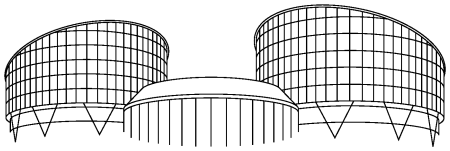

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on Article 4 of Protocol No. 4 to the European Convention on Human Rights

Prohibition of collective expulsions of aliens

Updated on 28 February 2026

Prepared by the Registry. It does not bind the Court.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Note to readers

This Guide is part of the series of Guides on the Convention published by the European Court of Human Rights (hereafter "the Court", "the European Court" or "the Strasbourg Court") to inform legal practitioners about the fundamental judgments and decisions delivered by the Strasbourg Court. This particular Guide analyses and sums up the case-law on Article 4 of Protocol No. 4 to the European Convention on Human Rights (hereafter "the Convention" or "the European Convention"). Readers will find herein the key principles in this area and the relevant precedents.

The case-law cited has been selected among the leading, major, and/or recent judgments and decisions.*

The Court's judgments and decisions serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (*Ireland v. the United Kingdom*, § 154, 18 January 1978, Series A no. 25, and, more recently, *Jeronovičs v. Latvia* [GC], no. 44898/10, § 109, 5 July 2016).

The mission of the system set up by the Convention is thus to determine issues of public policy in the general interest, thereby raising the standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (*Konstantin Markin v. Russia* [GC], § 89, no. 30078/06, ECHR 2012). Indeed, the Court has emphasised the Convention's role as a "constitutional instrument of European public order" in the field of human rights (*Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 156, ECHR 2005-VI, and more recently, *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, § 110, 13 February 2020).

Protocol No. 15 to the Convention recently inserted the principle of subsidiarity into the Preamble to the Convention. This principle "imposes a shared responsibility between the States Parties and the Court" as regards human rights protection, and the national authorities and courts must interpret and apply domestic law in a manner that gives full effect to the rights and freedoms defined in the Convention and the Protocols thereto (*Grzęda v. Poland* [GC], § 324).

This Guide contains references to keywords for each cited Article of the Convention and its Additional Protocols. The legal issues dealt with in each case are summarised in a List of keywords, chosen from a thesaurus of terms taken (in most cases) directly from the text of the Convention and its Protocols.

The HUDOC database of the Court's case-law enables searches to be made by keyword. Searching with these keywords enables a group of documents with similar legal content to be found (the Court's reasoning and conclusions in each case are summarised through the keywords). Keywords for individual cases can be found by clicking on the Case Details tag in HUDOC. For further information about the HUDOC database and the keywords, please see the HUDOC user manual.

* The case-law cited may be in either or both of the official languages (English and French) of the Court and the European Commission of Human Rights. Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.
Chamber judgments that were not final when this update was published are marked with an asterisk (*).

Article 4 of Protocol No. 4 – Prohibition of collective expulsion of aliens

"Collective expulsion of aliens is prohibited."

HUDOC keywords

Prohibition of collective expulsion of aliens (P4-4)

I. Origins and purpose of the Article

1. When Protocol No. 4 was drafted in 1963, it was the first international treaty to address collective expulsion. Its explanatory report reveals that the purpose of Article 4 was to formally prohibit "collective expulsions of aliens of the kind which was a matter of recent history". Thus, it was "agreed that the adoption of [Article 4] and paragraph 1 of Article 3 (prohibition of expulsion of nationals) could in no way be interpreted as in any way justifying measures of collective expulsion which may have been taken in the past" (*Hirsi Jamaa and Others v. Italy* [GC], 2012, § 174).

2. The core purpose of the Article is to prevent States from being able to remove a certain number of aliens without examining their personal circumstances and, consequently, without enabling them to put forward their arguments against the measure taken by the relevant authority (*ibid.*, § 177).

II. The notion of "collective expulsion"

3. "Collective expulsion" is to be understood as "any measure compelling aliens, as a group, to leave the country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group" (*Khlaifia and Others v. Italy* [GC], 2016, § 237; *Georgia v. Russia (I)* [GC], 2014, § 167; *Andric v. Sweden* (dec.), 1999; *Čonka v. Belgium*, 2002, § 59; *Sultani v. France*, 2007, § 81; and the Commission decisions *Becker v. Denmark*, 1975; *K.G. v. Germany*, 1977; *O. and Others v. Luxembourg*, 1978; *Alibaks and Others v. the Netherlands*,1988; *Tahiri v. Sweden*, 1995). The fact that a number of aliens receive similar decisions does not lead to the conclusion that there is a "collective expulsion" when each person concerned has been given the opportunity to put arguments against his expulsion to the competent authorities on an individual basis (*Alibaks and Others v. the Netherlands*, Commission decision of 16 December 1988; *Andric v. Sweden* (dec.), 1999; *Sultani v. France*, 2007, § 81). That does not mean, however, that where there has been a reasonable and objective examination of the particular case of each individual "the background to the execution of the expulsion orders plays no further role in determining whether there has been compliance with Article 4 of Protocol No. 4" (*Čonka v. Belgium*, 2002, § 59). For an expulsion to be "collective" in nature, there are no requirements such as a minimum number of persons affected or membership of a particular group (*N.D. and N.T. v. Spain* [GC], 2020, §§ 193-199). Complaints under Article 4 of Protocol No. 4 can be brought by an individual alone who alleges to have been part of a group that was collectively expelled (see, for example, *Shahzad v. Hungary*, 2021). Moreover, the protection of Article 4 of Protocol No. 4 is not contingent on the simultaneous removal of the members of the group in question: even when a State expels one individual separately, the safeguard must still apply if he or she belongs to a broader group of foreigners subjected to expulsion, as is the case if domestic law provides that all foreigners who have entered or stayed in the respondent State illegally can be removed without any formal decision (*H.Q. and Others v. Hungary*, 2025, §§ 112-114).

4. Whereas, traditionally, the majority of the cases brought before the Convention organs under Article 4 of Protocol No. 4 involved aliens who were already on the territory of the respondent State (*K.G. v. Germany*, Commission decision of 1 March 1977; *Andric v. Sweden* (dec.), 1999; *Čonka v. Belgium*, 2002), the Court in recent years adjudicated a number of cases, in which the respondent Governments had contested the applicability of Article 4 of Protocol No. 4, at times linked to the objection that the aliens had not been within their jurisdiction for the purposes of Article 1 of the Convention.

5. *Hirsi Jamaa and Others v. Italy* [GC], 2012, concerned an interception on the high seas and summary return ("push-back") of migrants to Libya by the Italian authorities. The Court had to consider whether Article 4 of Protocol No. 4 applied when the removal took place outside national territory, namely on the high seas. The Court observed that neither the text nor the *travaux préparatoires* of the Convention precluded the extraterritorial application of that provision. According to the drafters of Protocol No. 4, the word "expulsion" should be interpreted "in the generic meaning, in current use (to drive away from a place)". Furthermore, if Article 4 of Protocol No. 4 were to apply only to collective expulsions from the national territory of the States Parties to the Convention, a significant component of contemporary migratory patterns would not fall within the ambit of that provision and migrants having taken to the sea, often risking their lives, and not having managed to reach the borders of a State, would not be entitled to an examination of their personal circumstances before being expelled, unlike those travelling by land. The notion of expulsion, like the concept of "jurisdiction", was clearly principally territorial. Where, however, the Court found that a State had, exceptionally, exercised its jurisdiction outside its national territory, it could accept that the exercise of extraterritorial jurisdiction by that State had taken the form of collective expulsion. The Court also reiterated that the special nature of the maritime environment did not make it an area outside the law. It therefore concluded that the removal of aliens carried out in the context of interception on the high seas by the authorities of a State in the exercise of their sovereign authority, the effect of which is to prevent migrants from reaching the borders of the State or even to push them back to another State, constitutes an exercise of jurisdiction which engages the responsibility of the State in question under Article 4 of Protocol No. 4 (*ibid.*, §§ 169-182).

6. In *Sharifi and Others v. Italy and Greece*, 2014, which concerned the interception and immediate deportation to Greece of migrants who had clandestinely boarded vessels for Italy and arrived in the Italian port of Ancona, the Court rejected the Government's objection that Article 4 of Protocol No. 4 was not applicable *ratione materiae* and did not consider it necessary to determine whether the applicants had been returned after reaching the Italian territory or before, since the provision was in any event applicable to both situations (*ibid.*, §§ 210-213).

7. In *Khlaifia and Others v. Italy* [GC], 2016, the Italian Government emphasised that the procedure which the applicants had been subjected to was classified in domestic law as a "refusal of entry with removal" and not as an "expulsion". The Court, however, saw no reason to depart from its earlier established definition and noted that there was no doubt that the applicants, who had been on Italian territory (in a reception centre on the island of Lampedusa and later transferred to ships moored in Palermo harbour), were removed from that State and returned to Tunisia against their will, thus constituting an "expulsion" within the meaning of Article 4 of Protocol No. 4 (*ibid.*, §§ 243-244).

8. In *N.D. and N.T. v. Spain* [GC], 2020, the Court was called upon for the first time to address the issue of the applicability of Article 4 of Protocol No. 4 to the immediate and forcible return of aliens from a land border, following an attempt by a large number of migrants to cross that border in an unauthorised manner and *en masse*. After affirming that the events occurring at the fences at the Melilla land border fell within Spain's "jurisdiction" for the purposes of Article 1, the Court examined whether the concept of "expulsion" as used in Article 4 of Protocol No. 4 also covered the non-admission of aliens at the land border of a Contracting State, which may at the same time be an external border of the Schengen area. The Court found that the considerations which had formed the basis for its judgments concerning applicants who had attempted to enter a State´s territory by sea

were equally relevant in respect of forcible removals from a State's territory in the context of an attempt to cross a national border by land, and there was no reason to adopt a different interpretation of the term "expulsion" in the latter scenario. The term "expulsion" thus is to be interpreted autonomously and refers to any forcible removal of an alien from a State's territory, irrespective of the lawfulness of the person's stay, the length he or she has spent in the territory, the location in which he or she was apprehended, his or her status as a migrant or an asylum-seeker or his or her conduct crossing the border. The term has the same meaning as it has in the context of Article 3 of the Convention. Both provisions apply to any situation coming within the jurisdiction of a Contracting State, including to situations or points in time where the authorities of the State in question had not yet examined the existence of grounds entitling the persons concerned to claim protection under these provisions (*ibid.*, §§ 166-188). In the instant case, the applicants had been removed from Spanish territory and forcibly returned to Morocco, against their will and in handcuffs, by members of the *Guardia Civil*, which constituted an "expulsion" within the meaning of Article 4 of Protocol No. 4.

9. In *Shahzad v. Hungary*, 2021, the Court found that the authorities had subjected the applicant to an "expulsion" within the meaning of Article 4 of Protocol No. 4 by removing him to the external side of the respondent State's border fence, that is to say, to a strip of land between the border fence and the actual border between Hungary and Serbia, belonging to the respondent State's territory. It had regard to the fact that the narrow strip of land on the external side of that fence to which the applicant was escorted only had a technical purpose linked to the management of the border, that there was no infrastructure on that strip of land, that – in order to enter Hungary lawfully – deported migrants had to go to one of the transit zones, which normally involved crossing Serbia, and that the applicant was directed towards Serbia by Hungarian police officers. The measure to which the applicant had been subjected had aimed at, and resulted in, his removal from Hungarian territory (*ibid.*, §§ 45-52).

10. There will be no violation of Article 4 of Protocol No. 4 if the lack of an expulsion decision made on an individual basis is the consequence of an applicant's own culpable conduct. For example, in *Berisha and Haljiti v. the former Yugoslav Republic of Macedonia* (dec.), 2005, the applicants had pursued a joint asylum procedure and thus received a single common decision, and in *Dritsas and Others v. Italy* (dec.), 2011, the applicants had refused to show their identity papers to the police and thus the latter had been unable to draw up expulsion orders in the applicants' names. In *N.D. and N.T. v. Spain* [GC], 2020, the Court clarified that this principle also applies to situations in which persons cross a land border in an unauthorised manner and are expelled in a summary manner ("push-back"). The Court has since adjudicated a number of cases under Article 4 of Protocol No. 4 on summary returns and related scenarios, and distinguished factual situations and the relevant tests to be applied.[1]

11. In *N.D. and N.T. v. Spain* [GC], 2020, §§ 201 and 209-211, the Court set out a two-tier test to determine compliance with Article 4 of Protocol No. 4 in cases where individuals cross a land border in an unauthorised manner and are expelled summarily, a test which has been applied in all later cases presenting precisely the same scenario (see *Shahzad v. Hungary*, 2021, §§ 59 *et seq.*; and *M.H. and Others v. Croatia*, 2021, §§ 294 *et seq.*; *A.A. and Others v. North Macedonia*, 2022, §§ 112-123): Firstly, it has to be taken account of whether the State provided genuine and effective access to means of legal entry, in particular border procedures to allow all persons who face persecution to submit an application for protection, based in particular on Article 3, under conditions which ensure that the application is processed in a manner consistent with international norms including the Convention. Secondly, where the State provided such access but an applicant did not make use of it, it has to be considered whether there were cogent reasons not to do so which were based on objective facts for which the State was responsible. The absence of such cogent reasons preventing the use of these

[1] Such cases may also raise issues under Article 3 of the Convention and/or Article 13 taken in conjunction with Article 3 of the Convention. See further the Case-Law Guide on Immigration.

procedures could lead to this being regarded as the consequence of the applicants' own conduct, justifying the lack of individual identification.

12. The burden of proof for showing that the applicants did have genuine and effective access to procedures for legal entry is on the respondent State and all cases decided thus far have turned on whether the State had satisfied that burden of proof (location of the border crossing points, modalities for lodging applications there, availability of interpreters/legal assistance enabling asylum-seekers to be informed of their rights and information showing that applications had actually been made at those border points: compare *N.D. and N.T. v. Spain* [GC], 2020, §§ 212-217, *A.A. and Others v. North Macedonia*, 2022, §§ 116-122, and contrast *Shahzad v. Hungary*, 2021, §§ 63-67; *M.H. and Others v. Croatia*, 2021, §§ 295-304). In *N.D. and N.T. v. Spain* [GC], 2020, the Court was satisfied with the evidence provided by the respondent Government that the applicants did have genuine and effective access to a procedure for legal entry, in particular the possibility to lodge asylum applications at the Beni Enzar border crossing point, as other individuals had done before. The Court reached a similar conclusion in *A.A. and Others v. North Macedonia*, 2022. By contrast, in *M.H. and Others v. Croatia*, 2021, the respondent Government did not provide specific information on the asylum procedures at the border with Serbia at the relevant time, such as the location of the border crossing points, the modalities for lodging applications there, the availability of interpreters and legal assistance, and information showing that applications had actually been made at those border points, which led the Court to conclude that it was unable to examine whether the legal avenue, to which the Government had referred by pointing to legislative provisions, was genuinely and effectively accessible to the applicants. In *Shahzad v. Hungary*, 2021, the Court found that the applicant did not have genuine and effective access to a means of legal entry: the only possibilities to legally enter Hungary (two transit zones) were located forty kilometres or more away, access thereto was limited (admission limited to fifteen applicants for international protection per transit zone per day and a requirement to register on a waiting list beforehand, to which the applicant, as a single man, did not or would not have had access), and there was no formal procedure accompanied by appropriate safeguards governing the admission. An entry visa subject to financial and other requirements does not constitute a genuine and effective means of legal entry for individuals trying to seek asylum (*M.A. and Z.R. v. Cyprus*, 2024, § 118). Nor does a preliminary procedure constitute genuine and effective access to a means of legal entry when it requires an individual, who wishes to apply for international protection in the respondent State, to first submit a declaration of intent in person at one of the respondent State's embassies, after the examination of which the competent authorities could decide to issue a travel document allowing the individual entry into the respondent State's territory for the purposes of applying for international protection (*H.Q. and Others v. Hungary*, 2025, §§ 117-124).

13. Where migrants entered the respondent State's territory in an unauthorised manner and, following their apprehension near the border, were provided with access to a means of legal entry through the appropriate border procedure, the Court did not apply the aforementioned two-tier test, but instead assessed – in order to determine whether the expulsion was "collective" in nature – whether the individuals were afforded, prior to the adoption of expulsion orders, an effective possibility of submitting arguments against their removal and whether there were sufficient guarantees demonstrating that their personal circumstances had been genuinely and individually taken into account (*Asady and Others v. Slovakia*, 2020, § 62). Such test is, essentially, similar to the one applied to individuals who present themselves at a point of legal entry, such as a border checkpoint (see *M.K. and Others v. Poland*, 2020, §§ 204-211; *D.A. and Others v. Poland*, 2021, §§ 81-84, *M.A. and Others v. Latvia* (dec.), 2022, §§ 67-69, and *Sherov and Others v. Poland*,2024, §§ 59-61) or at an airport (see *S.S. and Others v. Hungary*, 2023, §§ 48-51, where the Court considered that it did not absolve the authorities of their obligation under Article 4 of Protocol No. 4 that the applicants had initially sought to enter the respondent State by using counterfeit documents). Whether the requirements of this test are satisfied is a question of fact, which is to be determined by having regard to, in so far as pertinent in a given case, supporting evidence provided by the parties, including as to whether an identification process was conducted and under what conditions (whether

persons were trained to conduct interviews, whether information was provided, in a language the individuals understood, about the possibility to lodge an asylum application and to request legal aid, whether interpreters were present, and whether the individuals were able, in practice, to consult lawyers and to lodge asylum applications) as well as to independent reports (*Hirsi Jamaa and Others v. Italy [GC]*, 2012, § 185; *Sharifi and Others v. Italy and Greece*, 2014, §§ 214-225; *Khlaifia and Others v. Italy [GC]*, 2016, §§ 245-254; *Asady and Others v. Slovakia*, 2020, §§ 63-71; *M.K. and Others v. Poland*, 2020, §§ 206-210; *D.A. and Others v. Poland*, 2021, §§ 81-83; *M.A. and Others v. Latvia* (dec.), 2022, §§ 67-69).

14. In the context of Article 4 of Protocol No 4, the legal situation of minors is linked to that of the accompanying adults, in the sense that the requirements of Article 4 of Protocol No 4 might be met if that adult was able to raise, in a meaningful and effective manner, their arguments against their joint expulsion (*Moustahi v. France*, 2020, §§ 134-135).

15. In *M.D. and Others v. Hungary*, 2024, the Court dealt with a situation in which the respondent State had submitted that the applicants had left the country voluntarily and found that, even assuming that the right under Article 4 of Protocol No. 4 could be waived, the requirements of effective waiver were, in any event, not met and that the applicants had been subjected to an "expulsion" (§§ 30-48).

III. Examples of collective expulsions

16. The Court has found a violation of Article 4 of Protocol No. 4, firstly, in cases in which the individuals targeted for expulsion had the same origin (Roma families from Slovakia in *Čonka v. Belgium*, 2002, *Georgia v. Russia (I)* [GC], 2014, and Georgian nationals in *Shioshvili and Others v. Russia*, 2016 and *Berdzenishvili and Others v. Russia*, 2016). It found violations of that provision, secondly, in cases concerning the return of an entire group of people (migrants and asylum-seekers) without adequate verification of the individual identities of the group members (*Hirsi Jamaa and Others v. Italy* [GC], 2012; *Sharifi and Others v. Italy and Greece*, 2014; *M.K. and Others v. Poland*, 2020; *D.A. and Others v. Poland*, 2021; *Shahzad v. Hungary*, 2021; *M.H. and Others v. Croatia*, 2021; *Moustahi v. France*, 2020).

17. In *Čonka v. Belgium*, 2002, the applicants were deported solely on the basis that their stay in Belgium had exceeded three months and the orders made no reference to their application for asylum or to the decisions on that issue. In those circumstances and in view of the large number of persons of the same origin who had suffered the same fate as the applicants, the Court considered that the procedure followed did not enable it to eliminate all doubt that the expulsion might have been collective. That doubt was reinforced by a series of factors: *firstly*, prior to the applicants' deportation, the political authorities concerned had announced that there would be operations of that kind and given instructions to the relevant authority for their implementation; *secondly*, all the aliens concerned had been required to attend the police station at the same time; *thirdly*, the orders served on them requiring them to leave the territory and for their arrest had been couched in identical terms; *fourthly*, it had been very difficult for the aliens to contact a lawyer; *lastly*, the asylum procedure had not been completed. In short, at no stage during the period between the service of the notice on the aliens to attend the police station and their expulsion had the procedure afforded sufficient guarantees demonstrating that the personal circumstances of each of those concerned had been genuinely and individually taken into account. In conclusion, there had been a violation of Article 4 of Protocol No 4 (*ibid.*, §§ 59-63).

18. In *Hirsi Jamaa and Others v. Italy* [GC], 2012, the transfer of the applicants (Somali and Eritrean nationals) to Libya had been carried out without any examination of each individual situation. No identification procedure had been carried out by the Italian authorities, who had merely embarked the applicants and then disembarked them in Libya. Moreover, the personnel aboard the military ships

were not trained to conduct individual interviews and were not assisted by interpreters or legal advisers. The Court concluded that the removal of the applicants had been of a collective nature, in breach of Article 4 of Protocol No. 4 (*ibid.*, §§ 185-186). The Court reached a similar conclusion in *M.A. and Z.R. v. Cyprus*, 2024, where the applicants, Syrian nationals, were intercepted by the Cypriot coastguard in Cypriot territorial waters and summarily removed to Lebanon (§§ 115-119).

19. *Georgia v. Russia (I)* [GC], 2014, concerned Russian courts' orders to expel thousands of Georgian nationals. The Court noted that, even though a court decision had been made in respect of each Georgian national, the conduct of the expulsion procedures during that period (September 2006-January 2007) and the number of Georgian nationals expelled made it impossible to carry out a reasonable and objective examination of the particular case of each individual. Furthermore, Russia had implemented a coordinated policy of arresting, detaining and expelling Georgian nationals. Even though the Court did not call into question the right of States to establish their own immigration policies, problems with managing migratory flows could not justify recourse to practices not compatible with the Convention. The Court concluded that the expulsions of Georgian nationals had not been carried out on the basis of a reasonable and objective examination of the particular case of each individual and that this had amounted to an administrative practice in breach of Article 4 of Protocol No. 4 (*ibid.*, §§ 171-178).

20. The case of *Shioshvili and Others v. Russia*, 2016, concerned the expulsion from Russian territory of a heavily pregnant Georgian woman, accompanied by her four young children. The Court found a violation in the case of the mother, because she had been subjected to the administrative practice of expelling Georgian nationals in the autumn of 2006, without a proper examination of their individual cases (§ 71). The Court reached the same conclusion in the case of *Berdzenishvili and Others v. Russia*, 2016, §§ 83-84, in respect of fourteen Georgian nationals whose expulsion had been ordered by domestic courts during the same period.

21. In *Sharifi and Others v. Italy and Greece*, 2014, Italy had deported certain individuals (Afghan nationals) to Greece, while claiming that only Greece was competent under the Dublin system (which serves to determine which European Union Member State is responsible for examining an asylum application lodged in one of the Member States by a third-country national) to rule on the possible asylum requests. The Court, however, considered that the Italian authorities ought to have carried out an individualised analysis of the situation of each applicant in order to establish whether Greece was indeed competent to examine such requests, rather than deporting them all. No form of collective and indiscriminate returns could be justified by reference to the Dublin system, which had, in all cases, to be applied in a manner compatible with the Convention. Furthermore, the Court took note of the concurring reports submitted by the intervening third parties or obtained from other international sources, which described episodes of indiscriminate return to Greece by the Italian border authorities in the ports of the Adriatic Sea, depriving the persons concerned of any substantive and procedural rights. According to these sources, it was only through the goodwill of the border police that intercepted persons without papers were put in contact with an interpreter and officials capable of providing them with the minimum information concerning the procedures relating to the right of asylum. More often than not, they were immediately handed over to the captains of ferries for return to Greece. In the light of all these elements, the Court concluded that the immediate returns to which the applicants had been subjected amounted to collective and indiscriminate expulsions in breach of Article 4 of Protocol No. 4 (*ibid.*, §§ 214-225).

22. In *M.K. and Others v. Poland*, 2020, the applicants had an arguable claim under Article 3, presented themselves at the border checkpoints and tried to enter the respondent State in a legal manner by making use of the procedure to submit an asylum application that should have been available to them under domestic law. Even though they were interviewed individually by the border guards and received individual decisions refusing them entry into Poland, the Court considered that their statements concerning their wish to apply for asylum were disregarded and that the decisions with which they were issued did not properly reflect the reasons given by the applicants to justify their

fear of persecution. Moreover, the applicants were not allowed to consult lawyers and were even denied access to lawyers who were present at the border checkpoint. The Court concluded that the decisions refusing the applicants' entry to Poland were not taken with proper regard to their individual situations and were part of a wider policy of refusing to receive asylum applications from persons presenting at the Polish-Belarusian border and of returning those persons to Belarus (see also *D.A. and Others v. Poland*, 2021, as well as, with regard to the situation at the Polish-Ukrainian border, *Sherov and Others v. Poland*, 2024).

23. In *S.S. and Others v. Hungary*, 2023, the applicants arrived at an international airport and sought to enter the respondent State with counterfeit documents, which they had used to travel there. Following the discovery of the counterfeit nature of the travel documents at the border check and the applicants' arrest, they requested asylum. They were then removed to the external side of the border fence between Hungary and Serbia because domestic law provided that asylum applications could only be lodged in a transit zone between those two countries. The Court considered that the applicants had not been afforded an effective opportunity to submit arguments against their removal to Serbia, a country from which they had not come.

24. In *H.Q. and Others v. Hungary*, 2025, the applicants, who had expressed a wish to seek international protection in the respondent State, were removed without an individual assessment of their situation on the basis of domestic legislation which provided for the automatic removal of foreigners who had entered or stayed illegally in the respondent State. The Court reaffirmed that Article 4 of Protocol No. 4 protected aliens from collective expulsion, even in a situation where their stay was illegal and observed, moreover, that one of the applicants had entered the respondent State legally and had resided there with a valid residence permit for some time prior to applying for international protection following the expiry of his residence permit (§§ 115-116). While the other two applicants had entered the respondent State in an unauthorised manner, they had been hospitalised after that unauthorised entry and had not failed to cooperate with the authorities either during their encounters at the hospital or afterwards. Noting that access to a means of legal entry should in principle be provided at border crossing points and that such a possibility had not existed in the present case, the Court found that the "embassy procedure" invoked by the Government did not constitute genuine and effective access to a means of legal entry: individuals were required to submit, in person, a declaration of intent to seek international protection at one of the respondent State's embassies, after the examination of which the competent authorities could decide to issue a travel document allowing entry into the respondent State's territory for the purposes of applying for international protection (§§ 117-124).

25. In *M.D. and Others v. Hungary*, 2024, the applicants, Afghan nationals whose asylum applications were rejected on the basis that they had come from a safe third country, were removed to that third country (Serbia) without a valid decision, as the authorities of the respondent State had amended the removal decision and changed the destination country to the applicants' country of origin after the third country's refusal to readmit the applicants.

26. In *O.H. and Others v. Serbia*, 2026, the applicants, who had entered Serbia in an unauthorised manner, were brought before a court following their arrest. That court acknowledged their intention to seek asylum and ordered the authorities to issue them certificates indicating that intention, which would serve as temporary residence permits, and to facilitate their accommodation. Instead of transferring the applicants to an accommodation facility, the police transported them to the border and forced them to cross it.

27. In *Shahzad v. Hungary*, 2021, the applicant, together with eleven other Pakistani nationals, entered Hungary in an unauthorised manner by cutting a hole in the border fence between Hungary and Serbia. They were intercepted by Hungarian police officers some hours later and removed to the external side of the border fence, without being subjected to any identification procedure or examination of his situation by the Hungarian authorities, despite the applicant's claim that he had

stated that he wished to apply for asylum. Having regard to the fact that the applicant did not have effective access to a means of legal entry (see paragraph 12 above) and that the lack of an individual expulsion decision could not be attributed to the applicant's own conduct, the Court concluded that this expulsion was of a collective nature and in breach of Article 4 of Protocol No. 4 to the Convention.

28. In *M.H. and Others v. Croatia*, 2021, an Afghan family of fourteen alleged that they had been denied the opportunity to seek asylum by the Croatian police officers and been ordered to return to Serbia by following the train tracks. There was no material evidence that the applicants had entered Croatia. Having regard to the applicants' specific and consistent account as well as to a large number of reports by various bodies concerning summary returns of persons entering Croatia in an unauthorised manner, the Court found that there was *prima facie* evidence in favour of the applicants' version of events. As the Government had not submitted a single argument capable of refuting that *prima facie* evidence, the Court considered the applicants' version of the events to be truthful (§§ 268-274). As the respondent State had not shown that it had provided the applicants with genuine and effective access to procedures for legal entry (see paragraph 12 above), the applicants' expulsion, without individual assessment of their circumstances, was in breach of Article 4 of Protocol No.4 (§§ 293-304).

29. In *J.A. and Others v. Italy*, 2023, the applicants, who did not intend to seek asylum in the respondent State, were removed in breach of Article 4 of Protocol No. 4 after having been detained for ten days in a "hotspot" for the registration and identification of migrants from the moment of their arrival in the respondent State, as the refusal-of-entry and removal orders case did not have proper regard to their individual situations (§§ 47 and 106-116).

30. In *Moustahi v. France*, 2020, there was nothing to indicate that the unrelated adult, with whom the two minor applicants had been arbitrarily associated, had sufficient knowledge of the reasons which might be raised against the removal of the children. In any event, there was no evidence that he had been asked the slightest question about the children associated with him or that he had raised the matter on his own initiative. Accordingly, the removal of the two young children, who were not known to or assisted by an accompanying adult, had been decided and implemented without any guarantee of a reasonable and objective examination of their individual situations. The expulsion therefore had to be characterised as collective in nature.

IV. Examples of measures not amounting to collective expulsions

31. In *Sultani v. France*, 2007, the Court found that the applicant's situation had been examined individually. He had been able to set out the arguments against his expulsion and the domestic authorities had taken account, not only of the overall context in Afghanistan, but also of the applicant's statements concerning his personal situation and the risks he would allegedly run in the event of a return to his country of origin (*ibid.*, § 83, where the deportation of the applicant on a "collective flight" to Afghanistan had not been enforced due to the interim measure indicated by the Court on the basis of Rule 39 of its Rules of Court; *Ghulami v. France* (dec.), 2009, where the same approach was followed concerning an enforced deportation to Afghanistan; see also, for no appearance of a collective expulsion, *Andric v. Sweden* (dec.), 1999; *Tahiri v. Sweden*, Commission decision of 11 January 1995).

32. Where the persons concerned have had an individual examination of their personal circumstances, no violation will be found, even if they had been taken together to police headquarters, some had been deported in groups and the deportation orders and the corresponding letters had been couched in formulaic and, therefore, identical terms and had not specifically referred to the earlier decisions regarding the asylum procedure (*M.A. v. Cyprus*, 2013, §§ 252-255, concerning an

individual who claimed to have been subjected to a collective expulsion operation with a group of Syrian Kurds; compare the circumstances in *Čonka v. Belgium*, 2002, § 10). The mere fact that a mistake had been made in relation to the status of some of the persons concerned (in particular the applicant, since the deportation order had been issued when his asylum proceedings were still pending) could not be taken as showing that there had been a collective expulsion (*M.A. v. Cyprus*, 2013, §§ 134 and 254).

33. In *Khlaifia and Others v. Italy* [GC], 2016, the Court clarified that Article 4 of Protocol No. 4 does not guarantee the right to an individual interview in all circumstances; the requirements of this provision may be satisfied where each alien has a genuine and effective possibility of submitting arguments against his or her expulsion, and where those arguments are examined in an appropriate manner by the authorities of the respondent State (*ibid.*, § 248). The applicants had undergone identification on two occasions, their nationality had been established and they had at all times had a genuine and effective possibility of submitting arguments against their expulsion had they wished to do so. Although the refusal-of-entry orders had been drafted in comparable terms - only differing as to the personal data of each migrant - and despite the fact that a large number of migrants from the same country (Tunisia) had been expelled at the relevant time, the Court found that the relatively simple and standardised nature of the orders could be explained by the fact that the applicants did not have any valid travel documents and had not alleged either that they feared ill-treatment in the event of their return or that there were any other legal impediments to their expulsion. It was therefore not unreasonable in itself for those orders to have been relatively simple and standardized. In the particular circumstances of the case, it followed that the virtually simultaneous removal of the three applicants did not lead to the conclusion that their expulsion was collective (*ibid.*, §§ 249-254). The Court reached a similar conclusion in *Asady and Others v. Slovakia*, 2020 (in respect of the removal of the applicants to Ukraine by the Slovak border police, based on standard expulsion decisions after brief interviews with standardised questions in the presence of an interpreter at the police station, §§ 63-71) and in *M.A. and Others v. Latvia* (dec.), 2022, concerning the applicants' removal from the Indra border crossing point to Belarus, §§ 69-71), finding in both cases that the applicants had had a sufficient opportunity to put forward arguments against their removal and to have their individual situation examined.

34. In *Shioshvili and Others v. Russia*, 2016, §§ 70-72, and *Berdzenishvili and Others v. Russia*, 2016, §§ 81-82, in the absence of any expulsion order from a court or any other authority against the applicants, the Court was unable to conclude that they had been the subject of a "measure compelling aliens, as a group, to leave a country". This held true even if an administrative practice in place at the relevant time had led the applicants in both cases to fear arrest, detention and expulsion and it was therefore understandable that they might leave the country in anticipation of an expulsion order. Nonetheless, although the situation of the applicants in itself might contain elements of compulsion to leave, it could not be equated with an expulsion decision or other official coercive measure. The Court found no violation of Article 4 of Protocol No. 4 in such circumstances.

35. In *N.D. and N.T. v. Spain* [GC], 2020, the applicants were two migrants to Morocco who, with a group of several other sub-Saharan migrants, had attempted to enter Spain by scaling the fences surrounding the city of Melilla, a Spanish enclave on the North African Coast. As soon as they had crossed the fence they were apprehended by members of the *Guardia Civil*, who took them back to the other side of the border, without any identification procedure or opportunity to explain their personal circumstances. Applying a two-tier test, the Court was satisfied, first, that Spanish law afforded the applicants several possible means of seeking admission to the national territory, in particular at the Beni Enzar border crossing point. It was not persuaded, second, that the applicants had the required cogent reasons for not using the border crossing point with a view to submitting reasons against their expulsion in a proper and lawful manner. The lack of individual removal decisions had thus been the consequence of the applicant's own conduct, notably their failure to use official entry procedures, which is in itself sufficient to conclude that there had been no breach of Article 4 of

Protocol No. 4. The Court thus concluded that States may refuse entry to their territory to aliens, including potential asylum-seekers, who have failed, without cogent reasons, to comply with appropriate arrangements securing the right to request protection under the Convention, by seeking to cross the border at a different location, especially by taking advantage of large numbers and using force in the context of an operation that had been planned in advance. At the same time, the Court underlined that the finding in the instant case did not call into question the obligation and necessity for Contracting States to protect their borders in a manner which complies with Convention guarantees, and in particular with the obligation of *non-refoulement* (*ibid.*, §§ 206-232). The Court reached a similar conclusion – namely, that the respondent State provided genuine and effective access to procedures for legal entry and that the applicants did not have cogent reasons for not making use of those procedures – in *A.A. and Others v. North Macedonia*, 2022 (§§ 116-123).

V. Relationship with Article 13 of the Convention

36. The notion of an effective remedy under Article 13 of the Convention requires that the remedy may prevent the execution of measures that are contrary to the Convention and whose effects are potentially irreversible. The Court found violations of Article 13, taken in conjunction with Article 4 of Protocol No. 4, in cases where the applicants, who had at least an arguable complaint under Article 2 or 3 in respect of risks they faced upon their removal, had been effectively prevented from applying for asylum and had not had access to a remedy with automatic suspensive effect (see *M.K. and Others v. Poland*, 2020, §§ 212-220; *D.A. and Others v. Poland*, 2021, §§ 89-90; *H.Q. and Others v. Hungary*, 2025, §§ 154-160; *Hirsi Jamaa v. Italy* [GC], 2012, §§ 201-207; *Sharifi and Others v. Italy and Greece*, 2014, §§ 240-243). By contrast, the lack of suspensive effect of a removal decision does not in itself constitute a violation of Article 13 taken together with Article 4 of Protocol No. 4, where an applicant does not allege that there is a real risk of a violation of the rights guaranteed by Articles 2 or 3 in the destination country (*Khlaifia and Others v. Italy* [GC], 2016, § 281). In such situation the Convention does not impose an absolute obligation on a State to guarantee an automatically suspensive remedy, but requires that the person concerned should have an effective possibility of challenging the expulsion decision by having a sufficiently thorough examination of his or her complaints carried out by an independent and impartial domestic forum (*ibid.*, § 279; *Moustahi v. France*, 2020, §§ 156-164).

37. Where aliens choose not to use the legal procedures which exist in order to enter a Contracting State's territory lawfully, with the lack of an individualised procedure for their removal being the consequence of the applicants' own conduct in attempting to gain unauthorised entry, that State cannot be held responsible for not making available a legal remedy against that same removal (*N.D. and N.T. v. Spain* [GC], 2020, § 241-243). By contrast, where an applicant has had no effective access to the procedure for examining his personal situation because of the limited access to transit zones (i.e. the means of legal entry), the absence of a remedy to complain about the removal breaches Article 13 taken in conjunction with Article 4 of Protocol No 4 (*Shahzad v. Hungary*, 2021, §§ 75-79; see also *H.Q. and Others v. Hungary*, 2025, §§ 154-160, in relation to the inexistence of an effective remedy in the respondent State against removals of foreigners who wished to seek international protection and who were removed without being able to do so because they had entered or stayed illegally in the respondent State).

List of cited cases

The case-law cited in this Guide refers to judgments or decisions delivered by the Court and to decisions or reports of the European Commission of Human Rights ("the Commission").

Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.

Chamber judgments that were not final within the meaning of Article 44 of the Convention when this update was finalised are marked with an asterisk (*) in the list below. Article 44 § 2 of the Convention provides: "The judgment of a Chamber shall become final (a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or (c) when the panel of the Grand Chamber rejects the request to refer under Article 43". In cases where a request for referral is accepted by the Grand Chamber panel, the Chamber judgment does not become final and thus has no legal effect; it is the subsequent Grand Chamber judgment that becomes final.

The hyperlinks to the cases cited in the electronic version of the Guide are directed to the HUDOC database (http://hudoc.echr.coe.int) which provides access to the case-law of the Court (Grand Chamber, Chamber and Committee judgments and decisions, communicated cases, advisory opinions and legal summaries from the Case-Law Information Note) and of the Commission (decisions and reports), and to the resolutions of the Committee of Ministers.

The Court delivers its judgments and decisions in English and/or French, its two official languages. HUDOC also contains translations of many important cases into more than thirty non-official languages, and links to around one hundred online case-law collections produced by third parties. All the language versions available for cited cases are accessible via the "Language versions" tab in the HUDOC database, a tab which can be found after you click on the case hyperlink.

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