception conditions in Belgium which would justify the preclusion of the transfer.

Nonetheless, protecting its institutional integrity at a time when there was a significant number of interim measure requests and applications on reception of asylum applicants in Belgium, in *Mouelhi v Belgium* (No 37336/23, 28 April 2026), the ECtHR found that the applicant's deliberate submission of false claims in a request for interim measures that he was living on the streets in Belgium, although he was accommodated in the Netherlands as an asylum applicant, amounted to an abuse of the right of individual application. The court reiterated the

duty of lawyers and applicants to cooperate in a loyal and constructive manner, and to refrain from submitting misleading information.

At the domestic level, national courts in Belgium have issued several rulings concerning the reception situation of applicants who have previously been granted international protection in another Member State *(see Highlights from national courts).*

Reception of minors in centres with adults

Another relevant judgment was pronounced by the ECtHR on the standards that must be met by Member States when receiving unaccompanied minors (*H.D. v Italy*, No 41645/23, 9 April 2026). While the judgment does not mention whether the applicant, an unaccompanied minor, was an asylum applicant, the centre where he was held, the Sant'Anna C.A.R.A. Regional Hub in Isola di Capo Rizzuto, Crotone, is used as a centre for asylum seekers, and the applicant was there in 2023 for almost 6 months in violation of Articles 3 and 5 of the European Convention. The judgment highlights that it is not sufficient for Member States to formally designate separate areas for minors in reception facilities if in practice they live in close contact with adults without restrictions and without specific services offered to minors for accommodation, sanitary facilities and daily routines (e.g. educational, recreational or psychosocial support).

The judgment also confirms that merely releasing the person does not absolve the Member State of detaining the person without a legal basis, not informing them about the reasons for detention and not providing an expeditious judicial review.

At the same time, reforms concerning minors included in Senate Bill No 1869 on immigration and international protection in Italy, which also contains provisions for the implementation of the Pact on Migration and Asylum, is currently being discussed by the Senate's Constitutional Affairs Committee. The proposed reforms have sparked concern among civil society organisations. In a joint press release issued by 27 organisations, key concerns included the reduction of support during a minor's transition to adulthood, with the maximum age for receiving such support reduced from 21 to 19 years. Concerns were also raised about the protection of minors more broadly, as well as the proposed transfer of decision-making authority for assisted voluntary returns from the Juvenile Court to the administrative authorities.

Detention and use of rubber bullets against detainees

The ECtHR delivered a significant ruling which addressed two issues of relevance to immigration detention regimes, including the use of rubber bullets against detainees by authorities responding to unrest and the practical accessibility of interim relief as a mechanism to challenge the lawfulness of detention orders. In *Y.F.C. and Others v the Netherlands* (No 21325/19, 21 April 2026), the court found that the use of rubber bullets against detainees in response to unrest that broke out in the foreigners' barracks of the immigration detention facility in Curaçao constituted a breach of Article 3 of the ECHR in light of the absence of an effective domestic investigation into whether the officers' use of force had been strictly necessary, combined with the lack of any domestic rules governing the appropriate use of rubber bullets. This finding carries important implications for how Member States must

regulate the use of force in detention, through a clear regulatory framework and meaningful investigations following an alleged incident.

The court also ruled that during the first week of detention, the remedy of interim relief was not sufficiently accessible, in breach of Article 5(4) of the ECHR. It pointed out several structural barriers to access, including that the possibility for interim relief was not mentioned in the detention orders, the detention orders were written in a language that the applicants could not understand, and the applicants did not have access to legal assistance during their first week of detention. In light of these circumstances, the court considered that without a legal representative, the applicants would not have been aware about the possibility to challenge the lawfulness of the detention orders. Although the court re-affirmed the established principle that a Member State is not required to provide legal aid in such situations, it found that in these particular circumstances the applicants could not have reasonably instigated legal proceedings. This approach therefore gives importance to structural barriers which effectively limit access to such remedies in practice.

Returns to Afghanistan

The ECtHR examined the possibility of returning a rejected asylum applicant to Afghanistan. The court ruled in *D.M.* v *Sweden* (No 32694/23, 26 March 2026) that this would give rise to a violation of Article 3 of the ECHR, considering the cumulative effect of the general human rights situation in Afghanistan, coupled with the individual circumstances of the applicant, including his Hazara ethnicity, his origin from Mazar-e Sharif, where the Islamic State of Khorasan Province was particularly active; his adoption of a western way of life having lived for around 10 years in the host country which may be perceived in Afghanistan as transgressing religious and moral norms.

In reaching its decision, the ECtHR drew on the EUAA's Country Guidance: Afghanistan (May 2024). When assessing the general security situation, the ECtHR observed that, with a few exceptions, most European countries have not carried out involuntary returns to Afghanistan since the Taliban takeover. It referenced a number of sources from international organisations, including the EUAA's Country of Origin Information Report - Afghanistan: Country Focus (November 2024) and Country of Origin Information Report - Afghanistan: Country Focus (January 2026), finding that, while the general security situation remained serious and fragile, the level of intensity of the violence was not sufficient to determine that a removal to Afghanistan would automatically breach Article 3.

Such a finding would only be made in the most extreme cases of general violence, where a real risk of ill treatment arises simply by virtue of the individual being exposed to such violence upon a return. The court also clarified that, although Hazaras may be at risk of persecution, this does not automatically translate into protection needs for all Hazaras.

As concerns the general human rights situation, in a broader context of international concern about returns to Afghanistan (e.g. from Iran, Pakistan, Tajikistan and Türkiye), the UN High Commissioner for Human Rights warned against such returns, highlighted the need for individualised risk assessments and stressed that the *No Safe Haven* report of the UN Assistance Mission in Afghanistan (UNAMA) and the UN Human Rights Office (OHCHR) had already found that returnees experienced arbitrary arrest, detention, torture and ill treatment

at the hands of the *de facto* authorities. The commissioner also expressed concern at the proposed new EU rules on returns, as they could weaken human rights safeguards and expose people to harm, especially given that Afghanistan was in a very serious human rights situation, deteriorating humanitarian situation and growing insecurity, as a result of the escalation of hostilities between Pakistan and Afghanistan.

Diplomatic assurances for returns between Contracting States of the European Convention

The ECtHR examined claims of systematic *refoulement* from Türkiye to Syria in *J.B.* v *Greece* (No 54796/16, 26 May 2026). The case concerned a Syrian national of Armenian origin and Christian faith who had fled Syria in 2015, spent approximately 1 year in Türkiye under temporary protection and entered Greece in May 2016 where he applied for asylum. The Greek authorities declared his application inadmissible, considering Türkiye to be his first country of asylum or a safe third country under the EU-Turkey Statement, and ordered his return to Türkiye. The applicant complained that his removal would expose him to a risk of ill treatment and chain *refoulement* to Syria, that the Greek asylum and removal procedures failed to provide an effective remedy in breach of Article 13 read together with Article 3 of the Convention, and that the conditions of his detention in Mytilene police station violated Article 3. By the time the case was decided, the applicant had moved to France and had been granted refugee status, leading the court to strike out the complaint concerning the risk of a removal to Türkiye.

As regards the alleged deficiencies in the asylum and removal procedures, the court found no violation of Article 13 in conjunction with Article 3, holding that the applicant's case had undergone several levels of review and the Greek authorities had carried out an individual assessment based on country information and assurances provided by Türkiye, the European Commission and UNHCR. The court highlighted the principle that the parties can use diplomatic assurances when there is a mutually agreed mechanism for the treatment of returnees, such as the EU-Turkey Statement of 18 March 2016, and if the assurances are not applied mechanically. However, the ECtHR found that the applicant's detention for one month and nineteen days in Mytilene police station, a facility unsuitable for prolonged detention, amounted to inhuman or degrading treatment in violation of Article 3.

3. Highlights from national courts

This edition includes case law from Austria, Belgium, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Netherlands, Slovenia, Spain, Sweden and Switzerland.

More national judgments from this period are available in the EUAA Case Law Database. See the Search page and the Digest of cases to consult additional judgments.

EU Pact on Migration and Asylum

Access to national implementation plans

The Lazio Regional Administrative Court recognised the right of the public to access Italy's National Implementation Plan (NIP) for the EU Pact on Migration and Asylum, its annexes and any subsequent updates, subject to any necessary redactions (N. 4084/2026, 3 March 2026). It annulled the Ministry of the Interior's decision to refuse a journalist's request for generalised civic access, finding that the ministry had not sufficiently explained how disclosure would concretely jeopardise public security, public order or international relations, and had wrongly treated the NIP as an excluded preparatory administrative measure. The court held that, given the strategic importance of the NIP for future EU migration policies, at least partial access had to be granted to ensure broad public scrutiny.

An overview of publicly-available national implementation plans (NIP) and national strategies in preparation for the implementation of the Pact on Migration and Asylum is available in the EUAA's Situational Update No 25 (March 2026). As of February 2026, Belgium, Croatia, Cyprus, Denmark, Finland, Greece, Iceland, Italy, Latvia, Norway, Portugal, Romania and Switzerland have not made a NIP publicly available. Sweden makes it available on demand. Estonia has published a summary and Malta made partial information available.

Dublin and secondary movements

Referral to the CJEU: Asylum applications lodged in another Member State after renouncing international protection in a first Member State

The Administrative Court in Hamburg referred two questions to the CJEU for a preliminary ruling on the admissibility under Article 33(2)(a) of the recast APD of an application lodged by an applicant who has protection in another Member State (12 A 8224/25, 25 March 2026). The court asked if a Member State may, in principle, reject an application for international protection as inadmissible only if the international protection granted by the other Member State still exists at the relevant time when assessing the admissibility of the new application

for international protection. If the answer is yes, the court sought guidance on whether there is an exception that can be made when the applicant renounced the protection granted in the other Member State.

The referring court noted that a readmission was unlikely when the person renounced protection, since that protection no longer existed. In the case before it, the applicant claimed that her family had forced her to renounce protection in France, so she had not renounced it with the intention of seeking protection elsewhere or for any other abusive reason.

The court observed that, although its practice and that of BAMF and other courts in Germany was to treat certain situations of renunciation as if that protection continued to exist, it did not find this interpretation applicable in the present case when the applicant did not voluntarily renounce her protection.

Dublin transfers to Poland

The Supreme Court in Slovenia concluded that the conduct of the border guards on the Polish-Belarusian border, including unlawful refusals and detention, while not in accordance with EU law according to the CJEU ruling in *JF* (C-392/22, 29 February 2024), was not an obstacle to transfer under Article 3(2)(2) of the Dublin III Regulation as it does not relate to the asylum procedure or reception conditions.

The court found no systemic deficiencies in the Polish asylum system that would expose the applicant to a real risk of inhuman or degrading treatment contrary to Article 4 of the EU Charter, rejecting his objections as generalised and unsupported by objective sources.

Assessment of applications

Afghanistan and Pakistan

In light of the regional impact of the offensive by the United States of America and Israel against Iran, and taking into account Iran's reprisals across multiple countries, in AAN 1114/2026 (6 March 2026) and AAN 1235/2026 (27 March 2026) the Spanish National High Court granted interim measures and ordered Spanish embassies in Iran and Pakistan to transfer several Afghan applicants to Spain to apply for asylum. It found that the current situation in Pakistan and Afghanistan is arguably very close to a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict within the meaning of Article 15(c) of the recast QD.

The Federal Administrative Court (FAC) in Switzerland granted refugee status to a lesbian woman from Pakistan, finding that she demonstrated a subjective fear which was relevant for asylum, specifically an unbearable psychological pressure in case of a return due to past violence by her family and a risk of forced marriage or honour killing (E-1325/2021, 31 March 2026). FAC cited the EUAA COI Pakistan Country Focus (December 2024), which identified a heighted risk for lesbian women, without any protection from state-actors.

Iran

The International Protection Administrative Court (IPAC) in Cyprus found a situation of generalised insecurity in Iran which posed a risk of serious harm for anyone in the affected area without a safe and reasonable internal flight alternative. In *F.A. v Republic of Cyprus through the Asylum Service* (No. 7481/21, 31 March 2026) the court examined reports showing the impact on population movements, with UNHCR registering 100,000 new internally displaced persons and reports of damage to the health system and energy infrastructure outside the capital. The court emphasised that there were thousands of civilians injured, dead and displaced, and the consequences of the conflict were compounded by repression and restrictions, further complicating the protection of the population.

The court also observed that no stable ceasefire framework had been reached, hostilities continued, the political and humanitarian consequences extended to almost the entire Iranian territory, and any prospects for dialogue between the parties remained fragile. Specifically, the court held that in the current context, public indications point more to a continuation of uncertainty and a risk of further escalation than on an immediate stabilisation of the situation.

Lebanon

The International Protection Administrative Court (IPAC) in Cyprus annulled a decision by the Asylum Service which rejected a subsequent application from an applicant of Palestinian origin born in Lebanon. In *M.A. v Republic of Cyprus through the Asylum Service* (T833/2024, 20 April 2026) it ruled that the applicant's new evidence, particularly his diagnosis of insulin-dependent diabetes and the significant deterioration of security and humanitarian conditions in Lebanon, could substantially increase his chances of qualifying for subsidiary protection. It found that the Asylum Service had wrongly treated the subsequent application as inadmissible because it failed to conduct a proper and individualised assessment of the combined impact of the applicant's medical condition and the current situation in Lebanon, including the risks arising from ongoing conflict, displacement and limited access to healthcare. The court held that these factors were relevant to assess whether the applicant faced a real risk of serious harm upon a return, as required for subsidiary protection, and therefore remitted the case to the authorities for a full substantive examination of the claim.

Russia

The Riga District Administrative Court in Latvia granted refugee status to a Russian applicant, finding that he was likely to be conscripted upon a return to Russia due to his age (A420007926, 23 April 2026). It ruled that military service may involve participation in war crimes, refusal would likely result in criminal prosecution and imprisonment and, with reference to the CJEU's *EZ* judgment, that such a refusal would likely be interpreted as activism. The fact that the applicant was not registered for military service and did not receive a draft notice was not considered decisive. The court referenced EUAA's COI report, The Russian Federation: Country Focus (December 2025).

The Administrative Court in Zagreb overturned the rejection of a Russian applicant's asylum request based on his opposition to the war in Ukraine, instructing the Ministry of the Interior to reassess the military call-up sent to the applicant, his oppositional activities and to verify the

effectiveness of the asylum systems in the transit countries, namely Georgia, Türkiye, and Bosnia and Herzegovina (Us I-109/2025-10, 18 March 2026).

The Regional Court in Brno annulled the refusal to grant international protection to a Russian applicant, finding that the ministry insufficiently assessed the real risk of persecution and serious harm for refusing to perform military service and the risk of being involved in the war in Ukraine (34 Az 202025 – 82, 13 April 2026). Citing the EUAA's COI report, The Russian Federation: Country Focus (December 2025), the court ordered the ministry to re-assess the case by determining whether the cumulative effect of the applicant's individual circumstances, including summons for military service, his military specialisation, reserve status, service-relevant age and links to Ukraine would increase the risk of persecution or serious harm upon a return to Russia.

By contrast, German Higher Administrative Courts of Berlin-Brandenburg (OVG 12 B 7/24, 28 May 2026) and Saxony-Anhalt (2 L 92/25, 23 March 2026) ruled that conscripts in Russia are not generally entitled to subsidiary protection solely on the basis of their expected military service. Citing the EUAA COI report The Russian Federation: Country Focus (December 2025), among other sources, the court in Saxony found it unlikely that a Russian applicant of Chechen origin would be subject to serious harm or inhuman or degrading treatment for either draft evasion, performance of basic military service or involvement in military operations in Ukraine, as a contract soldier.

South Sudan

The French National Court of Asylum (CNDA) granted subsidiary protection to an applicant from the State of Jonglei in South Sudan in *D. v OFPRA* (No 25023152 C, 23 March 2026). It ruled for the first time that there was a situation of indiscriminate violence of exceptional intensity in Jonglei state, in light of the internal armed conflict between the factions of President Salva Kiir and Vice President Riek Machar since December 2013, which had intensified in the applicant's region since 2025.

Sudan

The French CNDA in *A.A. v OFPRA* (No 25048485 C+, 6 May 2026), provided subsidiary protection to an applicant from the State of Sennar (Sinja) in Sudan, holding that the Sennar was experiencing a high level of indiscriminate violence due to the ongoing internal armed conflict. The court noted that, although the level of indiscriminate violence was high, it did not reach the threshold at which every civilian returning to Sennar would face a real risk of serious harm by virtue of their mere presence. On that basis, it ruled that only a low level of personal circumstances needed to be established, which the applicant had demonstrated in his case as his work as a shepherd necessitated movement in the area. Among the sources consulted, the CNDA referenced the EUAA's Country Guidance: Sudan (June 2025).

It also granted refugee status to a Sudanese applicant of Fur ethnicity from Northern Darfur in *Y. v OFPRA* (No 26006334 C+, 12 May 2026), finding that the Fur ethnic group is subject to ethnic cleansing carried out by Rapid Support Forces (FSR) and Arab militia, who entirely control the area of Darfur and where the Sudanese authorities are unable to provide effective protection to this ethnic group. The CNDA cited EUAA's Country Guidance: Sudan

(June 2025) which documented racial acts against non-Arab people and ethnic groups, in particular Zaghawa and Fur.

In addition, the CNDA also recently granted refugee protection to a Sudanese applicant of Zaghawa origin from North Darfur (*M.* v *OFPRA*) and a Masalit from West Darfur (*MI* v *OFPRA*) on grounds of a well-founded fear of persecution related to their ethnicity.

Syria

In Denmark, the first test cases since the fall of the Assad regime were decided in March 2026 by the Danish Refugee Appeals Board, holding that no areas in Syria have an exceptionally high level or high level of indiscriminate violence and there was no real risk for a civilian to be personally affected by indiscriminate violence in Damascus. The board referred to the EUAA's Country Guidance: Syria from December 2025.

The Austrian Constitutional Court ruled that, when assessing the likelihood of persecution through child recruitment in Syria after the fall of the Assad regime, the asylum authorities should consider the socio-economic situation of an applicant, their family situation (e.g. whether a male relative could offer protection) and their place of origin (E2970/2025, 2 March 2026). It found that the asylum authority erred by not taking into account EUAA's Interim Country Guidance: Syria (June 2025), which indicated that persecution of children continues even after the fall of the Assad regime, and the COI report Syria: Country Focus (July 2025), which noted that in June 2025 children were still being recruited to the Syrian Democratic Forces training camps and a pattern of forced child recruitment was evident. Additionally, it ruled that the asylum authority failed to examine the individual circumstances of the applicant, including that he was 13 years old, and was in a particularly precarious situation because his immediate family no longer lived in Syria. It noted that these factors must be assessed to determine whether the applicant presented an elevated risk profile and whether he was at a significant risk of being recruited as a minor.

Zimbabwe

The CNDA granted refugee status to an applicant from Zimbabwe, holding that, although criminal law punishing homosexual relations does not specifically target women, homosexual women nevertheless constitute a particular social group, in light of the way they are viewed by the surrounding society and its institutions (No 25029283 C+, 28 April 2026). It found that homosexuals in Zimbabwe are subjected to widespread discrimination, hostility and violent attacks, for which the applicant would not be offered protection.

Reception conditions

Reception conditions for applicants who have international protection in another Member State

In a series of judicial interventions, courts in Belgium have halted attempts by the Belgium Minister of Asylum and Migration to limit reception to applicants who have received international protection in another Member State.

The Council of State first suspended a policy decision to limit reception to this group by decision of 27 December 2024 in Case No 261.887.

The minister then sought to codify the same policy through the Law of 14 July 2025, which modified the Law of 15 December 1980 on access to territory, residence and removal of third-country nationals, as well as Articles 2, 4 and 5 of the Law of 12 January 2007 on the reception of asylum applicants and other categories of foreigners. These new measures allowed Fedasil to limit or withdraw the right to material assistance when a person who already received international protection from another Member State applied for asylum in Belgium. They also abolished the possibility to grant reception in the form of financial assistance in exceptional circumstances.

On 26 February 2026, the Belgian Constitutional Court provisionally suspended the Law of 14 July 2025. The Constitutional Court found that the withdrawal of this support creates a risk of serious and irreparable harm and referred a question to the CJEU on the compatibility of the legislation with the Common European Asylum System (CEAS).

On 2 March 2026, the Belgian Minister of Asylum and Migration cited alternative legal grounds and instructed Fedasil to treat all applications made by beneficiaries of international protection in another Member State as subsequent applications, to limit material assistance for these applicants and to inform them that they should return to the Member State that had granted them protection.

On 13 March 2026, several associations, the Order of Francophone and German-speaking Bars, and several international protection applicants requested the Belgian Council of State to suspend the ministerial instruction of 2 March 2026 to Fedasil and challenged the treatment of these applications as subsequent applications and the limitation of reception.

In an urgent procedure, on 27 March 2026, the Belgian Council of State suspended the ministerial instruction of 2 March 2026 (Case No 266.219). The council found that extreme urgency was established, since several applicants faced imminent homelessness without work authorisation or alternative housing, which constituted immediate, serious and irreversible harm. It further held that the instruction was *prima facie* a regulatory act, adopted without the mandatory prior opinion of its Legislative Section.

Following its provisional suspension on 26 February 2026 of the Law of 14 July 2025, on 21 May 2026 the Constitutional Court restored the provision of financial assistance in

exceptional circumstances, when a place in a reception shelter or other material assistance cannot be provided (Case No 66/2026). It abolished the new provision, as it found that the removal of Fedasil's ability to provide financial assistance in such circumstances constituted a breach of several rights, including the right to human dignity, social assistance, decent housing, private and family life, and exceeded the discretion allowed to Member States to determine the modalities of the provision of reception by the recast Reception Conditions Directive.

Detention

Detention under the Italy-Albania Protocol

In the context of the implementation of the Italy-Albania Protocol, the Court of Appeal of Rome refused to validate the detention of a Moroccan national who had been transferred to the Gjadër Repatriation Detention Centre (CPR) after requesting international protection, having previously been subject to an expulsion order and detention in Italy (R.G.3085/2026, 20 May 2026). The court assessed the provision introduced by Law No 75/2025, which permits applicants transferred to Albania to remain there when there are reasonable grounds to consider that the asylum application was lodged abusively, with the aim of delaying a refusal of entry or expulsion. It found that the provision raised doubts under Article 9 of the recast APD and, prospectively, Article 10 of the Asylum Procedures Regulation (APR), both concerning the right to remain in the Member State pending the examination of the application. Since no exception under Article 9 of the recast APD applied in this case, the court held that that provision had a direct effect and required the disapplication of the conflicting national rule.

The court further held that the detention order could not, in any event, be validated because broader doubts remained about the compatibility of the Italy-Albania Protocol framework and its implementing law with EU law. These issues were pending before the CJEU in preliminary references submitted by the same court, C-706/25 [Comeri] and C-707/25 [Sidilli], as well as another preliminary reference submitted by the Court of Cassation, C-414/25 [Sedrata].

On 23 April 2026, Advocate General Nicholas Emiliou delivered his Opinion in Sedrata, taking the view that the Italy-Albania Protocol and its implementing legislation are, in principle, compatible with EU asylum and return law, provided that the rights and guarantees afforded to applicants are effectively safeguarded. He considered that the right to remain in a Member State pending the examination of an application for international protection does not entail a corresponding right to be transferred back to the territory of that Member State.

Most recently, Advocate General Laila Medina delivered her Opinion on 11 June 2026 in Joined Cases C-706/25 and C-707/25 [Comeri and Sidilli]. She took the view that Member States lack competence to conclude international agreements in the field of asylum when the subject matter is governed by harmonised EU rules and the agreement can affect those rules or alter their scope. The Advocate General considered that EU law does not prevent Italy from

locating detention facilities for asylum applicants in Albania, provided that detention grounds applied remain those permitted under EU law. At the same time, she questioned whether the protocol and its implementing legislation provide sufficiently clear and precise guarantees to safeguard fundamental rights, including the rights of the defence, respect for private and family life, and the right to immediate release where detention is not validated.

Appeal procedures

Artificial intelligence (AI) translations submitted as evidence in court procedures

The legal effects of using AI to produce translations in appeal procedures was examined by an asylum court in a judgment which warns lawyers against negligently using AI as a resource. The Belgian Council for Alien Law Litigation (CALL) ruled in *X v Belgian State represented by the Minister for Asylum and Migration and Social Integration* (No 344 394, 7 April 2026) that a lawyer who used AI to translate the copy of the original Dutch judgment and submitted it on appeal acted with great negligence, misled the court and demonstrated a lack of respect for CALL, which then needed to take additional administrative measures to adjust the procedure from French to Dutch. Although the appeal was not declared manifestly abusive, CALL deemed it necessary to inform the relevant bar association and the President of the Legal Aid Office about the lawyer's actions.

Referral to the CJEU: Dismissal of an appeal as being out of time due to a lack of diligence by the appointed lawyer

The Administrative Court of Thessaloniki referred a question to the CJEU for a preliminary ruling on whether an appeal against a first instance decision can be rejected as being out of time, when the applicant was not informed about the lawyer appointed to his case, had not consulted with the lawyer about the case and the lawyer did not handle the applicant's case with the required diligence while the applicant showed due diligence (ΑΔ 72/2026, 20 March 2026).

Rights of beneficiaries of international protection

Family reunification for transgender refugees

In a remarkable development for the right to family life of transgender refugees, the Supreme Court of Estonia ruled that requiring marriage or a registered partnership when assessing requests for family reunification is unlawful when such documents cannot be obtained in the country of origin (Case No 5-25-79 23 March 2026). The case concerned a transgender Russian refugee in Estonia, who requested family reunification with her same-sex partner. The court also noted that, although EU law does not require Member States to recognise a

cohabiting partner as a family member, the Family Reunification Directive supports more favourable family reunification conditions for refugees.

Following this judgment, the Constitutional Committee, upon proposals from the Ministry of the Interior and the Estonian Human Rights Centre, submitted an amendment to the new Act on Granting International Protection to Aliens, which the Estonian Parliament adopted during the second reading.

Section 6 of the bill, defining refugee family members, was supplemented with a new subsection covering unmarried partners in genuine pre-existing, cohabiting relationships who were unable to marry or formally register their partnership for reasons beyond their control. The accompanying explanation in the list of amendments states that defining a family member on the basis of actual and genuine family life, rather than exclusively formal legal status, is both lawful and necessary to achieve the objectives of international protection and to ensure effective protection of family life.

Family reunification when revocation of international protection is pending

The Austrian Constitutional Court ruled that, when family reunification is requested while proceedings to revoke international protection for the sponsor are pending, the court examining an appeal against the refusal of an entry permit for the family members must examine independently whether there are probable grounds for revocation, if the revocation proceedings are conducted within a reasonable time, and whether there has been any undue delay in the decision on family reunification (E29/2026 and others, 18 March 2026). Assuming that the pending revocation proceedings are a mandatory ground for rejection of the family reunification request violates Article 8 of the ECHR.

The Constitutional Court first ruled in December 2025 on this topic and now it has clarified that an automatic rejection of applications for family reunification solely because revocation proceedings against the beneficiary of international protection are pending in Austria is incompatible with Article 8 of the ECHR.

The ruling is significant because in March 2025 Austria invoked a threat to public order and internal security under Article 72 of the TFEU and announced a broad suspension of family reunification until September 2026. While the court's judgment does not affect the Austrian government's suspension policy, it is still significant because it mandates courts to actively scrutinise delays in the family reunification decision and this would immediately apply in cases when exceptions to the government suspension are applicable (e.g. humanitarian situations or special personal or family-related reasons according to UNHCR).

The court judgment is also relevant when individually assessing cases for which revocation proceedings are pending instead of automatically applying a ground for a rejection which could lead to a violation of Article 8 of the ECHR. The standards set in this ruling will be applicable to all cases once the suspension is lifted, although the numbers may be significantly reduced considering that in May 2026 the Austrian Parliament approved legislation that will introduce a yearly quota system on family reunification.

Derived protection for children of recognised refugees

In view of the CJEU case law related to the need to maintain family unity and the possibility to adopt more favourable provisions to grant international protection, on 22 April 2026 the Supreme Administrative Court of Lithuania clarified that granting derived international protection to children of already-recognised refugees is not contrary to Article 3 of the recast QD (eA-1900-822/2026). It disagreed with the Migration Department's finding that the national provision allowing for a derived right to international protection for children of beneficiaries of international protection without an individual merits assessment would be contrary to the recast QD. It also held that the CJEU judgment *A.B. v Ministry of the Interior (Ministerstvo vnitra České republiky)* (C-349/24, 5 June 2025) was neither applicable nor relevant to determine the outcome of the present case.

Resettlement

Requests for international protection after refugee status through resettlement is revoked

The Swedish Migration Court of Appeal ruled that the fact that a foreign national was granted international protection through resettlement prior to entering Sweden does not constitute an examination of an application for international protection during their stay in Sweden (UM 13548-25, MIG 2026:6, 27 March 2026). The court applied this principle in the case of a resettled refugee whose status had been revoked and who had been issued with an expulsion order following criminal convictions. When he subsequently invoked a need for international protection, the court found that the Swedish Migration Agency was obliged to examine the application, as such an application was not examined by a final decision during their stay in the host country.

Temporary protection

As the conflict in Ukraine continues, two recent judgments were pronounced in Switzerland and Finland, within the broader context of EU+ countries transitioning from emergency, collective temporary protection frameworks to more individually-applied assessments and phasing out benefits schemes.

In April 2026, the Federal Administrative Court of Switzerland confirmed the negative decision on temporary protection for a Ukrainian national who was previously granted protection in Germany (E-2409/2026, 15 April 2026). Citing the CJEU judgment in *Krasiliva* (C-753/2023, 27 February 2025), the court found that even when their protection in an EU country expired, the applicant can reobtain it in that country and, with reference to this specific case, the

submission of an application for status S in Switzerland would not have a detrimental effect on eligibility if a new request were made in Germany.

This is also because, as previously ruled by the German Federal Administrative Court in February 2026, the EU law principle is that the country which first granted protection and a corresponding residence permit remains responsible for granting such protection. In that particular case, there was no indication of a risk of penalties or exclusion for persons who temporarily returned to Ukraine.

These judgments on eligibility following secondary movements[i] were pronounced in a context of policy changes after the CJEU judgment in *Krasiliva* (see Finland) and stricter rules on time spent outside the host country, some of which were adopted to prevent abuses (see for Czechia here and here and for Poland here).

Besides scrutinising eligibility, Member States have also dealt with exclusion from temporary protection. Public order and security grounds were examined by the Supreme Administrative Court of Finland, which confirmed the exclusion of a Ukrainian national from temporary protection, finding that his conviction for serious crimes – as well as the frequency, repetitive nature and seriousness of the offences, including aggravated drug offences – indicated a disregard for laws and rules in the host country and demonstrated that the person's behaviour constituted a danger to public order and security (KHO:2026:25, 26 April 2026). Meanwhile, the Czech government approved a 'security amendment' on 25 May 2026, so temporary protection will lapse in several situations, including if its holder commits a serious crime. Most of these rules will apply in Czechia from January 2027.

Returns

Recent references to the CJEU and a new Advocate General's opinion highlight key unresolved questions in EU law related to returns, in particular concerning the scope of 'voluntary' returns and the timing, scope and competent authority to conduct a *non-refoulement* assessment. The timing for these questions is significant, given the recent provisional agreement reached by the Council of the European Union and the European Parliament on a Proposal for a Return Regulation.

Referral to the CJEU: Voluntary returns and the possibility to choose the destination country

The Dutch Council of State referred a question to the CJEU for a preliminary ruling on whether the word 'voluntary' in Article 3 of the Return Directive should be interpreted as enabling the applicant to choose the destination (202303560/1/V3, 13 May 2026). The case concerned a Venezuelan national for whom Ecuador was considered a safe third country. The applicant argued however that the term 'voluntary' refers to the third-country national's choice of destination, meaning that a return decision to a country other than the country of origin or transit requires his consent.

The council's provisional view, supported by the European Commission's 2017 Return Handbook and by the English, French and German language versions of the directive, was that the applicant's interpretation was linguistically correct. However, it considered that such an interpretation would undermine the Return Directive's objective of an effective removal policy if Member State would be unable to issue an enforceable return decision to a country without the applicant's consent, leaving the person in a legal limbo.

The ruling will have direct consequences for Member States that increasingly rely on the safe third country concept to manage asylum caseloads, and the timing is particularly notable given the ongoing implementation of the EU Pact on Migration and Asylum. A ruling in favour of the applicant's interpretation would significantly constrain Member States' removal capacity.

Referral to the CJEU: Timing and scope of *non-refoulement* assessment in return and detention procedures

On 3 March 2026, the District Court of the Hague seated in Haarlem submitted three questions before the CJEU for a preliminary ruling on the timing and scope of the *non-refoulement* assessment in the context of return proceedings (NL26.5956). The court asked:

- When a return decision indicates three countries of return due to implausible information on the applicant's nationality and origin, whether a *refoulement* assessment must be made at the time when the return decision is adopted or at a later date.
- Whether a detention judge may assess this of its own motion as a specific requirement of the Return Directive, even in the absence of an appeal against the return decision.
- In the context of a detention measure adopted for enforcement of a return decision, whether the *refoulement* assessment must be made when detention is ordered or whether it can be postponed to the moment when authorities have a confirmation of the nationality of the applicant.
- Whether the assessment should cover all countries indicated in the return decision.
- What weight should be given to the fact that the applicant cooperates or not in determining the country of return.

Based on previous CJEU rulings in *Adrar* (C-313/25 PPU, 4 September 2025) and *FMS* (C-924/19 and C-925/19, 14 May 2020), the Advocate General already issued an opinion on 4 June 2026. Pursuant to Articles 5 and 15 of the Return Directive, jointly with Articles 6, 19(2) and 47 of the EU Charter, the Advocate General considered that the judicial authority reviewing the legality of the detention order for the purposes of the removal of an illegally-staying third-country national while a final return decision is still pending is not competent to review of its own motion whether a *refoulement* assessment was conducted at the stage of adopting the return decision. The Advocate General elaborated that when such an assessment has failed, the judicial authority reviewing the detention order cannot draw the consequences by considering that a specific requirement of such a decision has not been met, with the result that the return decision cannot to be considered as a legal basis for adopting a detention measure.

In addition, the Advocate General assumed the position that Article 5 of the Return Directive, read in light of Articles 4 and 19(2) of the EU Charter, must be interpreted as mandating the national authorities to carry out an updated *refoulement* assessment, both at the stage of imposing a detention measure to ensure the execution of a return decision designating more than one country of destination and at the stage of reviewing the legality of the detention. This assessment must determine whether the principle of *non-refoulement* precludes the removal of a third-country national residing illegally to each of those countries, and whether this principle precludes the detention of that person when a removal to each of those countries would result in a violation of that principle. This obligation still stands irrespective of whether one or more countries were designated in the return decision due to the national's lack of cooperation.

On 27 March 2026, the District Court of the Hague seated in Haarlem referred additional questions to the CJEU concerning the obligation to conduct a *refoulement* assessment based on the country of destination indicated in the return decision, when the applicant's nationality and origin from that country have not been established as plausible (NL25.24480). The court asked:

- Whether at the time of the adoption of a return decision a *refoulement* assessment must be carried out on the basis of the country of destination indicated in the return decision, even if it is not established that the foreign national is a national of or comes from that country and will also return to that country.
- If the answer is affirmative, whether a *refoulement* assessment must be made in that case as if the nationality and origin were established, or is it sufficient to carry out an assessment based solely on the general situation in the country of destination, whether or not in combination with what is known about the foreign national.
- Whether it is possible to distinguish between the assessment that the administrative body and the court must make in that situation and, if so, in which ways.

Finally, on 5 May 2026 the Higher Administrative Court of Bremen in Germany referred questions before the CJEU for a preliminary ruling on whether the authority adopting a return decision must carry out a fresh *refoulement* assessment when international protection has been previously revoked by another authority which has already conducted such an assessment and concluded that Article 3 of the ECHR and Article 19(2) of the EU Charter do not preclude a removal (2 LC 44/25). It also questioned whether the administrative authority issuing a return decision must verify if new facts or other subsequent elements arose since the issuance of the withdrawal decision, which were not previously considered and may result in a situation precluding a return. Additionally, the referring court asked whether the applicant's cooperation in raising specific aspects during the withdrawal proceedings has any impact on the outcome on the return decision.


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