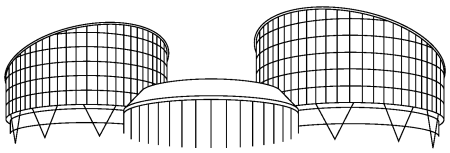

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on the case-law of the European Convention on Human Rights

Immigration

Updated on 28 February 2026

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

This Guide was originally drafted in English. It is updated regularly and, most recently, on 28 February 2026. It may be subject to editorial revision.

The Case-Law Guides are available for downloading at https://ks.echr.coe.int. For publication updates please follow the Court's X account at https://x.com/ECHR_CEDH.

Table of contents

Note to readers

This Guide is part of the series of Case-Law Guides 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 a wide range of provisions of the European Convention on Human Rights (hereafter "the Convention" or "the European Convention") relating to immigration. It should be read in conjunction with the case-law guides by Article, to which it refers systematically.

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 the Court 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*, 18 January 1978, § 154, 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, in the general interest, issues of public policy, 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], 30078/06, § 89, 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).

* The case-law cited may be in either or both of the official languages (English and French) of the Court and the former European Commission of Human Rights (hereafter "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 when this update was published are marked with an asterisk (*).

Introduction

1. The present document is intended to serve as a reference tool to the Court's case-law in cases relating to individuals who are not nationals of the respondent State, notably migrants, asylum-seekers, refugees and stateless persons. It covers all Convention Articles that could come into play. It is divided into six chapters, in principle corresponding to the sequence of events in chronological order.

2. Many cases before the Court concerning non-nationals begin with a request for interim measures under Rule 39 of the Rules of Court, measures most commonly consisting of requesting the respondent State to refrain from removing individuals pending the examination of their applications before the Court (see section "Rule 39 / Interim measures" below for more details).

I. Access to the territory and procedures

Article 1 of the Convention

"The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention."

Article 3 of the Convention

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 4 of the Convention

"1. No one shall be held in slavery or servitude.

2. No one shall be required to perform forced or compulsory labour.

3. For the purpose of this Article the term 'forced or compulsory labour' shall not include:

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of [the] Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations."

Article 8 of the Convention

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 2 of Protocol No. 4 of the Convention

"1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society."

Article 4 of Protocol No. 4 of the Convention

"Collective expulsion of aliens is prohibited."

3. As mentioned above, access to the territory for non-nationals is not expressly regulated in the Convention, nor does it say who should receive a visa.

A. Application for a visa to enter a country in order to seek asylum there

4. In *M.N. and Others v. Belgium* (dec.) [GC], 2020, the applicants, a Syrian couple and their two children, travelled to Lebanon where they requested the Belgian embassy to deliver short-term visas to allow them to travel to Belgium to apply for asylum given the conflict in Syria, relying on Article 3 of the Convention. Their requests were processed and refused by the Aliens Office in Belgium. Notified by the Belgian embassy of these decisions, the applicants lodged unsuccessful appeals before the Belgian courts. The Court found that the respondent State was not exercising jurisdiction extraterritorially over the applicants by processing their visa applications and that a jurisdictional link had not been created through the applicant's appeals.

B. Access for the purposes of family reunification[1]

5. A State may, under certain circumstances, be required to allow the entry of an individual when it is a pre-condition for his or her exercise of certain Convention rights, in particular the right to respect for family life. At the same time, there is no obligation on a State under Article 8 to respect the choice by married couples of the country of their matrimonial residence and to accept the non-national spouses for settlement in that country. The substantive elements, which are, in general, to be taken into consideration for determining whether a State is under a positive obligation under Article 8 of the Convention to grant family reunification, have been summarised in *M.A. v. Denmark* [GC], 2021: (i) status in and ties to the host country of the alien requesting family reunion and his family member concerned; (ii) whether the aliens concerned had a settled or precarious immigration status in the host country when their family life was created; (iii) whether there were insurmountable or major obstacles in the way of the family living in the country of origin of the person requesting reunification; (iv) whether children were involved; (v) whether the person requesting reunion could demonstrate that he/she had sufficient independent and lasting income, not being welfare benefits, to provide for the basic cost of subsistence of his or her family members (§§ 131-135). There exists a consensus at international and European level that refugees needed to have the benefit of a family reunification

[1] See also the Guide on Article 8 - Right to respect for private and family life.

procedure that is more favourable than that foreseen for other aliens (§§ 138 and 153; *B.F. and Others v. Switzerland*, 2023, §§ 90, 97 and 98).

6. As regards the procedural requirements for processing of family reunification requests of refugees, the decision-making process has to sufficiently safeguard the flexibility (for instance in relation to the use and admissibility of evidence for the existence of family ties), speed and efficiency required to comply with the applicant's right to respect for family life (*M.A. v. Denmark* [GC], 2021, §§ 137-139 and 163; *Tanda-Muzinga v. France*, 2014; *Mugenzi v. France*, 2014; *Senigo Longue and Others v. France*, 2014). These considerations apply equally to beneficiaries of subsidiary protection, including to persons who are at a risk of ill-treatment falling under Article 3 due to the general situation in their home country and where the risk is not temporary but appears to be of a permanent or long-lasting character (*M.A. v. Denmark* [GC], 2021, § 146). Furthermore, an individualised fair-balance assessment of the interest of family unity in the light of the concrete situation of the persons concerned and the situation in their country of origin, with a view to determining the actual prospect of return or the likely duration of obstacles thereto is required (*ibid.*, §§ 149, 162 and 192-193; see also *El Ghatet v. Switzerland*, 2016, where the domestic courts had not put the best interests of the child applicant sufficiently at the centre of their balancing exercise and reasoning).

7. While States enjoy a wide margin of appreciation under Article 8 of the Convention in deciding whether to impose a waiting period for family reunification requested by persons who had not been granted refugee status but who enjoyed subsidiary protection or temporary protection, beyond the duration of two years, the insurmountable obstacles to enjoying family life in the country of origin progressively assume more importance in the fair balance assessment (*M.A. v. Denmark* [GC], 2021, §§ 161-162 and 193), it being borne in mind that the actual separation period would inevitably be even longer than the waiting period (§ 179). The Court found a breach of Article 8 in respect of the statutory waiting period of three years to which the applicant in *M.A. v. Denmark* [GC], 2021, a Syrian national who had been granted so-called "temporary protection status" in Denmark in 2015, had been subjected before he could apply for family reunification with his longstanding wife. The Court considered, in particular, that the applicant had not had a real possibility under domestic law to have an individualised assessment of whether a shorter waiting period was warranted by considerations of family unity, despite it having been accepted in the domestic proceedings that there were insurmountable obstacles in the way of the couples' enjoyment of family life in their country of origin (§§ 192-194). By contrast, the Court found no violation of Article 8 in the subsequent case of *M.T. and Others v. Sweden*, 2022, where the statutory waiting period for persons granted subsidiary protection had been gradually reduced, the applicants had been *de facto* affected by the suspension of the right to be granted family reunification for a period of less than a year and a half only, and there were no indications that an individualised assessment of the interests of family unity in the light of the concrete situation of the persons concerned had not been carried out. In that case, the Court further found that it did not breach Article 14 in conjunction with Article 8 that the applicants were subjected to the aforementioned suspension period for family reunification on account of the second applicant having been granted subsidiary protection owing to the general situation in his country of origin (Syria), whereas refugees within the meaning of the 1951 Convention relating to the Status of Refugees were not subject to such suspension (§§ 95-117).

8. In *B.F. and Others v. Switzerland*, 2023, the Court examined, for the first time, a case where the family reunification of (certain) recognised refugees was made subject to a requirement of non-reliance on social assistance under domestic law. The applicants, who were all recognised as refugees within the meaning of the 1951 Convention, were granted provisional admission rather than asylum, in line with domestic law, since the grounds for their refugee status arose following their departure from their countries of origin and as a result of their own actions, namely their illegal exit from those countries. Reiterating, *inter alia*, that there was consensus at international and European level that refugees needed to have the benefit of a more favourable family reunification procedure than other aliens, the Court considered that the particularly vulnerable situation in which refugees *sur*

place find themselves – notably, the insurmountable obstacles to their being reunited with their family members in their country of origin, given that they now face a risk of ill-treatment there – needed to be adequately taken into account in the application of a condition (such as the requirement of non-reliance on social assistance) to their family reunification requests, with insurmountable obstacles to enjoying family life in the country of origin progressively assuming greater importance in the fair-balance assessment as time passed. The requirement of non-reliance on social assistance (which under domestic law applied to family reunification requests of refugees granted provisional admission rather than asylum) thus needed to be applied with sufficient flexibility, as one element of the comprehensive and individualised fair-balance assessment. In two of the four applications at hand, the Court found that the gainfully employed applicants had done all that could reasonably be expected of them to earn a living and to cover their and their family members' expenses. In a third case, the Court was not satisfied that the Federal Administrative Court had sufficiently examined whether the applicant's health would enable her to work, at least to a certain extent, and consequently whether the impugned requirement needed to be applied with flexibility in view of her health. In respect those three applications, the Court thus found a violation of Article 8. By contrast, the Court found no violation of Article 8 as regards the fourth case, considering that the Federal Administrative Court had not overstepped its margin of appreciation when it took the applicant's lack of initiative in improving her financial situation into account when balancing the competing interests. In *Dabo v. Sweden,* the Court dealt with a related but distinct question: the domestic law of the respondent State provided that refugees were exempt from having to fulfil a maintenance requirement if they applied for family reunification within three months of being granted refugee status, whereas such maintenance requirement applied if a request for family reunification was introduced at a later stage (in line with a possibility afforded under the third subparagraph of Article 12(1) of the of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification). The Court found that the refusal of the family reunification request, because the applicant had introduced it outside of that three-month time-limit in a manner which was not "objectively excusable" meaning he had to but failed to meet the maintenance requirement, did not breach Article 8 of the Convention. In this respect, the Court also noted that the domestic authorities had established that the applicant could lodge a fresh request for family reunification at any time and that he had had good prospects of being able to fulfil the maintenance requirement in the future in view of his profession: noting that he had not yet found employment, the Court considered that it could not be concluded that he had done all that could reasonably be expected of him to earn sufficient income to cover his and his family's expenses. The Court subsequently reached similar findings in *D.H. and Others v. Sweden*, 2024, and *Okubamichael Debru v. Sweden*, 2024, and *S.F. v. Finland*, 2024.

9. However, where a State decides to enact legislation conferring the right on certain categories of immigrants to be joined by their spouses, it must do so in a manner compatible with the principle of non-discrimination enshrined in Article 14. The Court found a breach of Article 14 taken in conjunction with Article 8 in *Hode and Abdi v. the United Kingdom*, 2012, because one applicant, the post-flight spouse of the other applicant, a recognised refugee, was not allowed to join him in the respondent State, whereas refugees married prior to the flight and immigrants with temporary residence status could be joined by their spouses.

10. Another scenario concerning family reunification of refugees was examined by the Court in *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 2006. The first applicant had obtained refugee status and indefinite leave to remain in Canada and had asked her brother, a Dutch national, to collect her five-year-old daughter (the second applicant) from the country of origin, where the child was living with her grandmother, and to look after the child until she was able to join her. Upon arrival in Belgium, instead of facilitating the reunification of the two applicants, the authorities detained and subsequently deported the second applicant to the country of origin, which amounted to a breach of Article 8 (§§ 72-91).

11. As regards the refusal to grant family reunion based on ties with another country and a difference in treatment between persons born with the nationality of the respondent State and those who acquired it later in life, see *Biao v. Denmark* [GC], 2016. In *Schembri v. Malta* (dec.), 2017, the Court found that Article 8 did not apply to a "marriage of convenience". Albeit not in the context of seeking permission to enter, but rather to remain in, the respondent State (see, more generally, section "Article 8" below), the Court found that the refusal to grant a family residence permit to the applicant's same-sex partner breached Article 14 taken in conjunction with Article 8 (*Taddeucci and McCall v. Italy*, 2016).

12. In *Martinez Alvarado v. the Netherlands*, 2024, the Court restated the principles in which "additional elements of dependency" over and above normal emotional ties amount to "family life" within the meaning of Article 8 between parents and adult children or between adult siblings, noting that an individualised review of the relationship at issue and other relevant circumstances of the case was required and that the existence of "family life" on the basis of "additional elements of dependency" will often be the result of a combination of elements (§§ 35-44). It found that the relationship between the applicant, a severely disabled adult man, and his adult sisters, who lived in the respondent State and on whose care and support the applicant had relied for years, constituted "family life" and that the refusal to grant the applicant a residence permit on the basis of family reunification had breached Article 8 in view of the inadequate assessment carried out by the domestic authorities. Conversely, the Court found that the existence of "additional elements of dependency" between the applicant and her adult son living in the respondent State had not been demonstrated in *Kumari v. the Netherlands* (dec.), 2024 (for an expulsion case in which the Court found that "additional elements of dependency" had not been shown to exist, see *Demirci v. Hungary*, 2025, § 74).

13. In the context of family reunification, the Court will assess the question whether a relationship between adult family members constituted "family life" within the meaning of Article 8 on the basis of all the facts occurring prior to the date that the decision regarding the request for family reunification became final. However, when one of the family members was a minor at the time the request for family reunification was lodged, the Court will assess the question on the existence of "family life" based on the situation as it obtained on that date in order to avoid that a child 'ages out' pending the proceedings (*Martinez Alvarado v. the Netherlands*, 2024, § 45).

C. Granting visas and Article 4[2]

14. In *Rantsev v. Cyprus and Russia*, 2010, the applicant's daughter, a Russian national, had died in unexplained circumstances after falling from a window of a private property in Cyprus, a few days after she had arrived on a "cabaret-artiste" visa. The Court found that Cyprus had, inter alia, failed to comply with its positive obligations under Article 4 because, despite evidence of trafficking in Cyprus and the concerns expressed in various reports that Cypriot immigration policy and legislative shortcomings were encouraging the trafficking of women to Cyprus, its regime of "artiste visas" did not afford to the applicant's daughter practical and effective protection against trafficking and exploitation (§§ 290-293). In respect of the procedural obligation to conduct an effective investigation into the issuing of visas by public officials in human trafficking cases, see *T.I. and Others v. Greece*, 2019.

D. Entry and travel bans

15. An entry ban prohibits individuals from entering a State from which they have been expelled. The ban is typically valid for a certain period of time and ensures that individuals who are considered dangerous or non-desirable are not given a visa or otherwise admitted to enter the territory. In respect

[2] See also the Guide on Article 4 - Prohibition of slavery and forced labour.

of states which are part of the Schengen area, entry bans are registered into a database called the Schengen Information System (SIS). In *Dalea v. France* (dec.), 2010, the Court found that the applicant's registration on the SIS database did not breach his right to respect for his private life under Article 8 of the Convention. It considered the effects of a travel ban imposed as a result of placing an individual on an UN-administered list of terrorist suspects under Article 8 of the Convention (*Nada v. Switzerland* [GC], 2012), as well as of a travel ban designed to prevent breaches of domestic or foreign immigration laws, under Article 2 of Protocol No. 4 to the Convention (*Stamose v. Bulgaria*, 2012).

E. Interception, rescue operations and summary returns ("push-backs") at sea[3]

16. In *Hirsi Jamaa and Others v. Italy* [GC], 2012, the applicants were part of a group of about 200 migrants, including asylum-seekers and others, who had been intercepted by the coastguard of the respondent State on the high seas within the search and rescue area of another Contracting Party. The applicants were summarily returned to Libya under an agreement concluded between Italy and Libya and were given no opportunity to apply for asylum. The Court found that the applicants fell within the respondent State's jurisdiction for the purposes of Article 1 of the Convention as the events took place on board of its military vessels. It considered that the Italian authorities knew, or should have known, that the applicants, when returned to Libya as irregular migrants, would be exposed to treatment in breach of the Convention, that they would not be given any kind of protection and that there were insufficient guarantees protecting them from the risk of being arbitrarily returned to their countries of origin. The fact that the applicants had not asked for asylum or described the risks they faced as a result of the lack of asylum system in Libya did not exempt the respondent State from complying with its obligations under Article 3 of the Convention. It also found violations of Article 4 of Protocol No. 4 of the Convention and of Article 13 of the Convention taken in conjunction with Article 3 and Article 4 of Protocol No. 4 to the Convention.

17. In *M.A. and Z.R. v. Cyprus*, 2024, the applicants, Syrian nationals, were intercepted by the Cypriot coastguard in Cypriot territorial waters and removed to Lebanon on board a vessel flying the Cypriot flag, without their asylum claims being processed and without an assessment whether they risked a lack of access to an effective asylum procedure in Lebanon, of the living conditions of asylum-seekers there or of the risk of refoulement. The Court found violations of Article 3, of Article 4 of Protocol No. 4 as well as of Article 13 of the Convention taken in conjunction with both of the aforementioned provisions on account of the applicants' removal. The Court also found a violation of Article 3 of the Convention on account of the applicants' treatment by the Cypriot authorities over the two days during which they had remained on their boat without being allowed to disembark.

18. In *S.S. and Others v. Italy* (dec.), 2025, the Italian authorities had received a distress signal from a vessel transporting migrants on the high seas off the Libyan coast and informed the competent Libyan authority, following which a Libyan ship rescued the survivors. The Court found that the respondent did not have effective control *ratione loci* over the area in which the applicants were intercepted and that the mere fact that the Rome Maritime Rescue Coordination Centre had informed the competent Libyan authority, following which a Libyan ship rescued the survivors according to the obligations under international maritime law, did not engage Italy's extraterritorial jurisdiction *ratione personae* by virtue of State agent authority and control.

19. In *Safi and Others v. Greece,* 2022, the applicants were on board a fishing boat transporting 27 migrants in the Aegean Sea, which capsized as the Greek coastguard tried to tow it. The sinking of the boat resulted in the death of eleven persons, including close relatives of the applicants. The Court found, in the first place, a violation of the procedural limb of Article 2 on account of the ineffective

[3] See also the Guide on Article 4 of Protocol No. 4 - Prohibition of collective expulsions of aliens.

investigation into the fatal accident. Secondly, while noting that it could not pronounce itself, in the absence of an effective investigation, on several details of the rescue operation nor on the question of whether there had been an attempt to push the applicants back towards Turkish waters as alleged, the Court concluded, having regard to certain facts which were undisputed or otherwise established, that the Greek authorities had failed to comply with the duty under Article 2 to take preventive operational measures to protect the individuals whose lives were at risk. This duty being one of means and not of result, the coastguard could not be expected to succeed in rescuing everyone whose life was at risk at sea. The captain and crew of a vessel involved in a sea rescue operation often had to make difficult and quick decisions and such decisions were, as a rule, at the captain's discretion. However, it had to be demonstrated that these decisions were inspired by the essential effort to secure the right to life of the persons in danger. Having regard to a number of omissions and delays in the manner in which the rescue operation was conducted and organised, the Court found that the authorities had not done all that could reasonably be expected of them to provide all the applicants and their relatives with the level of protection required. The Court also found a violation of the procedural limb, as well as of the substantive limb, of Article 2 in *F.M. and Others v. Greece*, 2025, which concerned deficiencies in the search-and-rescue operation carried out after the competent authorities had received specific and credible information indicating that a vessel carrying migrants was in acute distress.

20. In *Alkhatib and Others v. Greece*, 2024, a member of the applicants' family, who was travelling in a boat with other migrants with a view to illegally entering Greece, sustained a serious gunshot wound as a result of shots fired by the coast guard. The Court found, in the first place, a violation of the procedural limb of Article 2 given the ineffective investigation: on account of the numerous shortcomings it had, *inter alia*, been impossible to determine whether or not the use of potentially lethal force had been justified in the particular circumstances of the case. Secondly, with respect to the substantive limb of Article 2, the Court found that the respondent State had failed to comply with its obligation to put in place an adequate legal and administrative framework governing the use of potentially lethal force in maritime surveillance operations: it found that the coast guard, who could have presumed the presence of passengers hidden on board of the boat, had not exercised due care to minimise the use of lethal force and the possible risks to life and concluded that the Government had not demonstrated that the use of force had been "absolutely necessary" within the meaning of Article 2 § 2 of the Convention. In *Almukhlas and Al-Maliki v. Greece*, 2025, where a minor, who had been hiding on a boat transporting migrants, was hit by a bullet fired by a coastguard at one of the skippers during an operation to intercept the boat, the Court found a violation of the procedural limb of Article 2 as well as of the substantive limb (planning and conduct of the interception).

F. Rescue operations at land borders

21. In *Alhowais v. Hungary*, 2023, the applicant's brother, a Syrian migrant, drowned during a border control operation at a river on the Hungarian-Serbian border. With regard to the applicant's claim that force was used against the migrants to prevent them from disembarking in Hungary, the Court considered that these allegations could not be established beyond reasonable doubt, in the absence of an effective investigation (§§ 119-123). However, the authorities of the respondent State had to be regarded as having been aware of the real and imminent risk the migrants were facing, as they were carrying out a border control operation when the accident occurred, were aware of the migrants arriving on the Hungarian side of the river (as they had been spotted on the Serbian shore and their attempt to cross the river had been noticed) and there had been a previous incident which had led to the injury of migrants trying to cross the river (§§ 127-130). Noting that the State's positive obligations as regards the protection of life extended to the planning and control of the operation to ensure that any risk to life was minimised, the Court found that the authorities had sufficient knowledge to evaluate the dangers of the river-crossing and organise their border operations accordingly, but had failed to do so. Once they had received information about one of the migrants being in distress, they

did not take all operational measures which could reasonably be expected of them to protect the life of the applicant's brother, thus not satisfying their positive obligation under Article 2 of the Convention (§§ 131-144).

II. Entry into the territory of the respondent State

Article 3 of the Convention

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 5 of the Convention

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non- compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

Article 2 of Protocol No. 4 of the Convention

"1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society."

Article 4 of Protocol No. 4 of the Convention

"Collective expulsion of aliens is prohibited."

A. Summary returns at the border and/or shortly after entry into the territory ("push-backs")

22. The Court has also examined cases in which border guards prevented persons from entering the respondent State's territory at a port (*Kebe and Others v. Ukraine*, 2017), at a land border checkpoint (*M.A. and Others v. Lithuania*, 2018; *M.K. and Others v. Poland*, 2020) or at an airport (*S.S. and Others v. Hungary*, 2023) and either prevented the applicants from lodging an asylum application or, where they had submitted such applications, refused to accept them and to initiate asylum proceedings. It has also examined a number of cases concerning summary returns ("push-backs") of migrants and/or asylum-seekers who had entered the respondent State in an unauthorised manner or had tried to do so (*N.D. and N.T. v. Spain* [GC], 2020; *Shahzad v. Hungary*, 2021; *D v. Bulgaria*, 2021; *M.H. and Others v. Croatia*, 2021; *A.A. and Others v. North Macedonia*, 2022), under Article 3 alone, under Article 13 taken in conjunction with Article 3 of the Convention, and/or under Article 4 of Protocol No. 4 as well as under Article 13 of the Convention taken in conjunction with Article 4 of Protocol No. 4. Where the presence of the applicants on the respondent States territory and/or their alleged removal was disputed, it has to be ascertained whether the applicants furnished *prima facie* evidence in support of their version of events; if that is the case, the burden of proof should shift to the Government (see *N.D. and N.T. v. Spain* [GC], 2020, §§ 85-88, and *M.H. and Others v. Croatia*, 2021, §§ 268-275 for cases concerning Article 4 of Protocol No. 4, as well as *A.R.E. v. Greece*, 2025, §§ 216-221 and 230-267, and *G.R.J. v. Greece* (dec.), 2024, for cases concerning Article 3 of the Convention).

1. Article 3 of the Convention alone and/or in conjunction with Article 13 of the Convention

23. Where the applicants, who had presented themselves at the border seeking to lodge an asylum application and/or communicating fear for their safety, were removed in a summary manner to a third country, the Court applied the principles which it had set out in *Ilias and Ahmed v. Hungary* [GC], 2019, in respect of the obligations under Article 3 of the Convention in respect of the removal of asylum-seekers to third intermediary countries, without an assessment, by the authorities of the removing State, of the merits of their asylum claim (see section "Removal to a third country" below). The Court found violations of Article 3 of the Convention (as well as, in certain cases, of Article 13 taken in conjunction with Article 3) in these cases (*M.K. and Others v. Poland*, 2020; *D.A. and Others v. Poland*, 2021; *O.M. and D.S. v. Ukraine*, 2022; *S.S. and Others v. Hungary*, 2023; *Sherov and Others v. Poland*, 2024; *H.T. v. Germany and Greece*, 2024, in respect of a removal from one EU member State to another on the basis of a bilateral agreement; see also "Interception, rescue operations and summary returns ("push-backs") at sea" above; for cases concerning similar factual scenarios, but predating *Ilias and Ahmed v. Hungary* [GC], 2019, see *M.A. and Others v. Lithuania*, 2018, and *Sharifi and Others v. Italy and Greece*, 2014), including where domestic law provided that asylum applications could not be lodged at the border crossing point (airport) at which the applicants presented themselves but could only be lodged at a land border transit zone (*S.S. and Others v. Hungary*, 2023, §§ 62-63). Where applicants can arguably claim that there is no guarantee that their asylum applications would be seriously examined by the authorities in the neighbouring third country and that their return to their country of origin could violate Article 3 of the Convention, the respondent State is obliged to allow the applicants to remain with its jurisdiction until such time that their claims have been properly reviewed by a competent domestic authority and cannot deny access to its territory to persons presenting themselves at a border checkpoint who allege that they may be subjected to ill-treatment if they remain on the territory of the neighbouring state, unless adequate measures are taken to eliminate such a risk (*M.K. and Others v. Poland*, 2020, §§ 178-179). From the perspective of Article 3, a Contracting State cannot deny access to its territory or remove an individual who wishes to seek international protection on the assumption that he or she might be able to return to the respondent State through some other means of entry, without a proper evaluation of the risks

which that removal might have for his or her rights protected under that provision (*S.S. and Others v. Hungary*, 2023, § 68). Refusing individuals, seeking international protection entry into European Union/Schengen territory and removing them to the neighbouring third State, does not fall within a State's strict international legal obligations following from its membership in the European Union and, consequently, that State is fully responsible under the Convention for such acts. More specifically, the Court found the provisions of European Union law embraced the principle of *non-refoulement* and applied it to persons who were subjected to border checks before being admitted to the territory of a Member States (*M.K. and Others v. Poland*, 2020, §§ 180-182; *D.A. and Others v. Poland*, 2021, §§ 65-67).

24. To determine whether individuals sought to request asylum and/or communicated fear for their safety in the event of removal to the authorities of the respondent State, the Court has regard not only to the records of the border guards, but also to the applicant's account, supporting documents as well as to reports regarding the situation at the border, where these indicate the existence of a systemic practice of misrepresenting statements given by asylum-seekers in official notes and/or concerns regarding access to the territory and asylum procedure, to the conditions prevailing in the country of origin and/or the third country as well as to the applicants' submissions in their previous cases before the Court (*M.A. and Others v. Lithuania*, 2018, §§ 107-113; *M.K. and Others v. Poland*, 2020, §§ 174-177; *D.A. and Others v. Poland*, 2021, §§ 60-63; *O.M. and D.S. v. Ukraine*, 2022, §§ 85-91; *D v. Bulgaria*, 2021, §§ 120-128; *Hirsi Jamaa and Others v. Italy* [GC], 2012, §§ 123-136; *M.A. and Others v. Latvia* (dec.), 2022, §§ 51-56; *M.A. and Z.R. v. Cyprus*, 2024, §§ 82-88). Individuals do not have to explicitly request asylum, nor does the wish to apply for asylum need to be expressed in a particular form (*Hirsi Jamaa and Others v. Italy* [GC], 2012, § 133; *M.A. and Others v. Lithuania*, 2018, §§ 108-109; *D v. Bulgaria*, 2021, §§ 120-128). In this connection, the Court has emphasised the importance of interpretation for accessing asylum procedures as well as of training officials enabling them to detect and to understand asylum requests (*M.A. and Others v. Lithuania*, 2018, §§ 108-109; *D v. Bulgaria*, 2021, §§ 124-126). It has also considered the lack of involvement of a lawyer (*D v. Bulgaria*, 2021, § 125).

25. So far, the Court has adjudicated only few cases concerning a summary return to the country of origin shortly after the applicant's entry into the respondent State's territory (*D v. Bulgaria*, 2021; *A.R.E. v. Greece*, 2025).In *D v. Bulgaria*, 2021, the applicant was part of a group of people, who had entered Bulgaria in an unauthorised manner, hiding inside a truck and wishing to transit through the country *en route* to Western Europe. The group was not discovered upon entry but only when the truck, having crossed through the Bulgarian territory, sought to cross the border between Bulgaria and Romania. The Romanian officials arrested all passengers, prohibited them from entering Romania and handed them over to Bulgarian officials, who detained them. It applied a two-tier test in respect of the applicant's complaint under Articles 3 and 13 of the Convention (§§ 107 and 118): It examined, first, whether the applicant had sought, at least in substance, international protection by expressing to the authorities of the respondent State, prior to his removal, his fears of treatment contrary to Article 3 if he were returned to his country of origin. If the first question were answered in the affirmative, it had to be determined, as a second step, whether the authorities of the respondent State had adequately examined these risks, in a procedure in accordance with the requirements of Article 13 of the Convention, prior to returning him to his country of origin. This requires independent and rigorous scrutiny of the complaint and the possibility of suspending the implementation of the removal pending same (§ 116). In this connection, the Court reiterated the importance of guaranteeing anyone subject to a removal measure the right to obtain sufficient information to enable them to gain effective access to the relevant procedures and to substantiate their complaints (*ibid.*). In finding that the applicant had expressed his fears to the Bulgarian border police that he – as a former journalist for a Turkish newspaper and in view of the conditions prevailing in Turkey in the aftermath of the attempted *coup d'état* – would be subjected to treatment contrary to Article 3 if returned to Turkey, the Court did not consider it decisive that the file did not contain a written document by which the applicant had explicitly requested international protection. It had regard to

the linguistic obstacles – emphasising the importance of interpretation for accessing asylum procedures –, the lack of involvement of a lawyer, the content of the applicant's statements to the border police, which had not been contested, and the conditions prevailing in Turkey at the relevant time, including in respect of journalists (§§ 120-128). The Court concluded that the Bulgarian authorities, who had hastily returned the applicant to Turkey without instituting proceedings for international protection, had removed him without examining the Article 3 risks he faced and had rendered the available remedies ineffective in practice, in breach of Articles 3 and 13 of the Convention (§§ 129-137). In *A.R.E. v. Greece*, 2025, the Court found that the Greek authorities had summarily removed the applicant from the Evros region in Greece to Türkiye, ignoring her request for international protection and without assessing the Article 3 risks which she alleged to face, in breach of Article 3 and of Article 13 taken in conjunction with Article 3 (§§ 230-267 and §§ 279-284).

26. The Court has, however, also dealt with a number of cases which concerned summary removals to the country of origin, which did not occur shortly after the applicants' entry into the respondent State's territory, and in which the domestic authorities failed to examine any alleged risks of treatment contrary to Article 3 of the Convention before removing the applicants to their country of origin. This included cases in which applicants had lodged asylum applications (see, for example, *Shenturk and Others v. Azerbaijan*, 2022, §§ 112-117, where the Court concluded that this constituted a failure to discharge the procedural obligation under Article 3 of the Convention), or in which they had even been granted temporary protection status in the removing country (see *Akkad v. Turkey*, 2022, where the Court found that the applicant's removal to Syria constituted a violation of Article 3 as well as of Article 13 taken in conjunction with Article 3). See, more generally, "Scope and substantive aspects of the Court's assessment under Articles 2 and 3 in asylum-related removal cases".

2. Article 4 of Protocol No. 4[4]

27. In its case-law on Article 4 of Protocol No. 4 on summary returns and related scenarios, the Court has distinguished a number of factual situations and the relevant tests to be applied. 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 (*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 into account 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 for not doing so which were based on objective facts for which the State was responsible. The absence of such cogent reasons could lead to this being regarded as the consequence of the applicants' own conduct, justifying the lack of individual identification. 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 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). 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). A preliminary procedure was found not to constitute a genuine and effective

[4] See also the Guide on Article 4 of Protocol No. 4 - Prohibition of collective expulsions of aliens.

access to a means of legal entry when it required 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 which the competent authorities could decide to issue a travel document allowing the individual to enter the respondent State's territory for the purposes of applying for international protection there (*H.Q. and Others v. Hungary*, 2025, §§ 117-124).

28. Where migrants entered the respondent State's territory in an unauthorised manner and, following their apprehension near the border, were provided with access to 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).

29. For examples of cases concerning individuals, who had expressed an intention to seek asylum or who had lodged asylum applications and who, were removed to a third country without a valid decision, albeit not immediately or within hours after their entry into the territory, in breach of Article 4 of Protocol No. 4, see *M.D. and Others v. Hungary*, 2024, and *O.H. and Others v. Serbia*, 2026, §§ 87-88. For an example of a case where individuals, 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, see *J.A. and Others v. Italy*, 2023, §§ 47 and 106-116.

30. 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).

3. Article 13 of the Convention in conjunction with Article 3 of the Convention and/or Article 4 of Protocol No. 4

31. Where the individual has an "arguable complaint" that his removal would expose him to treatment contrary to Article 2 or 3 of the Convention, he must have an effective remedy, in practice as well as in law, at the domestic level in accordance with Article 13 of the Convention, which imperatively requires, *inter alia*, independent and rigorous scrutiny of any claim that there exist

substantial grounds for fearing a real risk of treatment contrary to Articles 2 or 3 and automatic suspensive effect (see *M.S.S. v. Belgium and Greece* [GC], 2011, § 293, *M.K. and Others v. Poland*, 2020, §§ 142-148 and 212-220, and section "Procedural aspects" below). As regards Article 13 taken in conjunction with Article 4 of Protocol No. 4, the Court has made a distinction depending on whether the applicants had, at least, an arguable complaint under Article 2 or 3 of the Convention in respect of risks they faced upon their removal. Where the applicants did have such arguable claim and they had been effectively prevented from applying for asylum and had not had access to a remedy with automatic suspensive effect, the Court found a violation of Article 13 taken in conjunction with Article 4 of Protocol No 4 (*M.K. and Others v. Poland*, 2020, §§ 219-220; *D.A. and Others v. Poland*, 2021, §§ 89-90; *H.Q. and Others v. Hungary*, 2025, §§ 154-160; *Hirsi Jamaa and Others 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 (*Khlaifia and Others v. Italy* [GC], 2016, § 279; *Moustahi v. France*, 2020, §§ 156-164).

B. Confinement in transit zones and reception centres for the identification and registration of migrants ("hotspots")

1. Article 5 of the Convention

32. In determining the distinction between a restriction on liberty of movement and deprivation of liberty in the context of confinement of foreigners in transit zones and reception centres for the identification and registration of migrants, the factors taken into consideration by the Court may be summarised as follows: i) the applicants' individual situation and their choices; ii) the applicable legal regime of the respective country and its purpose; iii) the relevant duration, especially in the light of the purpose and the procedural protection enjoyed by applicants pending the events; and iv) the nature and degree of the actual restrictions imposed on or experienced by the applicants (*Z.A. and Others v. Russia* [GC], 2019, § 138; *Ilias and Ahmed v. Hungary* [GC], 2019, §§ 217-218). The Court found Article 5 of the Convention to apply to lengthy confinement in airport transit zones (see *Z.A. and Others v. Russia* [GC], 2019), but not to an eleven-hour stay of applicants knowingly using false identity documents (*O.M. and D.S. v. Ukraine*, 2022, §§ 109-121). In respect to stays in land border transit zones, where applicants awaited the outcome of their asylum applications, the Court similarly distinguished cases on their facts. It found Article 5 not to apply to a stay of twenty-three days, which did not exceed the maximum period fixed by domestic law and during which the applicants' asylum requests were processed at administrative and judicial level (*Ilias and Ahmed v. Hungary* [GC], 2019, §§ 219-249). By contrast, the Court found Article 5 to apply and to have been violated in a case where the applicants stayed in the transit zone for nearly four months, with domestic law neither providing a strictly defined statutory basis nor a maximum length of detention in the transit zone (*R.R. and Others v. Hungary*, 2021, §§ 74-84 and 89-92). In *J.R. and Others v. Greece*, 2018, the applicants, Afghan nationals, arrived on the island of Chios and were arrested and placed in the Vial "hotspot" facility (a migrant reception, identification and registration centre). After one month, that facility became semi-open and the applicants were allowed out during the day. The Court considered that the applicants had been deprived of their liberty within the meaning of Article 5 during the first month of their stay in the facility, but that they were subjected only to a restriction of movement, rather than a deprivation of liberty, once the facility had become semi-open. In *J.A. and Others v. Italy*, 2023, the Court found that the applicants' retention in the Lampedusa "hotspot", a closed area which they could

not leave, for ten days amounted to a deprivation of liberty within the meaning of Article 5, for which there was no legal basis (§§ 84-97).

2. Article 3 of the Convention

33. The conditions to which individuals are exposed during their confinement in transit zones may give rise to issues under Article 3, with the relevant principles being those of conditions-of-detention cases (*Z.A. and Others v. Russia* [GC], 2019, §§ 181-195; see section "Article 3 of the Convention: General principles" below). As regards individuals confined in airport transit zones, the Court found violations of Article 3 in *Z.A. and Others v. Russia* [GC], 2019, and *Riad and Idiab v. Belgium*, 2008. As regards individuals confined in land border transit zones, the Court found breaches of that provision in *R.R. and Others v. Hungary*, 2021, §§ 48-65, because the authorities, firstly, had not provided an adult asylum-seeker with sufficient food during his four months stay in the Röszke transit zone and, secondly, because of the living conditions to which his wife, who was pregnant and had a health condition, and their minor children were subjected for such period (see also sections "Reception conditions, age-assessment procedures and freedom of movement" and "Children and adults with specific vulnerabilities" below). By contrast, the Court found that the threshold of severity necessary to constitute inhuman treatment within the meaning of Article 3 was not reached in *Ilias and Ahmed v. Hungary* [GC], 2019, §§ 186-194, and in *Thiam v. Italy* (dec.), 2022, §§ 32-41.

34. In *H.M. and Others v. Hungary*, 2022, the Court found a violation of Article 3 when an asylum-seeker was handcuffed and attached to a leash while he was taken from the transit zone where he was staying to a hospital to assist his pregnant wife with interpretation, and throughout that hospital visit (§§ 13 and 21-27).

3. Article 13 in conjunction with Article 3 of the Convention

35. Where an individual is being held in a transit zone and refused entry into the territory, the remedy by which the alleged Article 3 risk in the event of removal is being reviewed has to be particularly speedy in order to comply with the requirements of Article 13 taken in conjunction with Article 3 of the Convention (*E.H. v. France*, 2021, § 195).

C. Immigration detention

1. Article 5 § 1(f) of the Convention[5]: General principles

36. Article 5 § 1(f) of the Convention allows States to control the liberty of aliens in an immigration context in two different situations: the first limb of that provision permits the detention of an asylum-seeker or other immigrant prior to the State's grant of authorisation to enter (for the second limb, see section "Restrictions of freedom of movement and detention for purposes of removal" below). The question as to when the first limb of Article 5 § 1(f) ceases to apply, because the individual has been granted formal authorisation to enter or stay, is largely dependent on national law (*Suso Musa v. Malta*, 2013, § 97; see also *M.B. v. the Netherlands*, 2024, §§ 63-69, for an example of the transposition of EU law into domestic law). Where domestic law authorises the entry or stay pending an asylum application, the detention of an asylum-seeker may under certain circumstances be authorised under Article 5 § 1 (b) of the Convention (*O.M. v. Hungary*, 2016).

37. Detention under the first limb of Article 5 § 1(f) must be compatible with the overall purpose and requirements of Article 5, notably its lawfulness, including the obligation to conform to the substantive and procedural rules of national law (*Saadi v. the United Kingdom* [GC], 2008, § 67; for an example where the lawfulness requirement was not met, see *Khlaifia and Others v. Italy* [GC],

[5] See also the Guide on Article 5 - Right to liberty and security.

2016, §§ 97-108). While a test of the necessity of the detention is not, as such, required under Article 5 § 1(f), such test may be required under domestic legislation when, for example, transposing EU law (*J.R. and Others v. Greece*, 2018, § 111, and *Muhammad Saqawat v. Belgium,* 2020, §§ 47-49). In the case of massive arrivals of asylum-seekers at State borders, subject to the prohibition of arbitrariness, the lawfulness requirement of Article 5 may be considered generally satisfied by a domestic legal regime that provides, for example, for no more than the name of the authority competent to order deprivation of liberty in a transit zone, the form of the order, its possible grounds and limits, the maximum duration of the confinement and, as required by Article 5 § 4, the applicable avenue of judicial appeal (*Z.A. and Others v. Russia* [GC], 2019, § 162).

38. However, compliance with domestic law is not sufficient, since a deprivation of liberty may be lawful in terms of domestic law but still be considered arbitrary (*Saadi v. the United Kingdom* [GC], 2008, § 67). In respect of adults with no particular vulnerabilities, detention under Article 5 § 1(f) is not required to be reasonably necessary, for example to prevent the person concerned from committing an offence or fleeing. However, it must not be arbitrary. "Freedom from arbitrariness" in the context of the first limb of Article 5 § 1(f) means that such detention must be carried out in good faith; it must be closely connected to the purpose of preventing unauthorised entry of the person to the country; the place and conditions of detention should be appropriate, bearing in mind that the measure is applicable not to those who have committed criminal offences but to aliens who, often fearing for their lives, have fled from their own country; and the length of the detention should not exceed that reasonably required for the purpose pursued (*Saadi v. the United Kingdom* [GC], 2008, §§ 72-74). The detention of an asylum-seeker is not closely connected to the purpose of preventing unauthorised entry if it is based on public order or national security grounds (see *M.B. v. the Netherlands*, 2024, §§ 70-75, where the applicant's immigration detention followed his earlier (pre-trial) criminal detention on terrorism related charges, and *B.A. v. Cyprus*, 2024, §§ 62-64. See also §§ 65-66 of the latter judgment as an example of the length of detention in itself rendering the detention under the first limb of Article 5 § 1(f) arbitrary). In contrast, the Court found that the applicant's detention for two months and eighteen days in conditions incompatible with Article 3 did not constitute a violation of Article 5 § 1 in *B.F. v. Greece*, 2025.

2. Article 3 of the Convention: General principles

39. If the place and conditions of immigration detention are not appropriate, this may also breach Article 3 of the Convention (see, for example, *Khlaifia and Others v. Italy* [GC], 2016, §§ 159-177 and 196; *Georgia v. Russia (I)* [GC], 2014, §§ 192-205; *M.S.S. v. Belgium and Greece* [GC], 2011, §§ 216-234; *Sakir v. Greece*, 2016, §§ 50-58; *S.Z. v. Greece*, 2018, §§ 36-42; *Aden Ahmad v. Malta*, 2013). To assess whether the conditions of immigration detention complied with Article 3, the Court has applied the principles related to prisoners' rights (see, for instance, *Georgia v. Russia (I)* [GC], 2014, §§ 192-205; *Khlaifia and Others v. Italy* [GC], 2016, §§ 163-167; *Sakir v. Greece*, 2016, §§ 50-53).[6]

3. Children and adults with specific vulnerabilities

a. Article 5 § 1(f) of the Convention

40. The immigration detention of children and adults with specific vulnerabilities will not be in conformity with Article 5 § 1(f) if the aim pursued by detention can be achieved by other less coercive measures, requiring the domestic authorities to consider alternatives to detention in the light of the specific circumstances of the individual case (as regards children: *A.B. and Others v. France*, 2016, § 123; *Nikoghosyan and Others v. Poland*, 2022, § 86; and *Rahimi v. Greece*, 2011, §§ 108-110; as regards an adult with a medical condition: *Yoh-Ekale Mwanje v. Belgium*, 2011; see also *O.M.*

[6] See also the Guide on Prisoners' Rights.

v. Hungary, 2016, § 53, with a view to the assessment of the vulnerability of the applicant, an LGBTI asylum-seeker, under Article 5 § 1(b)). The authorities' failure to conduct a proper assessment to determine less coercive alternatives to detention has led the Court to find a violation of Article 5 § 1 in respect of children (*Rahimi v. Greece*, 2011, §§ 109-110; *Popov v. France*, 2012, § 119; *A.B. and Others v. France*, 2016, § 124; *H.A and Others v. Greece*, 2019, §§ 206-207; *M.D. and A.D. v. France*, 2021, § 89; *Nikoghosyan and Others v. Poland*, 2022, §§ 87-88) In certain cases concerning accompanied children, in which the authorities had dismissed the possibility of resorting to a less coercive measure on account of the accompanying parent's actions, the Court found no violation of Article 5 § 1 on the basis that the authorities had effectively investigated whether the detention was a measure of last resort for which no alternative was available (*A.M. and Others v. France*, 2016, §§ 67-69; *R.C. and V.C. v. France*, 2016, §§ 55-57). Even where the domestic authorities established that no less coercive measure could be resorted to and the conditions of detention are satisfactory, the detention of migrant children can be justified under Article 5 § 1(f) only for a short period (*M.H. and Others v. Croatia*, 2021, § 237; *M.H. and S.B. v. Hungary*, 2024, § 76). Where children are detained with an accompanying parent and the detention decision is only issued against the parent, but not the children, the detention of the children is in breach of Article 5 § 1 (*Minasian and Others v. the Republic of Moldova*, 2023, §§ 40-42). Detaining children in inappropriate conditions within the meaning of Article 3, may of itself lead to a breach of Article 5 § 1, irrespective of whether the children were accompanied by their parents or not (*G.B. and Others v. Turkey*, 2019, § 151; *M.H. and Others v. Croatia*, 2021, § 239). Depending on the circumstances, the Court has found a violation in respect of the children, but not in respect of the accompanying parents in certain cases (*Muskhadzhiyeva and Others v. Belgium*, 2010), whereas it also found a violation of Article 5 § 1 in respect of the accompanying parents in other cases (*Nikoghosyan and Others v. Poland*, 2022, *M.H. and Others v. Croatia,* 2021).

41. For children and adults with specific vulnerabilities to be able to have the benefit of the additional safeguards against arbitrary detention which apply to them, they should have access to an assessment of their vulnerability and be informed about respective procedures (see *Thimothawes v. Belgium*, 2017, and *Abdi Mahamud v. Malta*, 2016). An individual is presumed to be a minor – which renders these additional safeguards applicable – if he or she claims to be a minor and there are no indications that this claim is unfounded or unreasonable, until a final age-assessment decision is taken (*A.D. v. Malta*, 2023, §§ 74 and 190, and see "Reception conditions, age-assessment procedures and freedom of movement" below). Where an individual initially claimed to be an adult and subsequently claims to be a minor, the authorities might have legitimate concerns as to the reliability of the individual's statements that he or she is a minor and thus reasonably refrain from placing the individual in a children's facility immediately after those statements have been made (*M.H. and S.B. v. Hungary*, 2024, § 75). However, the mere fact that an individual initially claimed to be an adult cannot justify dismissing his or her later claim to be a minor without taking appropriate measures to verify his or her age, as there might be understandable reasons prompting a migrant child not to reveal his or her real age, such as not being sure of it or a fear of being separated from a group or an adult relative (*M.H. and S.B. v. Hungary*, 2024, § 75). Lack of active steps and delays in conducting the vulnerability assessment may be a factor in raising serious doubts as to the authorities' good faith (*Abdullahi Elmi and Aweys Abubakar v. Malta*, 2016; *Abdi Mahamud v. Malta*, 2016). The same holds true if the burden of rebutting the presumption that they are adults is placed on the detained asylum-seekers, as obtaining the necessary evidence to prove their age could be challenging and potentially impossible (*M.H. and S.B. v. Hungary*, 2024, §§ 77-80).

b. Article 3 of the Convention

42. Obligations concerning the protection of migrant children may be different depending on whether they are accompanied or not (*Rahimi v. Greece*, 2011, § 63; *Abdullahi Elmi and Aweys Abubakar v. Malta*, 2016, § 112). However, the fact that children are accompanied by their parents throughout the period of immigration detention does not suffice to exempt the authorities from their duty to

protect children and take appropriate measures in accordance with their positive obligations under Article 3 (*Muskhadzhiyeva and Others v. Belgium*, 2010, §§ 57-58; *Popov v. France*, 2012, § 91; *R.M. and Others v. France*, 2016, § 71; *M.H. and Others v. Croatia*, 2021, § 192). Moreover, the conduct of the accompanying parent is not decisive for the question of whether the threshold of severity to engage Article 3 of the Convention has been reached in respect of the child (*M.D. and A.D. v. France*, 2021, § 70). In cases concerning the immigration detention of accompanied children, the Court considers the following three factors to be relevant to the assessment of whether there has been a violation of Article 3 of the Convention: (i) the children's young age; (ii) the duration of the detention; and (iii) the suitability of the premises with regard to the specific needs of children (*A.B. and Others v. France*, 2016, § 109; *M.D. and A.D. v. France*, 2021, § 63). In addition to the three aforementioned factors, the Court has also considered relevant the vulnerability of children in terms of their health or personal history (*Muskhadzhiyeva and Others v. Belgium*, 2010, §§ 60-61 and 63, where children's psychological problems had been certified by doctors; *Kanagaratnam and Others v. Belgium*, 2011, § 67, where the children had experienced a traumatic situation in the country of origin; and *M.H. and Others v. Croatia*, 2021, § 201, where the children had witnessed the death of their sister near the border). Where accompanied children were detained in poor conditions, the Court found a violation of Article 3, even if the detention was of a short duration (*S.F. and Others v. Bulgaria*, 2017: detention for thirty-two to forty-one hours). If the material conditions are satisfactory, the detention of accompanied children for a short period may not meet the minimum level of severity which would engage Article 3: in such cases, the duration of the detention is of paramount importance and it can lead to a violation of Article 3 (*R.M. and Others v. France*, 2016, § 75 (violation of Article 3 in respect of a detention of seven-month old child for seven days)]; *N.B. and Others v. France*, 2022, §§ 50-53 [violation of Article 3 in respect of a detention of an eight year old child for 14 days]; *M.H. and Others v. Croatia*, 2021, § 199). In certain cases, the Court found a violation of Article 3 in respect of the children, but not in respect of the accompanying parents (*Muskhadzhiyeva and Others v. Belgium*, 2010, §§ 64-66; *Popov v. France*, 2012, §§ 104-105; *M.H. and Others v. Croatia*, 2021, §§ 205-213). In other cases, the Court has also found a violation of Article 3 in respect of the accompanying parent, in particular in view of that parent's particular vulnerability (*M.D. and A.D. v. France*, 2021, § 71 (breastfeeding mother); *R.R. and Others v. Hungary*, 2021, §§ 62-63 and 65 (pregnant woman who had a health condition); *H.M. and Others v. Hungary*, 2022, § 18 (woman at advanced stage of high-risk pregnancy).

43. As regards unaccompanied children, the Court found a violation of Article 3 in *Rahimi v. Greece*, 2011, §§ 81-86) on the basis of the applicant's extremely vulnerable situation and the very poor conditions of the detention centre, where the fifteen year old applicant was detained for two days (§§ 81-86). It arrived at the same finding in *H.A and Others v. Greece*, 2019, §§ 166-170, concerning the detention under "protective custody" of the applicants, aged 14 and 17 years, at a police station for periods between 21 and 33 days, as well as in *Abdullahi Elmi and Aweys Abubakar v. Malta*, 2016, §§ 105-115, where the 16/17 year old applicants were detained for approximately eight months in poor conditions awaiting the outcome of the age-assessment procedure; and in *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 2006, §§ 50-59, where a five year old child was detained in a centre for adults for two months.

44. As regards adults with specific vulnerabilities, the Court found that the immigration detention of a heavily pregnant woman breached Article 3 of the Convention in *Mahmundi and Others v. Greece*, 2012 (see also *R.R. and Others v. Hungary*, 2021, §§ 62-63 and 65, and *H.M. and Others v. Hungary*, 2022, § 18, as well as the sections "Confinement in transit zones and reception centres" above and "Reception conditions, age-assessment procedures and freedom of movement" below). It arrived at the same finding in relation to the detention, with a view to deportation, of a woman at advanced stage of HIV in *Yoh-Ekale Mwanje v. Belgium*, 2011.

c. Article 8 of the Convention

45. The detention of accompanied children may also raise issues under Article 8 of the Convention in respect of both children and adults, as may the refusal to allow the reunion of a parent with his children, who were placed *de facto* in administrative detention by arbitrary association with an unrelated adult (*Moustahi v. France*, 2020). At the same time, in relation to the argument that the well-being of children had been protected because they had been detained with their parents rather than separated from them, the Court stated, not only under Article 8 but also under Article 5 § 1, that the child's best interests could not be confined to keeping the family together and that the authorities had to take all necessary steps to limit, as far as possible, the detention of families accompanied by children and effectively preserve the right to family life (*Nikoghosyan and Others v. Poland*, 2022, § 84). Depending on the circumstances, the Court found a found a violation of Article 8 in respect of accompanied children and their parents in certain cases (*Popov v. France*, 2012; *A.B. and Others v. France*, 2016; *R.K. and Others v. France*, 2016; *Bistieva and Others v. Poland*, 2018); in other cases it did not find a violation of Article 8 (*A.M. and Others v. France*, 2016; *R.C. and V.C. v. France*, 2016).

4. Procedural safeguards

46. Under Article 5 § 2, any person who has been arrested must be told, in simple, non-technical language that he can understand, the essential legal and factual grounds for his deprivation of liberty, so as to be able to apply to a court to challenge its lawfulness in accordance with Article 5 § 4 (*Khlaifia and Others v. Italy* [GC], 2016, § 115). Whilst this information must be conveyed "promptly", it need not be related in its entirety by the arresting officer at the very moment of the arrest. Whether the content and promptness of the information conveyed were sufficient is to be assessed in each case according to its special features (*ibid.*; see *Čonka v. Belgium*, 2002; *Saadi v. the United Kingdom* [GC], 2008; *Nowak v. Ukraine*, 2011; *Dbouba v. Turkey*, 2010).

47. Article 5 § 4 entitles a detained person to bring proceedings for review by a court of the procedural and substantive conditions which are essential for the "lawfulness", in the sense of Article 5 § 1, of his or her deprivation of liberty (*Khlaifia and Others v. Italy* [GC], 2016, § 131; see, in particular, *A.M. v. France*, 2016, §§ 40-41, concerning the required scope of judicial review under Article 5 § 1(f)). Proceedings to challenge the lawfulness under Article 5 § 1(f) of administrative detention pending deportations do not need to have a suspensive effect on the implementation of the deportation order (*ibid.*, § 38). Where deportation is expedited in a manner preventing the detained person or his lawyer from bringing proceedings under Article 5 § 4, that provision is breached (*Čonka v. Belgium*, 2002). In cases where detainees had not been informed of the reasons for their deprivation of liberty, their right to appeal against their detention was deprived of all effective substance (*Khlaifia and Others v. Italy* [GC], 2016, § 132). The same holds true if the detained person is informed about the available remedies in a language he does not understand and is unable, in practice, to contact a lawyer (*Rahimi v. Greece*, 2011, § 120). The proceedings under Article 5 § 4 must be adversarial and ensure equality of arms between the parties (see *A. and Others v. the United Kingdom* [GC], 2009, §§ 203 *et seq.*; and *Al Husin v. Bosnia and Herzegovina (no. 2)*, 2019, in respect of national security cases). The Court found that the requirements of Article 5 § 4 had been met in a case in which the applicant had not been heard in person nor through tele- or video-conferencing in his immigration detention appeal proceedings due to infrastructure problems during the first weeks of the Covid-19 pandemic lockdown, given that his lawyer had made written submissions and had been heard by telephone and in view of the difficult and unforeseen practical problems during the initial phase of the Covid-19 pandemic (*Bah v. the Netherlands* (dec.), 2021). It breaches Article 5 § 4 if the detainee is unable to obtain a substantive judicial decision on the lawfulness of the detention order, and hence his release from detention, because the appeal is deemed to have become "without object" as a new detention order has been issued in the meantime (*Muhammad Saqawat v. Belgium*, 2020), or if there is no judicial remedy available to challenge the lawfulness of the detention, even if

it is brief (*Moustahi v. France*, 2020). Similarly, there is a breach of Article 5 § 4 if children are detained as accompanying their parent, without having been issued with a decision ordering their own detention which they could challenge (*Minasian and Others v. the Republic of Moldova*, 2023, §§ 49-54).

48. Article 5 § 4 also secures to persons arrested or detained the right to have the lawfulness of their detention decided "speedily" by a court and to have their release ordered if the detention is not lawful (*Khlaifia and Others v. Italy* [GC], 2016, § 131; in relation to case-law on the "speediness" requirement in respect of detention under Article 5 § 1(f), see *B.A. v. Cyprus*, 2024, §§ 72-75, as an example concerning the first limb of that provision, as well as *Khudyakova v. Russia*, 2009, §§ 92-100; *Abdulkhakov v. Russia*, 2012, § 214; and *M.M. v. Bulgaria*, 2017, with respect to the second limb of the provision). Where the national authorities decide in exceptional circumstances to detain a child and his or her parents in the context of immigration controls, the lawfulness of such detention should be examined by the national courts with particular expedition and diligence at all levels (*G.B. and Others v. Turkey*, 2019, §§ 167 and 186). Where an automatic review is not conducted in compliance with the time-limits provided for by domestic law, but nonetheless speedily from an objective point of view, there is no breach of Article 5 § 4 (*Aboya Boa Jean v. Malta*, 2019).

49. Article 13 requires a remedy at national level by which individuals, who have an arguable claim that the conditions of their detention breach Article 3, can complain about these conditions (*Khlaifia and Others v. Italy* [GC], 2016, §§ 270-271)

D. Access to procedures and reception conditions

1. Access to the asylum procedure or other procedures to prevent removal

50. In addition to cases concerning the refusal to accept or examine asylum applications at the border (see "Summary returns at the border and/or shortly after entry into the territory ("push-backs")" above), the Court has examined cases under Article 13 taken in conjunction with Article 3 where a person present on the territory was unable to lodge an asylum application (*A.E.A. v. Greece*, 2018), or where such application was not seriously examined (*M.S.S. v. Belgium and Greece* [GC], 2011, §§ 265-322).

51. The Court found that there had been no violation of Article 4 of Protocol No. 4 where the applicants were afforded a genuine and effective possibility of submitting arguments against their expulsion (*Khlaifia and Others v. Italy* [GC], 2016).

2. Reception conditions, age-assessment procedures and freedom of movement

52. Article 3 cannot be interpreted as obliging the High Contracting Parties to provide everyone within their jurisdiction with a home (*Chapman v. the United Kingdom* [GC], 2001, § 99). Nor does Article 3 entail any general obligation to give refugees financial assistance to enable them to maintain a certain standard of living (*Tarakhel v. Switzerland* [GC], 2014, § 95). However, asylum-seekers are members of a particularly underprivileged and vulnerable population group in need of special protection and there exists a broad consensus at the international and European level concerning this need for special protection, as evidenced by the Geneva Convention, the remit and the activities of the UNHCR and the standards set out in the Reception Directive (*M.S.S. v. Belgium and Greece* [GC], 2011, § 251). It may thus raise an issue under Article 3 if the asylum-seekers, including persons intending to lodge an asylum application, are not provided with accommodation and thus forced to live on the streets for months, with no resources or access to sanitary facilities, without any means of providing for their essential needs, in fear of assault from third parties and of expulsion (*ibid.*, §§ 235-264 and *N.H. and Others v. France*, 2020, both in respect of adults without health concerns and without children, and

O.R. v. Greece, 2024, in respect of an unaccompanied child asylum-seeker after he had lodged an asylum application; contrast *N.T.P. and Others v. France*, 2018, where the applicants had been accommodated in a privately run shelter funded by the authorities and been given food and medical care and the children had been in school, and *B.G. and Others v. France*, 2020, where the applicants had temporarily stayed in a tented camp set up in a car park, with the authorities having taken measures to improve their material living conditions, in particular ensuring medical care, the children's schooling and their subsequent placement in a flat). States are obliged under Article 3 to protect and to take charge of unaccompanied children, which requires the authorities to identify them as such and to take measures to ensure their placement in adequate accommodation, even if the children do not lodge an asylum application in the respondent State, but intend to do so in another State, or to join family members there (see *Khan v. France*, 2019, concerning the situation in a makeshift camp in Calais; and *Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia*, 2019, in respect of the situation in a makeshift camp in Idomeni; see also *M.D. v. France*, 2019, regarding the reception of an asylum seeker who had identified himself as an unaccompanied minor, but in respect of whose actual age there were doubts). In *Rahimi v. Greece*, 2011, §§ 87-94, the Court also found a breach of Article 3 because the authorities did not offer the applicant, an unaccompanied child asylum-seeker, any assistance with accommodation following his release from detention. In *R.R. and Others v. Hungary*, 2021, §§ 48-65, the Court found breaches of Article 3 in view of the conditions to which the applicants were subjected during their stay in a transit zone (see also sections "Confinement in transit zones and reception centres" and "Article 3 of the Convention: General principles" and "Children and adults with specific vulnerabilities" above). The Court has found violations of Article 3 in cases where unaccompanied minor asylum-seekers were placed in reception centres for adults for several months (on account of the length and conditions of stay in *Darboe and Camara v. Italy*, 2022; on account of the centre, in which the particularly vulnerable applicant allegedly a victim of sexual abuse, was placed for eight months, not being equipped to provide her with appropriate psychological assistance, as well as the national authorities' prolonged inaction regarding her situation and needs as a particularly vulnerable minor in *M.A. v. Italy*, 2023). See also "Obligations to prevent (self-)harm and to carry out an effective investigation in other migrant-specific situations" below.

53. In *Darboe and Camara v. Italy*, 2022, the Court found Article 8 to be applicable to age-assessment procedures for migrants requesting international protection and claiming to be minors (in respect of requirements for the presumption of minority of individuals claiming to be minors to apply and the duration of its applicability see "Children and adults with specific vulnerabilities" above). The age of a person was a means of personal identification and the procedure to assess the age of an individual alleging to be a minor, including its procedural safeguards, was essential in order to guarantee to him or her all the rights deriving from his or her status as a minor, particularly so in view of the importance of age-assessment procedures in the migration context. Determining whether an individual was a minor was the first step to recognising his or her rights and putting into place all necessary care arrangements. If a minor were wrongly identified as an adult, serious measures in breach of his or her rights might be taken (§§ 121-126). While the assessment of an individual's age might be a necessary step in the event of doubt as to his or her minor status, sufficient procedural guarantees had to accompany the procedure including the appointment of a legal representative or guardian, access to a lawyer as well as the informed participation of the person who age was in doubt concerned in the procedure (§§ 142-157). The Court found that the authorities' failure to promptly appoint a legal guardian or representative for the applicant prevented him from duly and effectively submitting an asylum request and that the applicant, although he had stated that he was a minor, had been placed in an overcrowded reception centre for adults for more than four months because the authorities had failed to apply the presumption of minority (this presumption being an inherent element of the protection of the right to respect for private life of a foreign unaccompanied individual declaring to be a minor), and because of shortcomings in the procedural guarantees afforded to the applicant in the age-assessment process (no information as to the type of age-assessment procedure he was

undergoing and its possible consequences; no service of the medical report, which failed to indicate a margin of error; and no judicial decision or administrative measure concluding that the applicant was of adult age, which made it impossible for him to lodge an appeal). The Court therefore found a violation of Article 8 on account of the authorities' failure to act with the necessary diligence to comply with their positive obligation to protect the applicant as an unaccompanied minor requesting international protection. In *A.C. v. France*, 2025, the Court found that the domestic authorities' refusal to recognise the applicant, who had not tried to apply for international protection, as an unaccompanied minor, depriving him of the corresponding guarantees provided by law, had breached Article 8, in view of shortcomings in the age-assessment proceedings. In *F.B. v. Belgium*, 2025, the Court found a violation of Article 8 on account of the shortcomings in the procedural guarantees afforded to the asylum-seeking applicant in the age-assessment procedure, the outcome of which had led the authorities to cease taking charge of her as an unaccompanied minor (§§ 87-94).

54. Where a refugee child is placed in a reception facility in a different city from his or her siblings, the authorities are under a positive obligation under Article 8 of the Convention to ensure regular contact between the siblings and to act with a view to maintaining and developing their family ties and to successfully reuniting them (*A.J. v. Greece* (dec.), 2022, §§ 82-85).

55. In *Omwenyeke v. Germany* (dec.), 2007, the applicant asylum-seeker had temporary residence for the duration of the asylum procedure, but had lost his lawful status by violating the conditions attached to his temporary residence – the obligation to stay within the territory of a certain city. The Court found that he could thus not rely on Article 2 of Protocol No. 4.

3. Enforcement of domestic decisions for the provision of accommodation

56. In *M.K. and Others v. France*, 2022, the Court found that the decision to grant or refuse asylum-seekers and their children emergency accommodation, which right was provided for under domestic law, constituted a "civil right" for the purposes of Article 6 § 1 (§§ 104-118). It constituted a violation of that provision that the authorities of the respondent State's failed to enforce orders by domestic courts obliging them to find emergency accommodation for the applicants (§§ 151-164). The applicants were provided with accommodation only after the Court indicated interim measures under Rule 39 of the Rules of Court (§§ 23-25, 49-51 and §§ 73-75 and see section "Rule 39 / Interim measures" below). The Court similarly found a violation of Article 6 § 1 on account of the refusal to immediately execute an enforceable order requiring the authorities to provide an asylum-seeker with accommodation and material support in *Camara v. Belgium*, 2023. In that case, the Court also indicated under Article 46 that the respondent State was required to resolve the systemic problem of the capacity of the national authorities to comply with the legal right of asylum seekers to accommodation, including with final judicial decisions ordering such compliance (§ 145).

III. Substantive and procedural aspects of cases concerning expulsion, extradition and related scenarios

Article 2 of the Convention

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection."

Article 3 of the Convention

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 6 of the Convention

"1. In the determination of his civil rights and obligations or of any criminal charge against him, ... "

Article 8 of the Convention

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 13 of the Convention

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

Article 4 of Protocol No. 4 of the Convention

"Collective expulsion of aliens is prohibited."

Article 1 of Protocol No. 6 of the Convention

"The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 1 of Protocol No. 7 of the Convention

"1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:

(a) to submit reasons against his expulsion,

(b) to have his case reviewed, and

(c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.

2. An alien may be expelled before the exercise of his rights under paragraph 1 (a), (b) and (c) of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security."

Article 1 of Protocol No. 13 of the Convention

"The death penalty shall be abolished. No one shall be condemned to such penalty or executed."

A. Articles 2 and 3 of the Convention

1. Scope and substantive aspects of the Court's assessment under Articles 2 and 3 in asylum-related removal cases

57. The right to political asylum is not contained in either the Convention or its Protocols and the Court does not itself examine the actual asylum application or verify how the States honour their obligations under the 1951 Geneva Convention or European Union law (*F.G. v. Sweden* [GC], 2016, § 117; *H.A. v. the United Kingdom*, 2023, §§ 41-42; *Sufi and Elmi v. the United Kingdom*, 2011, §§ 212 and 226). However, the expulsion of an alien by a Contracting State may give rise to an issue under Articles 2 and 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question, if deported, would face a real risk of being subjected to treatment contrary to Articles 2 or 3 in the destination country. In these circumstances, Articles 2 and 3 imply an obligation not to deport the person in question to that country (*F.G. v. Sweden*, §§ 110-111). The same level of scrutiny applies to all claims of a real risk of treatment contrary to Article 3 regardless of the legal basis for the removal (whether extradition or expulsion, *Khasanov and Rakhmanov v. Russia* [GC], 2022, § 94). Removal cases concerning Article 2 – notably in respect of the risk of the applicant being subjected to the death penalty – typically also raise issues under Article 3 (see section "The death penalty: Article 1 of Protocol No. 6 and Article 1 of Protocol No. 13" below): because the relevant principles are the same for Article 2 and Article 3 assessments in removal cases, the Court either finds the issues under both Articles indissociable and examines them together (see *F.G. v. Sweden* [GC], 2016, § 110; *L.M. and Others v. Russia*, 2015, § 108) or deals with the Article 2 complaint in the context of the related main complaint under Article 3 (see *J.H. v. the United Kingdom*, 2011, § 37).

58. The Court has adjudicated a vast number of cases in which it had to assess whether substantial grounds had been shown for believing that the person in question, if deported, would face a real risk of being subjected to treatment contrary to Articles 2 or 3 in the destination country. It consolidated, to a large extent, the relevant principles in Grand Chamber judgments *F.G. v. Sweden* ([GC], §§ 110-127), *J.K. and Others v. Sweden* [GC], 2016, §§ 77-105 and, most recently, *Khasanov and Rakhmanov v. Russia* [GC], 2022, §§ 93-116. The risk assessment must focus on the foreseeable consequences of the applicant's removal to the country of destination, in the light of the general situation there and of his or her personal circumstances. If the existence of such a risk is established,

the applicant's removal would necessarily breach Article 3, regardless of whether the risk emanates from a general situation of violence, a personal characteristic of the applicant, or a combination of the two (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 95). The assessment of the existence of a real risk must necessarily be a rigorous one (*F.G. v. Sweden* [GC], 2016, §§ 113; *Khasanov and Rakhmanov v. Russia* [GC], 2022, § 109). It is, in principle, for the applicant to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he or she would be exposed to a real risk of being subjected to treatment contrary to Article 3; where such evidence has been adduced, it is for the Government to dispel any doubts raised by it (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 109). Certain specific parameters and modifications apply to this general principle, as outlined in the following paragraphs.

59. If the applicant has not already been deported, the material point in time for the assessment must be that of the Court's consideration of the case (for scenarios in which the person has already been deported, see *R v. France*, 2022; *X v. Switzerland*, 2017; and *A.S. v. France*, 2018). A full and *ex nunc* evaluation is required where it is necessary to take into account information that has come to light after the final decision by the domestic authorities was taken (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 106; *F.G. v. Sweden* [GC], 2016, § 115; *Sufi and Elmi v. the United Kingdom*, 2011, § 215). This situation typically arises when a deportation is delayed as a result of the indication by the Court of an interim measure under Rule 39 of the Rules of Court. Since the nature of the Contracting States' responsibility under Article 3 in cases of this kind lies in the act of exposing an individual to the risk of ill-treatment, the existence of the risk must be assessed primarily with reference to those facts which were known or ought to have been known by the Contracting State at the time of the expulsion (*F.G. v. Sweden* [GC], 2016, § 115). This proviso demonstrates that the primary purpose of the *ex nunc* principle is to serve as a safeguard in cases where a significant amount of time has passed between the adoption of the domestic decision and the consideration of the applicant's Article 3 complaint by the Court, and therefore where the situation in the receiving State might have developed, that is to say, deteriorated or improved (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 106). Any finding in such cases regarding the general situation in a given country and its dynamic as well as the finding as to the existence of a particular vulnerable group, is in its very essence a factual *ex nunc* assessment made by the Court on the basis of the material at hand (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 107). In some cases, the Court had to examine whether or not the general situation in the destination country regarding the risk of ill-treatment has improved since it delivered previous judgments in which it found the risk established. In so doing, the Court has not regarded an "improvement" as an extra element or criterion to be met in the assessment of the general situation but has used that notion only to describe developments in the countries concerned. The Court has proceeded in the same way in cases where it found the improvement of the general situation in a particular country to be insufficient. Accordingly, any examination of whether there has been an improvement or a deterioration in the general situation in a particular country amounts to a factual assessment and it is amenable to revision by the Court in the light of changing circumstances. There is therefore nothing to preclude such a re-examination of the general situation from being carried out by the Court when dealing with an individual case (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 108).

60. The starting point for the assessment of a real risk upon removal should be the examination of the general situation in the destination country. In this connection, and where it is relevant to do so, regard must be had to whether there is a general situation of violence existing in the country of destination (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 96; *Sufi and Elmi v. the United Kingdom*, 2011, § 216). However, a general situation of violence will not normally in itself entail a violation of Article 3 in the event of an expulsion to the country in question, unless the level of intensity of the violence is sufficient to conclude that any removal to that country would necessarily breach Article 3 of the Convention. The Court would adopt such an approach only in the most extreme cases, where there is a real risk of ill-treatment simply by virtue of the individual concerned being exposed to such violence on returning to the country in question (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 96;

Sufi and Elmi v. the United Kingdom, 2011, § 218; the latter case constitutes an example where that threshold was met). Indeed, in cases concerning destinations with difficult security situations, the Court normally also attaches importance to additional individual risk factors (such as membership of a vulnerable group, see, most recently, concerning Syria: *M.D. and Others v. Russia*, 2021, §§ 104-111; and *O.D. v. Bulgaria*, 2019, §§ 50-55; contrast with *A.A. v. Sweden*, 2023, where the Court found that the general situation in the country of destination, Libya, was serious and fragile but was not so extreme as to reach the aforementioned threshold and that there were no additional individual risk factors).

61. In cases where an applicant alleges that he or she is a member of a group systemically exposed to ill-treatment, the Court considers that the protection of Article 3 of the Convention enters into play when the applicant establishes, where necessary on the basis of the available sources, that there are serious reasons to believe in the existence of the practice in question and in his or her membership of the group concerned. The assessment of such claims is different from the assessment relating to the general situation of violence in a particular country, on the one hand, and to individual circumstances, on the other. The *first step* of this assessment should be the examination of whether the existence of a group systematically exposed to ill-treatment, falling under the "general situation" part of the risk assessment, has been established. Applicants belonging to an allegedly targeted vulnerable group should not describe the general situation, but the existence of a practice or of a heightened risk of ill-treatment for the group of which they claim to be members. As a *next step,* they should establish their individual membership of the group concerned, without having to demonstrate any further individual circumstances or distinguishing features (*Khasanov and Rakhmanov v. Russia* [GC], 2022, §§ 97-99). The finding as to the existence of a particular vulnerable group is, in its very essence, a factual *ex nunc* assessment made by the Court on the basis of the material at hand (§ 107) and the established principles concerning the distribution of the burden of proof apply to claims based on belonging to a vulnerable group (§§ 109-112). In this regard, considering the absolute nature of the rights guaranteed under Articles 2 and 3 of the Convention, and having regard to the vulnerable position in which asylum-seekers often find themselves, if a Contracting State is made aware of facts, relating to a specific individual, that could expose him/her to a risk of ill-treatment in breach of the said provisions upon returning to the country in question, the obligations under Articles 2 and 3 of the Convention entail that the authorities carry out an assessment of that risk of their own motion (*F.G. v. Sweden* [GC], 2016, § 127; *Amerkhanov v. Turkey*, 2018, §§ 52-58; *Batyrkhairov v. Turkey*, 2018, §§ 46-52; *M.D. and Others v. Russia,* 2021). This applies in particular to situations where the national authorities have been made aware of the fact that the asylum-seeker may plausibly be a member of a group systematically exposed to a practice of ill-treatment and there are serious reasons to believe in the existence of the practice in question and his or her membership of the group concerned (*F.G. v. Sweden* [GC], 2016, § 127).

62. In cases where, despite a possible well-founded fear of persecution in relation to certain risk-enhancing circumstances, it cannot be established that a group is systematically exposed to ill-treatment, the applicants are under an obligation to demonstrate the existence of further special distinguishing features which would place them at a real risk of ill-treatment. Failure to demonstrate such individual circumstances would lead the Court to find no violation of Article 3 of the Convention (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 100). In particular, if an applicant chooses not to rely on or disclose a specific individual ground for asylum by deliberately refraining from mentioning it, be it religious or political beliefs, sexual orientation or other grounds, the State concerned cannot be expected to discover this ground by itself (*F.G. v. Sweden* [GC], 2016, § 127).

63. Although a number of individual factors may not, when considered separately, constitute a real risk, the same factors may give rise to a real risk when taken cumulatively and when considered in a situation of general violence and heightened security (*J.K. and Others v. Sweden* [GC], 2016, § 95; *NA. v. the United Kingdom*, 2008, § 130). Elements which may represent such risk factors include a previous criminal record and/or arrest warrant, the age, gender and origin of a returnee, and a

previous asylum claim submitted abroad (see *J.K. and Others v. Sweden* [GC], 2016, § 95; *NA. v. the United Kingdom*, 2008, §§ 143-144 and 146).

64. Article 3 of the Convention applies not only to the danger emanating from State authorities but also where the danger emanates from persons or groups of persons who are not public officials. However, it must be shown that the risk is real and that the authorities of the receiving State are not able to obviate the risk by providing appropriate protection (*J.K. and Others v. Sweden* [GC], 2016, § 80). In this context, the possibility of protection or relocation of the applicant in the State of origin is also of relevance. While Article 3 of the Convention does not, as such, preclude States from placing reliance on the existence of an internal flight alternative in their assessment of an individual's claim that a return to his or her country of origin would expose him or her to a real risk of being subjected to treatment proscribed by that provision, reliance on an internal flight alternative does not affect the responsibility of the expelling State to ensure that the applicant is not, as a result of its decision to expel, exposed to treatment contrary to Article 3 of the Convention. Therefore, as a precondition to relying on an internal flight alternative, certain guarantees have to be in place: the person to be expelled must be able to travel to the area concerned, gain admittance and settle there, failing which an issue under Article 3 may arise, the more so if in the absence of such guarantees there is a possibility of his or her ending up in a part of the country of origin where he or she may be subjected to ill-treatment (*J.K. and Others v. Sweden* [GC], 2016, §§ 81-82; *Salah Sheekh v. the Netherlands*, 2007, § 141; *Sufi and Elmi v. the United Kingdom*, 2011, § 266).

65. As regards the distribution of the burden of proof, the Court clarified in *J.K. and Others v. Sweden* [GC], 2016, §§ 91-98, that it is the shared duty of an asylum-seeker and the immigration authorities to ascertain and evaluate all relevant facts in asylum proceedings. On the one hand, the burden remains on asylum-seekers as regards their own personal circumstances, although the Court recognised that it was important to take into account all of the difficulties which asylum-seekers may encounter in collecting evidence, which frequently makes it necessary to give them the benefit of the doubt when assessing the credibility of their statements and the documents submitted in support thereof. Yet when information is presented which gives strong reasons to question the veracity of an asylum-seeker's submissions, the individual must provide a satisfactory explanation for the alleged inaccuracies in those submissions. Even if the applicant's account of some details may appear somewhat implausible, the Court has considered that this does not necessarily detract from the overall general credibility of the applicant's claim. The Court also recognised that not being assisted by a legal representative, not having access to an interpreter and not speaking the language in which the proceedings were conducted considerably affected the ability of the applicants to present their case (*M.D. and Others v. Russia*, 2021, § 92, where the applicants were subsequently assisted by legal representatives and then made substantiated submissions, §§ 93-96). On the other hand, the general situation in another State, including the ability of its public authorities to provide protection, had to be established *proprio motu* by the competent domestic immigration authorities (*J.K. and Others v. Sweden* [GC], 2016, § 98, and see, for example, *B and C v. Switzerland*, 2020, in respect of the domestic authorities' obligation to assess the availability of State protection against harm emanating from non-State actors and the assessment of the risks of ill-treatment in the country of origin for the applicant as a homosexual person, *M.D. and Others v. Russia*, 2021, §§ 97-101, where the applicants' inability to present their case, the fact that they had fled from a war-torn country and the security risks in that country had come to the attention of the domestic courts, which were thus obliged to ascertain and take into consideration information relating to the country of origin from reliable and objective sources and to carry out a comprehensive analysis of the risks the applicants would face upon their forced return; and *A.D. and Others v. Sweden*, 2024, §§ 67-78, where the Court saw no reason to depart from the domestic authorities' assessment as to the ability and willingness of the authorities in the country of origin to provide protection against non-state actors).

66. As to the significance of established past ill-treatment contrary to Article 3 in the receiving State, the Court considered that established past ill-treatment contrary to Article 3 would provide a strong

indication of a future, real risk of ill-treatment, although the Court conditioned that principle on the applicant having made a generally coherent and credible account of events that is consistent with information from reliable and objective sources about the general situation in the country at issue. In such circumstances, the burden shifted to the Government to dispel any doubts about that risk (*J.K. and Others v. Sweden* [GC], 2016, §§ 99-102). At the same time, the absence of past persecution or ill-treatment is not a decisive factor in the evaluation of the risk of future ill-treatment (*T.K. and Others v. Lithuania*, 2022, §§ 81-82).

67. As regards the nature of the Court's assessment, the Court does not, in cases concerning the expulsion of asylum-seekers, itself examine the actual asylum applications or verify how the States honour their obligations under the Refugee Convention. Its main concern is whether effective guarantees exist that protect the applicant against arbitrary *refoulement*, be it direct or indirect, to the country from which he or she has fled (*F.G. v. Sweden* [GC], 2016, § 117). By virtue of Article 1 of the Convention, the primary responsibility for implementing and enforcing the guaranteed rights and freedoms is laid on the national authorities. The machinery of complaint to the Court is thus subsidiary to national systems safeguarding human rights. This subsidiary character is articulated in Articles 13 and 35 § 1 of the Convention (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 102; *F.G. v. Sweden* [GC], 2016, § 117; *M.S.S. v. Belgium and Greece* [GC], 2011, §§ 286-287). The Court must be satisfied, however, that the assessment made by the authorities of the Contracting State is adequate and sufficiently supported by domestic materials as well as by materials originating from other reliable and objective sources such as, for instance, other Contracting or non-Contracting States, agencies of the United Nations and reputable non-governmental organisations (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 103; *F.G. v. Sweden* [GC], 2016, § 117; *NA. v. the United Kingdom*, 2008, § 119). Moreover, where domestic proceedings have taken place, it is not the Court's task to substitute its own assessment of the facts for that of the domestic courts and, as a general rule, it is for those courts to assess the evidence before them. This should not lead, however, to an abdication of the Court's responsibility and a renunciation of all supervision of the result obtain from using domestic remedies, otherwise the rights guaranteed by the Convention would be devoid of any substance. In accordance with Article 19 of the Convention, the Court's duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 104). As a general principle, the national authorities are best placed to assess not just the facts but, more particularly, the credibility of witnesses since it is they who have had an opportunity to see, hear and assess the demeanour of the individual concerned (*F.G. v. Sweden* [GC], 2016, § 118). Their assessment, however, is also subject to the Court's scrutiny (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 105). Where, by contrast, the domestic authorities failed to examine any alleged risks of treatment contrary to Article 3 of the Convention before removing the applicants who had lodged asylum applications to their country of origin, the Court concluded that this constituted a failure to discharge the procedural obligation under Article 3 (*Shenturk and Others v. Azerbaijan*, 2022, §§ 112-117; *J.A. and A.A. v. Türkiye*, 2024, §§ 65-75).

68. With regard to the assessment of evidence, it is well established in the Court's case-law that "the existence of the risk must be assessed primarily with reference to those facts which were known or ought to have been known to the Contracting State at the time of expulsion" (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 113; *F.G. v. Sweden* [GC], 2016, § 115). The Contracting State has the obligation to take into account not only the evidence submitted by the applicant but also all other facts which are relevant in the case under examination (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 113; *J.K. and Others v. Sweden* [GC], 2016, § 87). In assessing the weight to be attached to country material, the Court has found that consideration must be given to the source of such material, in particular its reliability and objectivity. In respect of reports, the authority and reputation of the author, the seriousness of the investigations by means of which they were compiled, the consistency of their conclusions and their corroboration by other sources are all relevant considerations (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 114; *J.K. and Others v. Sweden* [GC], 2016, § 88). The Court also recognises that consideration must be given to the presence and reporting capacities of the

author of the material in the country in question (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 115; *J.K. and Others v. Sweden* [GC], 2016, § 89; *Sufi and Elmi v. the United Kingdom*, 2011, § 231). The Court appreciates the many difficulties faced by governments and NGOs gathering information in dangerous and volatile situations: it accepts that it will not always be possible for investigations to be carried out in the immediate vicinity of a conflict and that, in such cases, information provided by sources with first-hand knowledge of the situation may have to be relied on (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 115; *J.K. and Others v. Sweden* [GC], 2016, § 89; *Sufi and Elmi v. the United Kingdom*, 2011, § 232). In assessing the risk alleged, the Court may obtain relevant materials *proprio motu*. This principle has been firmly established in the Court's case-law (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 116; *J.K. and Others v. Sweden* [GC], 2016, § 90). It would be too narrow an approach under Article 3 in cases concerning aliens facing expulsion or extradition if the Court, as an international human rights court, were only to take into account materials made available by the domestic authorities of the Contracting State concerned, without comparing them with materials from other reliable and objective sources (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 116; *J.K. and Others v. Sweden* [GC], 2016, § 90; *Salah Sheekh v. the Netherlands*, 2007, § 136).

69. In respect of *sur place* activities, the Court has acknowledged that it is generally very difficult to assess whether a person is genuinely interested in the activity in question, be it a political cause or a religion, or whether the person has only become involved in it in order to create post-flight grounds (*F.G. v. Sweden* [GC], 2016, § 123; *A.A. v. Switzerland*, 2014, § 41). In respect of conversions *sur place* the domestic authorities initially have to assess whether the applicant's conversion was genuine and had attained a certain level of cogency, seriousness, cohesion and importance, before assessing whether he or she would be at risk of treatment contrary to Articles 2 and 3 of the Convention upon his or her return to the country of origin (*F.G. v. Sweden* [GC], 2016, § 144). The Court has dealt with a number of distinct scenarios in this respect. In *F.G. v. Sweden* [GC], 2016, the applicant's conversion was known to the domestic authorities, but they failed to assess the risks stemming from it in the event of removal to the country of origin despite knowing that the applicant might therefore belong to a group of persons who, depending on various factors, could be at risk of ill-treatment: the Court found that there would be a violation of Articles 2 and 3 of the Convention if the applicant were to be returned to Iran without an *ex nunc* assessment by the Swedish authorities of the consequences of his conversion. In *A. v. Switzerland*, 2017, the domestic authorities accepted as credible the applicant's conversion *sur place*, examined risks stemming from it and concluded that he was not facing a real risk of ill-treatment upon return, which assessment the Court did not find inadequate. In *M.A.M. v. Switzerland*, 2022, the domestic authorities accepted as credible the applicant's conversion *sur place* but did not sufficiently examine it, including the manner in which the applicant practised and intended to practice his faith, and the risks stemming therefrom (§§ 78-79). The case of *M.N. and Others v. Turkey*, 2022, did not concern conversion but a different type of claim relating to alleged risks connected to *sur place* activities: the applicants alleged a risk of ill-treatment upon removal stemming from their arrest in a Koranic school in the removing State, the media coverage of that arrest and the ensuing visit by consular officials of their country of origin to the detention centre where they were held.

70. The Court has developed ample case-law in respect of all of the above-mentioned principles. By way of example, in respect of the weight attributed to country material see *Sufi and Elmi v. the United Kingdom*, 2011, §§ 230-234; in respect of the assessment of an applicant's credibility see *N. v. Finland*, 2005; *A.F. v. France*, 2015, and *M.O. v. Switzerland*, 2017; and in respect of the domestic authorities' obligation to assess the relevance, authenticity and probative value of documents put forward by an applicant – from the outset or later on – which relate to the core of their protection claims see *M.D. and M.A. v. Belgium*, 2016; *Singh and Others v. Belgium*, 2012, and *M.A. v. Switzerland*, 2014; for a combination of elements leading to the conclusion that the assessment of the individual risk of a journalist was insufficient see *S.H. v. Malta*, 2022. Again by way of example, see *Sufi and Elmi v. the United Kingdom*, 2011, where the Court determined the situation in the country of destination

to be such that the removal would breach Article 3, having regard to the situation of general violence in Mogadishu and the lack of safe access to, and the dire conditions in, IDP camps; see *Salah Sheekh v. the Netherlands*, 2007, as regards a risk assessment in respect of an applicant who belonged to a group which is systematically at risk, and *T.K. and Others v. Lithuania*, 2022, for a case in which the Court considered that the domestic authorities had not carried out an adequate assessment of the existence of the practice of ill-treatment of persons who were ordinary members of a banned opposition political party (a group of which one applicant (the husband/father of the family) was a member and which the applicants alleged to be systematically at risk of ill-treatment), as well as *R v. France*, 2022, where the Court rejected the vulnerable group approach as regards the expulsion of a Chechen convicted of terrorist offences in France (§ 122); for a case concerning an alleged risk on account of attempts to recruit the applicant to extremist armed groups if he were returned to a refugee camp see *H.A. v. the United Kingdom*, 2023; with regard to various forms and scenarios of gender-related persecution, such as widespread sexual violence (*M.M.R. v. the Netherlands* (dec.), 2016), the alleged lack of a male support network (*R.H. v. Sweden*, 2015), ill-treatment of a separated woman (*N. v. Sweden*, 2010), ill-treatment inflicted by family members in view of a relationship (*R.D. v. France*, 2016, §§ 36-45), honour killings and forced marriage (*A.A. and Others v. Sweden*, 2012), and female genital mutilation (*R.B.A.B. v. the Netherlands*, 2016; *Sow v. Belgium*, 2016). As regards forced prostitution and/or return to a human trafficking network see *L.O. v. France* (dec.), 2015. In *V.F. v. France* (dec.), 2011, the Court assessed the risk under Article 4, while leaving open the extraterritorial applicability of that Article: in this latter respect, the case of *M.O. v. Switzerland*, 2017, concerned the risk of forced labour upon removal and the Article 4 complaint was inadmissible due to non-exhaustion of domestic remedies.

71. Where the risk of ill-treatment emanates from a person's sexual orientation, he or she may not be asked to conceal it in order to avoid ill-treatment, as it concerns a fundamental aspect of a person's identity (*I.K. v. Switzerland* (dec.), 2017; *B and C v. Switzerland*, 2020).[7] Similar questions may arise in respect of a person's religious beliefs (see *A. v. Switzerland*, 2017, § 44, and *A.A. v. Switzerland*, 2019, § 55).

2. Removal to a third country

72. While the majority of removal cases examined by the Court under Articles 2 or 3 concern removals to the country from which the applicant has fled, such cases may also arise in connection with the applicant's removal to a third country. In *Ilias and Ahmed v. Hungary* [GC], 2019, the Court observed that where a Contracting State sought to remove an asylum seeker to a third country without examining the asylum request on the merits, the State's duty not to expose the individual to a real risk of treatment contrary to Article 3 was discharged in a manner different from that in cases of return to the country of origin. In the former situation, the main issue was the adequacy of the asylum procedure in the receiving third country. While a State removing asylum seekers to a third country may legitimately chose not to deal with the merits of the asylum requests, it cannot therefore be known whether those persons risk treatment contrary to Article 3 in the country of origin or are simply economic migrants not in need of protection. It is the duty of the removing State to examine thoroughly whether or not there is a real risk of the asylum seeker being denied access, in the receiving third country, to an adequate asylum procedure, protecting him or her against *refoulement*, namely, against being removed, directly or indirectly, to his or her country of origin without a proper evaluation of the risks he or she faces from the standpoint of Article 3. If it is established that the existing guarantees in this regard are insufficient, Article 3 gives rise to a duty not to remove the asylum seekers to the third country concerned (§§ 130-138). To determine whether the removing State has fulfilled its procedural obligation to assess the asylum procedures of a receiving third State, it has to be examined whether the authorities of the removing State had taken into account the available general information about the receiving third country and its asylum system in an adequate manner

[7] See also the Guide on Rights of LGBTI persons.

and of their own initiative; and whether an applicant had been given a sufficient opportunity to demonstrate that the receiving State was not a safe third country in their particular case. In applying this test, the Court indicated that any presumption that a particular country is "safe", if it has been relied upon in decisions concerning an individual asylum seeker, must be sufficiently supported at the outset by the above analysis (§§ 139-141, 148 and 152). Importantly, in cases concerning the removal to a third country based on the "safe third country" concept, that is, where the authorities of the removing State have not dealt with the merits of the applicant's asylum claim, it is not the Court's task to assess whether there was an arguable claim about Article 3 risks in their country of origin, this question only being relevant where the expelling State had dealt with these risks (§ 147). The Court added that European Union law did not impose strict legal obligations to declare another (non-EU) country to be a safe third country nor to avoid assessing asylum requests on the merits, relying on there being a safe third country, so that EU Member States were therefore fully responsible under the Convention if they removed individuals to a third country without assessing their asylum requests on the merits, relying on the "safe third country" concept (§ 97).

73. In addition to the main question whether the individual will have access to an adequate asylum procedure in the receiving third country, where the alleged risk of being subjected to treatment contrary to Article 3 concerns, for example, conditions of detention or living conditions for asylum-seekers in a receiving third country, that risk is also to be assessed by the expelling State (*Ilias and Ahmed v. Hungary* [GC], 2019, § 131). The removal of asylum seekers to a third country may be in breach of Article 3, because of inadequate reception conditions in the receiving State (*M.S.S. v. Belgium and Greece* [GC], 2011, §§ 362-368) or because they would not be guaranteed access to reception facilities adapted to their specific vulnerabilities, which may require that the removing State obtains assurances from the receiving State to that end (see *Tarakhel v. Switzerland* [GC], 2014, §§ 100-122; *Ali and Others v. Switzerland and Italy* (dec.), 2016; *Ojei v. the Netherlands* (dec.), 2017).

3. Procedural aspects[8]

74. Where the individual has an "arguable complaint" that his removal would expose him to treatment contrary to Article 2 or 3 of the Convention, he must have an effective remedy, in practice as well as in law, at the domestic level in accordance with Article 13 of the Convention, which imperatively requires, inter alia, independent and rigorous scrutiny of any claim that there exist substantial grounds for fearing a real risk of treatment contrary to Articles 2 or 3 and automatic suspensive effect (*M.S.S. v. Belgium and Greece* [GC], 2011, § 293: for an overview of the Court's case-law as to the requirements under Article 13 taken in conjunction with Articles 2 or 3 in removal cases, see, in particular, *ibid.*, §§ 286-322; *Abdolkhani and Karimnia v. Turkey*, 2009, §§ 107-117; *Gebremedhin [Gaberamadhien] v. France*, 2007, §§ 53-67; *I.M. v. France*, 2012; *Chahal v. the United Kingdom* [GC], 1996, §§ 147-154; *Shamayev and Others v. Georgia and Russia*, 2005, § 460). The same principles apply when considering the question of effectiveness of remedies which have to be exhausted for the purposes of Article 35 § 1 of the Convention in asylum cases (*A.M. v. the Netherlands*, 2016, §§ 63 and 65-69; see also *M.K. and Others v. Poland*, 2020, §§ 142-148 and 212-220, in respect of an immediate removal at a border crossing point). In respect of asylum-seekers the Court has found, in particular, that individuals need to have adequate information about the asylum procedure to be followed and their entitlements in a language they understand, and have access to a reliable communication system with the authorities: the Court also has regard to the availability of interpreters, whether the interviews are conducted by trained staff, whether asylum-seekers have access to legal aid, and requires that asylum-seekers be given the reasons for the decision (see *M.S.S. v. Belgium and Greece* [GC], 2011, §§ 300-302, 304, and 306-310; see also

[8] See also the Guide on Article 13 - Right to an effective remedy.

Abdolkhani and Karimnia v. Turkey, 2009; *Hirsi Jamaa and Others v. Italy* [GC], 2012, § 204; and *D v. Bulgaria*, 2021, §§ 120-137).

75. Where an individual has exhausted the relevant remedy against his removal, which did not entail a fresh assessment of the Article 3 risks notwithstanding the competence of the relevant authority, the individual is not required to lodge a (subsequent) asylum application to exhaust domestic remedies in respect of the complaint that the removal, without a fresh risk assessment, would be in breach of Article 3 of the Convention (*A.B. and Y.W. v. Malta*, 2025, §§ 45, 68 and 74). By contrast, if major changes in the conditions of the country of destination were brought about by a regime change, which could have a significant impact on the potential risks faced by returnees in general and by the particular individual, after the final decision in the domestic proceedings, the individual is obliged to make use of an extraordinary remedy existing under domestic law, such as an application for re-examination (see *H.M. v. Sweden* (dec.), 2025, §§ 32-41).

76. The adequate nature of a remedy under Article 13 can be undermined by its excessive duration (*M.S.S. v. Belgium and Greece* [GC], 2011, § 292). Where an individual is being held in a transit zone and refused entry into the territory, the remedy by which the alleged Article 3 risk in the event of removal is being reviewed has to be particularly speedy in order to comply with the requirements of Article 13 taken in conjunction with Article 3 of the Convention (*E.H. v. France*, 2021, § 195). On the other hand, a speedy processing of an applicant's asylum claim should not take priority over the effectiveness of the essential procedural guarantees to protect him or her against arbitrary removal. An unreasonably short time-limit to submit a claim, such as in the context of accelerated asylum procedures and/or to appeal a subsequent removal decision can render a remedy practically ineffective, contrary to the requirements of Article 13 taken together with Article 3 of the Convention (see *I.M. v. France*, 2012, where a five-day limit for lodging an initial asylum application and a 48-hour time-limit for an appeal were found to violate these provisions; see also the overview on accelerated asylum procedures in *R.D. v. France*, 2016, §§ 55-64; in respect of the existence of various remedies, with tight deadlines, taken together satisfying the requirements of Article 13 taken in conjunction with Article 3, see *E.H. v. France*, 2021, §§ 180-207).

77. In respect of Article 13 taken in conjunction with Article 4 of Protocol No. 4 in connection with summary returns, see section "Article 13 of the Convention in conjunction with Article 3 of the Convention and/or Article 4 of Protocol No. 4" above).

78. Where an individual complained about a violation of Article 13 in conjunction with Articles 2 or 3 of the Convention in the event of his removal and he subsequently no longer faces a risk of removal, this does not necessarily render that complaint non-arguable or deprive the applicant of his victim status for the purposes of that complaint, given that the alleged violation of Article 13 had already occurred when the threat of removal was lifted (*Gebremedhin [Gaberamadhien] v. France*, 2007, § 56; *I.M. v. France*, 2012, § 100; *M.A. v. Cyprus*, 2013, § 118; *Sakkal and Fares v. Turkey* (dec.), 2016, § 63; contrast *Mir Isfahani v. the Netherlands* (dec.), 2008).

79. Article 6 of the Convention is not applicable *ratione materiae* to asylum, deportation and related proceedings (*Maaouia v. France* [GC], 2000, §§ 38-40; *Onyejiekwe v. Austria* (dec.), 2012, § 34; see *Panjeheighalehei v. Denmark* (dec.), 2009, concerning an action in damages by an asylum-seeker on account of the refusal to grant asylum).

80. The positive obligations under Article 8 of the Convention include the duty to establish an effective and accessible procedure to protect the right to private life by means of appropriate regulations to guarantee that an applicant's asylum request is examined within a reasonable time in order to ensure that his situation of insecurity is as short-lived as possible (*B.A.C. v. Greece*, 2016, §§ 36-46, where the Court found that the domestic authorities had failed to comply with that obligation; see, by contrast, *A.J. v. Greece* (dec.), 2022, §§ 73-74, where the decision to return the applicant had become obsolete and no uncertainty endured, which led the Court to conclude that it

was not necessary to examine the applicant's Article 8 complaints relating to the procedures followed by the domestic authorities).

81. The remedy required by Article 13 of the Convention in conjunction with Article 8 of the Convention does not have to have automatic suspensive effect (*De Souza Ribeiro v. France* [GC], 2012, §§ 82-83). However, there is a breach of Article 13 taken in conjunction with Article 8 if the time between the ordering of a the removal and its implementation is so short to preclude any possibility for an action to be meaningfully brought before a court, still less for that court to properly examine the circumstances and legal arguments under the Convention (*De Souza Ribeiro v. France* [GC], 2012, §§ 86-100; *Moustahi v. France*, 2020, §§ 156-164).

4. Cases relating to national security

82. The Court has often dealt with cases concerning the removal of individuals deemed to be a threat to national security (see, for example, *A.M. v. France*, 2019. It has repeatedly held that Article 3 is absolute and that it is not possible to weigh the risk of ill-treatment against the reasons put forward for the expulsion (*Saadi v. Italy* [GC], 2008, §§ 125 and 138; *Othman (Abu Qatada) v. the United Kingdom*, 2012, §§ 183-185). The relevant Convention test, notably the requirement to carry out a full and *ex nunc* assessment whether the individual would run a real risk of treatment contrary to Article 3 in the receiving State if he or she were removed there, was considered to remain unchanged by the revocation of the person's refugee status, in accordance with the relevant rules of EU law, following a criminal conviction for acts of terrorism and the finding that the individual constituted a danger to the host State's society (see *K.I. v. France*, 2021). The Court cannot rely on the findings of the domestic authorities if they did not have all essential information before them – for example for reasons of national security – when rendering the expulsion decisions (see *X v. Sweden*, 2018). For an example of a case where an applicant adduced evidence that he would be exposed to a real risk of being subjected to treatment contrary to Article 3 based on the individual circumstances of his case in a terrorism context and in which the Government failed to dispel the doubts raised by it, see *W v. France*, 2022.

5. Extradition

83. Extradition by a Contracting State may give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question would, if extradited, face a real risk of being subjected to treatment contrary to Article 3 in the receiving country (*Soering v. the United Kingdom*, 1989, §§ 88-91). The same level of scrutiny applies to all claims of a real risk of treatment contrary to Article 3 regardless of the legal basis for the removal (whether extradition or expulsion, *Khasanov and Rakhmanov v. Russia* [GC], 2022, § 94). There may be cases where a State grants an extradition request in which the individual, who has applied for asylum, is charged with politically motivated crimes (see *Mamazhonov v. Russia*, 2014; see also *Ali v. Serbia*, 2025, where the domestic authorities failed to examine the risk of politically motivated ill-treatment which the applicant had alleged), or where extradition concerns an individual recognised as a refugee in another country (*M.G. v. Bulgaria*, 2014).

84. Articles 2 and 3 of the Convention as well as Article 1 of Protocol No. 6 or Article 1 of Protocol No. 13 (see section "The death penalty: Article 1 of Protocol No. 6 and Article 1 of Protocol No. 13" below) prohibit the extradition, deportation or other transfer of an individual to another State where substantial grounds have been shown for believing that he or she would face a real risk of being subjected to the death penalty there (*Al-Saadoon and Mufdhi v. the United Kingdom*, 2010, §§ 123 and 140-143; *A.L. (X.W.) v. Russia*, 2015, §§ 63-66; *Shamayev and Others v. Georgia and Russia*, 2005, § 333).

85. Where an individual may face life imprisonment in the State requesting his extradition, a two-stage test is to be applied to determine the compliance of the extradition with Article 3

(*Sanchez-Sanchez v. the United Kingdom* [GC], 2022, §§ 95-99): At the first stage, it must be established whether the applicant has adduced evidence capable of proving that there are substantial grounds for believing that, if extradited and convicted, there is a real risk of a sentence of life imprisonment without parole. In this regard, the burden is on the applicant to demonstrate that such a penalty would be imposed. Such a risk will more readily be established if the applicant faces a mandatory sentence of life imprisonment. If the said risk is established under the first limb of the inquiry, then the relevant authorities of the sending State must establish, prior to authorising extradition, that there exists in the requesting State a mechanism of sentence review which allows those competent authorities to consider whether any changes in the life prisoner are so significant and that such progress towards rehabilitation has been made during the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds. In other words, it must be ascertained whether, as from the moment of sentencing, there is a review mechanism in place allowing the consideration of the prisoner's progress towards rehabilitation, or any other ground for release, based on his or her behaviour or other relevant personal circumstances. A distinction cannot be drawn between the domestic and extra-territorial contexts as regards the minimum level of severity required to meet the Article 3 threshold. Importantly, however, the availability of the procedural safeguards afforded to serving "whole life prisoners" in the legal system of the requesting State is not a prerequisite for compliance by the sending Contracting State with Article 3. Applying this test in *Sanchez-Sanchez v. the United Kingdom* [GC], 2022, to a situation where the applicant did not face a mandatory sentence of life imprisonment in the State requesting his extradition, the Court found that the applicant had not adduced evidence showing that he ran a real risk of a sentence of life imprisonment without parole (§§ 100-110). It arrived at the same finding in *McCallum v. Italy* (dec.) [GC], 2022, *Bijan Balahan v. Sweden*, 2023, *Carvajal Barrios v. Spain* (dec.), 2023, *Matthews and Johnson v. Romania*, 2024, and *Lazăr v. Romania*, 2024. The Court examined the second stage of the aforementioned test for the first time in *Hayes and Others v. the United Kingdom*, 2025, where it found that compassionate release constituted a review mechanism which satisfied the requirements of that stage of the test.

86. Ill-treatment contrary to Article 3 in the requesting State may take various forms, including poor conditions of detention (*Liu v. Poland*, 2022), ill-treatment inflicted in detention (see *Allanazarova v. Russia*, 2017) or conditions of detention that are inadequate for the specific vulnerabilities of the individual concerned (*Aswat v. the United Kingdom*, 2013, concerning the extradition of a mentally-ill individual).

87. In cases where substantial grounds have been shown for believing that the person concerned, if deported, faces a real risk of being subjected to treatment contrary to Article 3, and where diplomatic assurances have been obtained, the Court has examined whether the assurances obtained in the particular case were sufficient to remove any real risk of ill-treatment. Assurances are not, in themselves, sufficient to ensure adequate protection against the risk of ill-treatment. There is an obligation to examine whether assurances provide, in their practical application, a sufficient guarantee that the applicant will be protected against the risk of ill-treatment. The weight to be given to assurances from the receiving State depends, in each case, on the circumstances prevailing at the material time (*Khasanov and Rakhmanov v. Russia* [GC], 2022, § 101; *Othman (Abu Qatada) v. the United Kingdom*, 2012, § 187). In assessing the practical application of assurances and determining what weight is to be given to them, the preliminary question is whether the general human rights situation in the receiving State excludes accepting any assurances whatsoever. However, it will only be in rare cases that the general situation in a country will mean that no weight at all can be given to assurances (*Othman (Abu Qatada) v. the United Kingdom*, 2012, § 188). More usually, as set out in *Othman (Abu Qatada) v. the United Kingdom*, 2012, § 189, the Court will assess first, the quality of assurances given and, second, whether, in light of the receiving State's practices they can be relied upon. In doing so, the Court will have regard, *inter alia*, to the following factors:

(i) whether the terms of the assurances have been disclosed to the Court;

(ii) whether the assurances are specific or are general and vague;

(iii) who has given the assurances and whether that person can bind the receiving State;

(iv) if the assurances have been issued by the central government of the receiving State, whether local authorities can be expected to abide by them;

(v) whether the assurances concern treatment which is legal or illegal in the receiving State;

(vi) whether they have been given by a Contracting State;

(vii) the length and strength of bilateral relations between the sending and receiving States, including the receiving State's record in abiding by similar assurances;

(viii) whether compliance with the assurances can be objectively verified through diplomatic or other monitoring mechanisms, including providing unfettered access to the applicant's lawyers;

(ix) whether there is an effective system of protection against torture in the receiving State, including whether it is willing to cooperate with international monitoring mechanisms (including international human rights NGOs), and whether it is willing to investigate allegations of torture and to punish those responsible;

(x) whether the applicant has previously been ill-treated in the receiving State; and

(xi) whether the reliability of the assurances has been examined by the domestic courts of the sending/Contracting State.

88. In *Ansari v. Portugal* (dec.), 2023, the Court dealt with the scenario where the applicant had been extradited following diplomatic assurances, which were later allegedly not complied with and the domestic courts of the respondent State later revoked the extradition decision because the authorities of the State to which the applicant had been extradited had prosecuted him on charges other than those in respect of which the extradition had been authorised. The applicant was detained in the State to which he had been extradited when he lodged his application to the Court, by which he complained that the authorities of the respondent State had not taken the necessary measures to help him return to the respondent State or to ensure that the diplomatic assurances were complied with. The Court found that the domestic authorities had taken the measures at their disposal to follow up on the applicant's allegations (see also *Boumediiene and Others v. Bosnia and Herzegovina* (dec.), 2008, where the applicants, who had been handed over by the authorities of the respondent State to US forces and were later detained in Guantanamo Bay, alleged that the authorities of the respondent State had failed to enforce judicial decisions ordering the authorities to protect the rights, and obtain the return, of the applicants). In *Sumbayev v. Georgia* (dec.), 2025, the Court dealt with a scenario where the extraditing State received requests to give its consent to the bringing of new criminal charges against the applicant in the State to which he had already been extradited: as the competent authorities of the extraditing State were not intending to examine these post-extradition requests, the Court considered that the applicant could not assert a real risk of treatment contrary to Article 3 of the Convention.

89. In the specific context of surrenders in execution of European Arrest Warrants for the purpose of serving custodial sentences in a country in which detention conditions are a systemic problem, the Court found that the presumption of equivalent protection in the legal system of the European Union applied (*Bivolaru and Moldovan v. France*, 2021). However, it found that presumption to have been rebutted because the protection of Convention rights was considered to be manifestly deficient in the particular circumstances of one applicant's case, but not in respect of the other. The Court considered that the executing judicial authority had had sufficient factual information before it to find that the execution of the European Arrest Warrant would entail a real and individual risk that one applicant would be exposed to treatment contrary to Article 3 in view of the conditions of their detention in the issuing State, but that it did not have sufficient factual information to that effect in respect of the other applicant. In so doing, the Court set out how an executing judicial authority is to approach the

assessment of an individualised real risk of treatment contrary to Article 3 in the case of a systemic problem (conditions of detention) in the State issuing the European Arrest Warrant as well as the corresponding obligation on an applicant to substantiate such risk.

90. Article 6 of the Convention is not applicable *ratione materiae* to extradition proceedings (*Mamatkulov and Askarov v. Turkey* [GC], 2005, §§ 81-83).

6. Expulsion of seriously ill persons

91. The Court summarised and clarified the relevant principles as to when humanitarian considerations will or will not outweigh other interests when considering the expulsion of seriously ill individuals in *Paposhvili v. Belgium* [GC], 2016, and, subsequently, in *Savran v. Denmark* [GC], 2021. Other than the imminent death situation in *D. v. the United Kingdom*, 1997, the later *N. v. the United Kingdom* [GC], 2008, judgment had referred to "other very exceptional cases" which could give rise to an issue under Article 3 in such contexts. In *Paposhvili v. Belgium* [GC], 2016, the Grand Chamber indicated how "other very exceptional cases" was to be understood, referring to "situations involving the removal of a seriously ill person in which substantial grounds have been shown for believing that he or she, although not at imminent risk of dying, would face a real risk, on account of the absence of appropriate treatment in the receiving country or the lack of access to such treatment, of being exposed to a serious, rapid and irreversible decline in his or her state of health resulting in intense suffering or to a significant reduction in life expectancy", corresponding to a high threshold for the application of Article 3 of the Convention in such cases (*ibid.*, § 183). In *Savran v. Denmark* [GC], 2021, the Court confirmed that the *Paposhvili* test offered a comprehensive standard taking account of all the considerations that were relevant for the purposes of Article 3 of the Convention in this context and that it applied to all situations involving the removal of a seriously ill person which would constitute treatment proscribed by Article 3 of the Convention, irrespective of the nature of the illness (*ibid.*, §§ 133, 137 and 139). It clarified that the threshold test established in *Paposhvili v. Belgium* [GC], 2016, § 183, should systematically be applied to ascertain whether the circumstances of the alien to be expelled fell within the scope of Article 3 and that it is only after this threshold has been met, and thus Article 3 is applicable, that the returning State's compliance with its obligations under this provision can be assessed (*Savran v. Denmark* [GC], 2021, §§ 134-135). As regards the manner in which the threshold test is to be applied, the Court clarified that it would be wrong to dissociate the various fragments of the test from each other, given that a "decline in health" is linked to "intense suffering", and that it was on the basis of all those elements taken together and viewed as a whole that the assessment of a particular case should be made (*ibid.*, § 138).

92. Where the high threshold required for Article 3 to be applicable is met, the returning State's obligation under Article 3 is to be fulfilled primarily through appropriate domestic procedures (*Paposhvili v. Belgium* [GC], 2016, §§ 184-185; *Savran v. Denmark* [GC], 2021, § 136). In the context of these procedures, (a) it is for the applicants to adduce evidence capable of demonstrating that there are substantial grounds for believing that, if the measure complained of were to be implemented, they would be exposed to a real risk of being subjected to treatment contrary to Article 3 (*Paposhvili v. Belgium* [GC], 2016, § 186; *Savran v. Denmark* [GC], 2021, § 130); (b) where such evidence is adduced, it is for the returning State to dispel any doubts raised by it, and to subject the alleged risk to close scrutiny by considering the foreseeable consequences of removal for the individual concerned in the receiving State, in the light of the general situation there and the individual's personal circumstances; such an assessment must take into consideration general sources such as reports of the World Health Organisation or of reputable non-governmental organisations and the medical certificates concerning the person in question (*Paposhvili v. Belgium* [GC], 2016, § 187; *Savran v. Denmark* [GC], 2021, § 130); the impact of removal must be assessed by comparing the applicant's state of health prior to removal and how it would evolve after transfer to the receiving State (*Paposhvili v. Belgium* [GC], 2016, § 188; *Savran v. Denmark* [GC], 2021, § 130); (c) the returning State must verify on a case-by-case basis whether the care generally available in the receiving State is

sufficient and appropriate in practice for the treatment of the applicant's illness so as to prevent him or her being exposed to treatment contrary to Article 3 (*Paposhvili v. Belgium* [GC], 2016, § 189; *Savran v. Denmark* [GC], 2021, § 130); (d) the returning State must also consider the extent to which the applicant would actually have access to the treatment, including with reference to its cost, the existence of a social and family network, and the distance to be travelled in order to have access to the required care (*Paposhvili v. Belgium* [GC], 2016, § 190; *Savran v. Denmark* [GC], 2021, § 130); (e) where, after the relevant information has been examined, serious doubts persist regarding the impact of removal on the applicant – on account of the general situation in the receiving country and/or their individual situation – the returning State must obtain individual and sufficient assurances from the receiving State, as a precondition for removal, that appropriate treatment will be available and accessible to the persons concerned so that they do not find themselves in a situation contrary to Article 3 (*Paposhvili v. Belgium* [GC], 2016, § 191; *Savran v. Denmark* [GC], 2021, § 130). In this connection, the Court stressed that the benchmark was not the level of care existing in the returning State; it was not a question of ascertaining whether the care in the receiving State would be equivalent or inferior to that provided by the healthcare system in the returning State. Nor was it possible to derive from Article 3 a right to receive specific treatment in the receiving State which was not available to the rest of the population (*Paposhvili v. Belgium* [GC], 2016, § 189; *Savran v. Denmark* [GC], 2021, § 131).

93. The removal of a person suffering from serious illness may also breach Article 8 (*Paposhvili v. Belgium* [GC], 2016, §§ 221-226) and a person's mental illness has to be adequately taken into account when examining the proportionality of his or her expulsion in view of a criminal offence he or she has committed (*Savran v. Denmark* [GC], 2021, §§ 184, 191-197 and 201; *Azzaqui v. the Netherlands*, 2023, §§ 48, 50 and 54-62; and see section "Expulsion" below).

B. The death penalty: Article 1 of Protocol No. 6 and Article 1 of Protocol No. 13

94. Protocols No. 6 and 13 to the Convention, which have been ratified by almost all member States of the Council of Europe, contributed to the interpretation of Article 2 of the Convention as prohibiting the death penalty in all circumstances so that there is no longer any bar to considering the death penalty – which caused not only physical pain but also intense psychological suffering as a result of the foreknowledge of death – as inhuman and degrading treatment or punishment within the meaning of Article 3 (see *Al-Saadoon and Mufdhi v. the United Kingdom*, 2010, §§ 115 *et seq.*). At the same time, the Court has found that Article 1 of Protocol No. 13 prohibits the extradition or deportation of an individual to another State where substantial grounds have been shown for believing that he or she would face a real risk of being subjected to the death penalty there (*ibid.*, § 123). Yet, in *Al-Saadoon and Mufdhi v. the United Kingdom*, 2010, which concerned the handover by the authorities of the United Kingdom operating in Iraq of Iraqi civilians to the Iraqi criminal administration under circumstances where the civilians faced capital charges, the Court, after finding a breach of Article 3, did not consider it necessary to examine whether there had also been violations of the applicants' rights under Article 2 of the Convention and Article 1 of Protocol No. 13 (*ibid.*, §§ 144-145). In *Al Nashiri v. Poland*, 2014, which concerned the extraordinary rendition to the US naval base in Guantanamo of a suspected terrorist facing the death penalty, the Court found that at the time of the applicant's transfer from Poland there was a substantial and foreseeable risk that he could be subjected to the death penalty following his trial before a military commission, in breach of Articles 2 and 3 of the Convention taken together with Article 1 of Protocol No. 6 (*ibid.*, §§ 576-579).

C. Flagrant denial of justice: Articles 5 and 6

95. Where a person risks suffering a flagrant breach of Articles 5 or 6 of the Convention in the country of destination, these provisions may exceptionally constitute barriers to the person's expulsion, extradition or other form of transfer. Although the Court has not yet been required to define the term "flagrant denial of justice" more precisely, it has indicated that certain forms of unfairness could amount to such treatment (see the overview in *Harkins v. the United Kingdom* (dec.) [GC], 2017, §§ 62-65): conviction in absentia with no subsequent possibility of a fresh determination of the merits of the charge; a trial which is summary in nature and conducted with a total disregard for the rights of the defence; detention without any access to an independent and impartial tribunal to have the legality of the detention reviewed; a deliberate and systematic refusal of access to a lawyer, especially for an individual detained in a foreign country; and the use in criminal proceedings of statements obtained as a result of torture of the accused or a third person in breach of Article 3.

D. Article 8[9]

1. Expulsion

96. Foreigners who have already been formally granted a right of residence in a host country qualify as "settled migrants". Where such right is subsequently withdrawn and the person's expulsion is ordered, for instance because the person concerned has been convicted of a criminal offence, the Court has set out the relevant criteria to assess compatibility with Article 8 of the Convention in *Üner v. the Netherlands* [GC], 2006, §§ 54-60: the nature and seriousness of the offence committed by the applicant; the length of the applicant's stay in the country from which he or she is to be expelled; the time elapsed since the offence was committed and the applicant's conduct during that period; the nationalities of the various persons concerned; the applicant's family situation, such as the length of a marriage, and other factors expressing the effectiveness of a couple's family life; whether the spouse knew about the offence at the time when he or she entered into a family relationship; whether there are children from the marriage and, if so, their age; the seriousness of the difficulties which the spouse is likely to encounter in the country to which the applicant is to be expelled; the best interests and well-being of the children, in particular the seriousness of the difficulties which any children of the applicant are likely to encounter in the country to which the applicant is to be expelled; and the solidity of social, cultural and family ties with the host country and with the country of destination. In addition, the duration of the exclusion order is of importance, in particular whether a ban on re-entry is of limited or unlimited duration (*Savran v. Denmark* [GC], 2021, § 182). Where appropriate, other elements relevant to the case, such as, for instance, its medical aspects, should also be taken into account (*ibid.*, § 184, and see section "Expulsion of seriously ill persons" above).

97. The Court has applied these criteria in numerous cases since *Üner v. the Netherlands* [GC], 2006, although the weight to be attached to each criterion will vary according to the specific circumstances of the case (*Maslov v. Austria* [GC], 2008, § 70) and one criterion will not normally be decisive for the outcome of the proportionality assessment (*Al-Habeeb v. Denmark*, 2024, § 62; *Sharafane v. Denmark*, 2024, § 57). Accordingly, the fact that the offence committed by an applicant was at the more serious end of the criminal spectrum is not in and of itself determinative of a case; rather, it is just one factor which has to be weighed in the balance, together with the other criteria (*Unuane v. the United Kingdom*, 2020, § 87). Where an applicant's criminal culpability was excluded on account of his mental illness when the criminal act was perpetrated, this fact should be adequately taken into account as it might have the effect of limiting the weight to be attached to the "nature and seriousness" of the offence criterion in the overall balancing of interests and, consequently, the extent to which a State could legitimately rely on the applicant's criminal acts as the basis for the expulsion

[9] See also the Guide on Article 8 - Right to respect for private and family life.

and ban on re-entry (*Savran v. Denmark* [GC], 2021, §§ 193-194). Where the length of the re-entry ban might exceptionally be decisive in the assessment of the compatibility of the expulsion order with Article 8, it may be relevant to take into account whether in the future, after the expiry of the time-limited re-entry ban, the expelled person would have prospects of being readmitted to the country: if such a prospect is purely theoretical, it would not be justified to attribute significant weight to the limited duration of the re-entry ban as factor capable of rendering the expulsion compatible with Article 8 (*Winther v. Denmark*, 2024, §§ 47-48). The Court has found that the fact that an adult "alien" had been born and had lived all his life in the respondent State from which he was to be expelled did not bar his expulsion (*Kaya v. Germany*, 2007, § 64). However, very serious reasons are required to justify expulsion in cases concerning settled migrants, who have lawfully spent all or the major part of their childhood and youth in the host country (*Levakovic v. Denmark*, 2018, § 45). In respect of expulsions of young adults who had been convicted of criminal offences committed as a juvenile, see *Maslov v. Austria* [GC], 2008, and *A.A. v. the United Kingdom*, 2011. Where there is a significant lapse of time between the denial of the residence permit – or the final decision on the expulsion order – and the actual deportation, the developments during that period of time may be taken into account (*T.C.E. v. Germany*, 2018, § 61). In *Hasanbasic v. Switzerland*, 2013, the Court dealt with a scenario where the refusal of a residence permit and the expulsion order primarily related to the economic well-being of the country, rather than the prevention of disorder and crime. In recent cases concerning expulsion of "settled migrants" and Article 8, the Court emphasised that, where the domestic courts have carefully examined the facts, applying the Convention case-law, and adequately balanced the applicant's personal interests against the more general public interest in the case, it is not for the Court to substitute its own assessment of the merits (including, in particular, its own assessment of the factual details of proportionality) for that of the competent national authorities, except where there are strong reasons for doing so (*Savran v. Denmark* [GC], 2021, § 189; *Ndidi v. the United Kingdom*, 2017, § 76; *Levakovic v. Denmark*, 2018). By contrast, where the domestic courts do not adequately motivate their decisions and examine the proportionality of the expulsion order in a superficial manner, preventing the Court from exercising its subsidiary role, an expulsion based on such decision would breach Article 8 (*I.M. v. Switzerland*, 2019; see also *M.M. v. Switzerland*, 2020, § 54, in respect of the requirement of judicial review of the proportionality of an expulsion order, including in situations where the legislature may seek to suggest situations of "mandatory" expulsion; and *P.J. and R.J. v. Switzerland*, 2024, § 55). This also holds true where the domestic courts do not take all relevant facts into consideration, such as an applicant's paternity of a child in the respondent State (*Makdoudi v. Belgium*, 2020).

98. Where foreigners do not qualify as "settled migrants", because their presence in the territory of the respondent State was from the outset precarious, unlawful or based on breaches of immigration law, their removal from the respondent State will likely breach Article 8 only in exceptional circumstances (see, for example, *Butt v. Norway*, 2012, and *Alleleh and Others v. Norway*, 2022, § 90). The Court also examined cases under Article 8 concerning the denial of – and whether there was a positive obligation to grant – a residence permit to individuals already present in the territory of the respondent State (see *Jeunesse v. the Netherlands* [GC], 2014; *Rodrigues da Silva and Hoogkamer v. the Netherlands*, 2006; see also *Pormes v. the Netherlands*, 2020, in respect of a refusal of a residence permit to alien unlawfully staying in the host State from an early age, who only became aware of his precarious immigration status once he was an adult; *T.C.E. v. Germany*, 2018, in respect of a person who had been convicted of criminal offences; *Ghadamian v. Switzerland*, 2023, in respect of a refusal to issue a residence permit to an elderly alien, resident for 49 years in the respondent State at the time of the final domestic decision, albeit unlawfully for the past sixteen years, on account of an unenforced decision to expel him after his convictions for serious criminal offences; *Siles Cabrera v. Spain*, 2025, in respect of the refusal to grant the father of a disabled child a residence permit for exceptional reasons (social integration) on account of his failure to satisfy the criterion of "sufficient means of subsistence" by other means than the welfare benefits he was receiving; a s well as *Martinez Alvarado v. the Netherlands*, 2024, in respect of the refusal to grant a severely disabled adult man,

who was fully dependent on the daily care of others, a residence permit on the basis of family reunification with his adult siblings living in the respondent State, and "Access for the purposes of family reunification" above).

99. In the specific context of national security, the Court has also dealt with cases in which applicants alleged that they had not benefitted from sufficient procedural safeguards in respect of the revocation of a residence permit (*Gaspar v. Russia*, 2018), the refusal to extend or to grant a residence permit (*Mirzoyan v. the Czech Republic*, 2024) or the prohibition, on the basis of an exclusion order, on a foreign national to enter the country where he had resided lawfully (*S.L. v. Romania* (dec.), 2022). In *Mirzoyan v. the Czech Republic*, 2024, §§ 82-84 the Court found that, in keeping with the principle of harmonious interpretation of the Convention, procedural safeguards under Article 8 had to be interpreted in the light of those provided by Article 1 of Protocol No. 7 (which is not applicable in the absence of an expulsion decision, see "Article 1 of Protocol No. 7" below), insofar as relevant, in cases concerning measures affecting an alien's residence permit in a manner that may potentially lead to his or her expulsion. On the facts of the case, it considered that the domestic court proceedings had offered sufficient guarantees counterbalancing the limitation of the applicant's procedural rights in the proceedings before the administrative authorities and had not deprived him of the opportunity to effectively challenge the executive's assertions that national security and public order were at stake (§§ 87-97).

2. Residence permits and possibility to regularise one's legal status

100. The Court also examined, under Article 13, in connection with administrative charges to be paid as a precondition for the processing of the request for a residence permit, whether a foreigner had effective access to the administrative procedure by which he might, subject to fulfilling the conditions prescribed by domestic law, obtain a residence permit which would allow him to reside lawfully in the respondent State (*G.R. v. the Netherlands*, 2012). As regards the protection of a migrant's private-life interests in so far as they are affected by the uncertainty of his status and stay in a foreign country, see *Abuhmaid v. Ukraine*, 2017 (see also *B.A.C. v. Greece*, 2016, in respect of an asylum-seeker). In *Sahiti v. Belgium*, 2025, the Court found a violation of Article 8 because of the absence of a final decision by the authorities on the application for a residence permit for medical reasons submitted fifteen years earlier. In *Hoti v. Croatia*, 2018, and in *Sudita Keita v. Hungary*, 2020, the Court found breaches of Article 8 because of the protracted difficulties for the applicants, stateless persons, to regularise their legal and residence status and the corresponding adverse effects on their private life. Determining an application for a residence permit based on an applicant's health status is discriminatory and breaches Article 14 taken in conjunction with Article 8 (*Kiyutin v. Russia*, 2011; *Novruk and Others v. Russia*, 2016, concerning the denial of residence permits because the applicants were HIV-positive; see also *Khachatryan and Konovalova v. Russia*, 2021, where the Court found a breach of Article 8 in respect of the refusal to renew a long-term migrant's residence permit on formal procedural grounds, because he had failed to furnish a requested medical certificate on time).

3. Nationality

101. Article 8 does not guarantee a right to acquire a particular nationality or citizenship, but an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual (*Slivenko and Others v. Latvia* (dec.) [GC], 2002, § 77; *Genovese v. Malta*, 2011, § 30). The same holds true for the revocation of citizenship already obtained, with the test requiring an assessment of whether the revocation was arbitrary and of the consequences of revocation were for the applicant (see *Ramadan v. Malta*, 2016, § 85, with regard to a person who nonetheless remained in the respondent country; and *K2 v. the United Kingdom* (dec.), 2017, who was, while abroad, deprived of citizenship and excluded from the territory of the respondent State because he was considered to be a threat to national security). The relevant principles also apply to the seizure of, and refusal to exchange,

passports (*Alpeyeva and Dzhalagoniya v. Russia*, 2018, concerning the practice of invalidating passports issued to former Soviet Union Nationals). In *Usmanov v. Russia*, 2020, the Court recapitulated the various approaches in its case-law in this area and opted for a consequence-based approach to determine whether the annulment of the applicant's citizenship constituted an interference with his rights under Article 8 of the Convention: it examined (i) what the consequences of the impugned measure were for the applicant and then (ii) whether the measure in question was arbitrary (§§ 53 and 58 *et seq.*). That approach was subsequently also applied in *Hashemi and Others v. Azerbaijan*, 2022, which concerned the refusal to issue identity cards and thereby to recognise the nationality of children born to refugees in the territory of the respondent State, despite domestic law providing for *jus soli*, as well as in *Abo v. Estonia* (dec.), 2024 (compare and contrast the methodological approach in *Johansen v. Denmark* (dec.), 2022, § 45).

102. The right to hold a passport and the right to nationality are not civil rights for the purposes of Article 6 of the Convention (*Sergey Smirnov v. Russia* (dec.), 2006).

E. Article 9[10]

103. In so far as a measure relating to the continuation of the applicant's residence in a given State is imposed in connection with the exercise of the right to freedom of religion, such measure may disclose an interference with Article 9 of the Convention (see *Nolan and K. v. Russia*, 2009, § 62). The enforced departure of lawfully resident foreign religious workers for reasons connected to their religious work has been found to breach Article 9 of the Convention (*Corley and Others v. Russia*, 2021, §§ 79-89). Where an individual claimed that on return to his own country he would be impeded in his religious worship, the Court did not rule out the possibility that the responsibility of the returning State might in exceptional circumstances be engaged under Article 9 of the Convention where the person concerned ran a real risk of flagrant violation of that Article in the receiving State, but found that it would be difficult to visualise a case in which a sufficiently flagrant violation of Article 9 would not also involve treatment in violation of Article 3 of the Convention (*Z and T v. the United Kingdom* (dec.), 2006, and see *M.A.M. v. Switzerland*, 2022, § 84).

F. Article 1 of Protocol No. 7[11]

104. Being aware that Article 6 of the Convention did not apply to procedures for the expulsion of aliens, States adopted Article 1 of Protocol No. 7, which defines the procedural safeguards applicable to this type of procedure (*Maaouia v. France* [GC], 2000, § 36). In the recent Grand Chamber judgment *Muhammad and Muhammad v. Romania* [GC], 2020, §§ 114 *et seq.*, the Court recapitulated its case-law on the provision, which is applicable in the event of expulsion of "aliens lawfully resident in the territory of a State". Its first basic safeguard is that the person concerned may be expelled only "in pursuance of a decision reached in accordance with law". In addition to this general condition of legality, Article 1 § 1 of Protocol No. 7 provides for three specific procedural safeguards: aliens must be able to submit reasons against their expulsion, to have their case reviewed and, lastly, to be represented for these purposes before the competent authority. Article 1 § 2 of Protocol No. 7 provides for an exception, enabling States to expel an alien who is lawfully resident on its territory even before he or she has exercised the rights afforded under Article 1 § 1, in cases where such expulsion is necessary in the interests of public order or for reasons of national security. On the facts of the case, the Court found that the deportation of the applicants, Pakistani nationals living in Romania on student visas, on national security grounds was in breach of Article 1 of Protocol No. 7: the applicants neither had access to the classified documents on which that decision was based nor were they provided with any specific information as to the underlying facts and grounds for

[10] See also the Guide on Article 9 - Freedom of thought, conscience and religion.
[11] See also the Guide to Article 1 of Protocol No. 7 - Procedural safeguards relating to expulsion of aliens.

deportation. They had thus suffered a significant limitation of their right to be informed of the factual elements submitted in support of their expulsion and of the content of the relevant documents, a limitation which had not been counterbalanced in the domestic proceedings. Article 1 of Protocol No. 7 is applicable even if the decision ordering the applicant to leave has not been enforced to-date (see *Ljatifi v. the former Yugoslav Republic of Macedonia*, 2018).

G. Article 4 of Protocol No. 4[12]

105. Apart from summary returns at sea (see section "Interception, rescue operations and summary returns ("push-backs")" above) at or near borders described above (see section "Summary returns at the border and/or shortly after entry into the territory ("push-backs")" above), the Court has dealt with collective expulsions of aliens who had been present in the territory of the respondent State (asylum-seekers in *Čonka v. Belgium*, 2002, *Sultani v. France*, 2007, and *H.Q. and Others v. Hungary*, 2025, §§ 115-116; migrants in *Georgia v. Russia (I)* [GC], 2014, § 170), irrespective of whether they were lawfully resident in the respondent State or not. In *Čonka v. Belgium*, 2002, and *Georgia v. Russia (I)* [GC], 2014, in which the Court found violations of Article 4 of Protocol No. 4, the individuals targeted for expulsion in each case had the same origin (Roma families from Slovakia in the former and Georgian nationals in the latter).

[12] See also the Guide on Article 4 of Protocol No. 4 - Prohibition of collective expulsions of aliens.

IV. Prior to the removal and the removal itself

Article 3 of the Convention

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 5 of the Convention

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non- compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

Article 8 of the Convention

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Rule 39 of the Rules of Court

1. The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may, at the request of a party or of any other person concerned, or of their own motion, indicate to the parties any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings.

2. Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.

3. The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may request information from the parties on any matter connected with the implementation of any interim measure indicated.

4. The President of the Court may appoint Vice-Presidents of Sections as duty judges to decide on requests for interim measures.

A. Restrictions of freedom of movement and detention for purposes of removal[13]

106. Once a foreigner has been served with a final expulsion order, his presence is no longer "lawful" and he cannot rely on the right to freedom of movement as guaranteed by Article 2 of Protocol No. 4 (*Piermont v. France*, 1995, § 44).

107. Under the second limb of Article 5 § 1(f), States are entitled to keep an individual in detention for the purpose of his deportation or extradition. This includes detention for the purposes of surrender under the European Arrest Warrant (*De Sousa v. Portugal* (dec.), 2021, § 69). To avoid being branded as arbitrary, detention under Article 5 § 1(f) must be carried out in good faith; it must be closely connected to the ground of detention relied on by the Government; the place and conditions of detention should be appropriate; and the length of the detention should not exceed that reasonably required for the purpose pursued (*A. and Others v. the United Kingdom* [GC], 2009, § 164). The detention does not have to be reasonably considered necessary, for example to prevent the individual from committing an offence or fleeing, but it will be justified only for as long as the deportation or extradition proceedings are in progress (*ibid.*). It is immaterial under Article 5 § 1(f) whether the underlying decision to expel or surrender can be justified under national or Convention law (*M and Others v. Bulgaria*, 2011, § 63; *De Sousa v. Portugal* (dec.), 2021, § 79), but the detention will cease to be permissible under Article 5 § 1 (f), if the deportation, extradition or surrender proceedings are not conducted with due diligence (*A. and Others v. the United Kingdom* [GC], 2009, § 164, *Shiksaitov v. Slovakia*, 2020, § 56, and *De Sousa v. Portugal* (dec.), 2021, § 79; see also §§ 80-85 of the latter decision in respect of the notion of due diligence and the application of the equivalent protection in EU law in the context of a surrender under an European Arrest Warrant). As asylum-seekers cannot be deported prior to a determination of their asylum application, in a number of cases the Court found there to be neither a close connection between the detention of an applicant who had lodged an asylum application which had not yet been determined and the possibility of deporting him, nor good faith on the part of the national authorities (*R.U. v. Greece*, 2011, §§ 94-95; see also *Longa Yonkeu v. Latvia*, 2011, § 143; and *Čonka v. Belgium*, 2002, § 42, for examples of bad faith). In *Komissarov v. the Czech Republic*, 2022, the Court dealt with a situation where the applicant was placed in detention pending extradition and, on the following day, he lodged an asylum application which hindered his extradition and led to the process of his extradition being halted, pending the asylum proceedings: the latter proceedings were significantly delayed and resulted in the

[13] See also the Guide on Article 5 - Right to liberty and security and the Guide on Article 2 of Protocol No. 4 - Freedom of movement.

applicant's detention pending extradition not being "in accordance with the law" (§§ 45-53). Detention for the purposes of extradition may be arbitrary from the outset due to the person's refugee status prohibiting extradition (*Eminbeyli v. Russia*, 2009, § 48; see also *Dubovik v. Ukraine*, 2009, where the applicant applied for and was granted refugee status after being placed in detention for purposes of extradition; and *Shiksaitov v. Slovakia*, 2020, where the applicant, who had been recognised as a refugee in one EU member State, was detained in another EU member State in order to examine the admissibility of his extradition to the country of origin). Where an alien cannot be removed for the time being, for example because the removal would breach Article 3, a policy of keeping an individual's possible deportation "under active review" is not sufficiently certain or determinate to amount to "action being taken with a view to deportation" (*A. and Others v. the United Kingdom* [GC], 2009, §§ 166-167), including in national security cases (*ibid.*, §§ 162-190; see also *Al Husin v. Bosnia and Herzegovina (no. 2)*, 2019, where the Court found that the ground for the applicant's detention did not remain valid after it had become clear that no safe third country would admit the applicant; for a case where the Court found the detention of a migrant who was considered a security threat to have been in conformity with Article 5 § 1(f), see *K.G. v. Belgium*, 2018).

108. States must make an active effort to organise a removal and take concrete steps and provide evidence of efforts made to secure admission in order to comply with the due diligence requirement, for example where the authorities of a receiving state are particularly slow to identify their own nationals (see, for example, *Singh v. the Czech Republic*, 2005), or where there are difficulties in connection with identity papers (*M and Others v. Bulgaria*, 2011). For the detention to be compliant with the second limb of Article 5 § 1(f), there must be a realistic prospect that the deportation or extradition will be carried out; the detention cannot be said to be effected with a view to the alien's deportation if the deportation is, or becomes, unfeasible because the alien's cooperation is required and he is unwilling to provide it (see *Mikolenko v. Estonia*, 2009, in which the Court also considered that the authorities had at their disposal measures other than the applicant's protracted detention in the deportation centre in the absence of any immediate prospect of his expulsion; see also *Louled Massoud v. Malta*, 2010, §§ 48-74; *Kim v. Russia*, 2014, and *Al Husin v. Bosnia and Herzegovina (no. 2)*, 2019; and section "Abuse of the right of individual application" in respect of *Bencheref v. Sweden* (dec.), 2017, where the applicant had claimed to be of another nationality and had refused to cooperate in order to clarify his identity). There may also be no realistic prospect of deportation in the light of the situation in the country of destination (*S.Z. v. Greece*, 2018, where the applicant's Syrian nationality was established when he submitted his passport and the worsening armed conflict in Syria was well-known).

109. The indication of an interim measure by the Court under Rule 39 of the Rules of Court (see section "Rule 39 / Interim measures" below) does not in itself have any bearing on whether the deprivation of liberty to which that individual may be subject complies with Article 5 § 1 of the Convention (*Gebremedhin [Gaberamadhien] v. France*, 2007, § 74). Where the respondent States refrained from deporting or extraditing applicants in compliance with the interim measure indicated by the Court, the Court was, in a number of cases, prepared to accept that deportation or extradition proceedings were temporarily suspended but nevertheless were "in progress", and that therefore the detention had been justified under Article 5 § 1(f) (see *Azimov v. Russia*, 2013, § 170, and *Matthews and Johnson v. Romania*, 2024, § 128). At the same time, the suspension of the domestic proceedings due to the indication of an interim measure by the Court should not result in a situation where the applicant languishes in prison for an unreasonably long period (*Azimov v. Russia*, 2012, § 171, and *Matthews and Johnson v. Romania*, 2024, § 128). Article 5 § 1(f) does not contain maximum time-limits; the question whether the length of deportation proceedings could affect the lawfulness of detention under this provision thus depends solely on the particular circumstances of each case (*Auad v. Bulgaria*, 2011, § 128, and *J.N. v. the United Kingdom*, 2016). However, where fixed time-limits exist, a failure to comply with them may be relevant to the question of "lawfulness", as detention exceeding the period permitted by domestic law is unlikely to be considered to be "in accordance with the law" (*Komissarov v. the Czech Republic*, 2022, §§ 50-52). The Court has also held

that automatic judicial review of immigration detention is not an essential requirement of Article 5 § 1 of the Convention (*J.N. v. the United Kingdom*, 2016, § 96). Where the authorities make efforts to organise removal to a third country in view of an interim measure indicated by the Court, detention may fall within the scope of Article 5 § 1(f) (*M and Others v. Bulgaria*, 2011, § 73). The individual's rearrest and detention, with a view to his extradition after the Court had lifted an interim measure in his case, was found to have been justified under Article 5 § 1(f) in *Lazăr v. Romania*, 2024, §§ 102-111.

110. As regards the detention of persons with specific vulnerabilities, the same considerations apply under the second limb of Article 5 § 1(f) as apply under the provision's first limb (see sections "Article 3 of the Convention: General principles and "Children and adults with specific vulnerabilities" above, and, by way of example, *Rahimi v. Greece*, 2011, and *Yoh-Ekale Mwanje v. Belgium*, 2011). As regards medical treatment during a hunger strike in detention pending deportation, see *Ceesay v. Austria*, 2017.

111. As regards the procedural safeguards under Article 5 §§ 2 and 4, see section "Procedural safeguards" above. There are, however, a number of cases relating specifically to the shortcomings of domestic law as regards the effectiveness of judicial review of detention pending expulsion and the requirements of Article 5 § 4 (see, for example, *S.D. v. Greece*, 2009, §§ 68-77; *Louled Massoud v. Malta*, 2010, §§ 29-47; and *A.B. and Others v. France*, 2016, §§ 126-138).

B. Assistance to be provided to persons due to be removed

112. As regards the existence and scope of a positive obligation under Article 3 to provide medical, social assistance or other forms of assistance to aliens due to be removed, see *Hunde v. the Netherlands* (dec.), 2016, and *Shioshvili and Others v. Russia*, 2016 (concerning a heavily pregnant applicant and her young children, whose stay in connection with the removal was caused by the authorities).

C. Transfers preceding the removal and the removal itself

113. The Court found Article 5 to be applicable and breached in the case of an arrest at a border and subsequent removal by bus (*Akkad v. Turkey*, 2022, §§ 40 and 101-103). It also found Article 5 applicable and breached in a case concerning the applicants' bus transfers between detention centres in the context of their attempted removal by the authorities (*A.E. and Others v. Italy*, 2023, §§ 104-106). In both cases, the Court also found violations of Article 3 on account of the conditions to which the applicants were subjected during their arrest and/or transfers.

114. The transfer of an individual whose state of health is particularly poor may, in itself, result in the individual concerned facing a real risk of being subjected to treatment contrary to Article 3 (*Khachaturov v. Armenia*, 2021, § 90, concerning a transfer for the purposes of extradition), even if the transfer were carried out under medical supervision (see *ibid.*, § 108). The assessment of the impact of a given transfer on the person concerned must be based on specific medical evidence substantiating the specific medical risks relied upon. This would require a case-by-case assessment of the medical condition of the individual and the specific medical risks in the light of the conditions of that particular transfer. Furthermore, that assessment would need to be made in relation to the medical condition of the person concerned at a particular point in time, considering that the specific risks substantiated at a certain moment could, depending on whether they were of a temporary or permanent nature, be eliminated with the passage of time in view of developments in that person's state of health (*ibid.*, § 91). The Court has underlined the importance of the existence of a relevant domestic legal framework and procedure whereby the implementation of a removal order would depend on the assessment of the medical condition of the individual concerned (*ibid.*, § 104). The fact that a person whose expulsion has been ordered has threatened to commit suicide does not require the State to refrain from enforcing the envisaged measure, provided that concrete measures are taken

to prevent those threats from being realised, including in respect of applicants who had a record of previous suicide attempts (see *Al-Zawatia v. Sweden* (dec.), 2010, §§ 57-58; see also section "Obligations to prevent (self-)harm and to carry out an effective investigation in other migrant-specific situations" below).

115. In *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, 2006, §§ 64-71, the Court found a breach of Article 3 in respect of the manner in which a five-year old unaccompanied child was removed to the country of origin, without having ensured that the child would be looked after there.

116. The Court has found violations of the substantive limb of Article 3 on account of ill-treatment inflicted by public officials in connection with or during the (attempted) deportation process (see *A.E. and Others v. Italy*, 2023, §§ 91-94, and *Shahzad v. Hungary (no. 2)*, 2023, §§ 72-80). It has also found violations of the procedural limb of Article 3 due to the authorities' failure to investigate effectively the applicants' complaints about alleged ill-treatment in connection with or during the deportation process (see *Thuo v. Cyprus*, 2017, and *Shahzad v. Hungary (no. 2)*, 2023, §§ 55-65; see also section "Obligations to prevent (self-)harm and to carry out an effective investigation in other migrant-specific situations" below).

117. In *Mansouri v. Italy* (dec.) [GC], 2025, the Court dealt with complaints concerning the lawfulness and conditions of a Tunisian national's confinement on board of an Italian cruise ship used to return him to Tunisia on the basis of an order refusing him entry to Italy. The Court found that the respondent State had exercised jurisdiction over the applicant (§§ 47-51) and that the impugned acts of the ship's captain were attributable to the respondent State (§§ 57-61). However, the applicant had failed to exhaust domestic remedies in respect of his complaints under Article 5 and the minimum threshold to engage Article 3 had not been met.

118. Furthermore, breaches of confidentiality in the removal process - which in themselves may raise an issue under Article 8 - may lead to a risk of ill-treatment contrary to Article 3 upon return (see *X v. Sweden*, 2018, where the Swedish authorities informed their Moroccan counterparts that the applicant was a terrorist suspect).

D. Agreement to "assisted voluntary return"

119. Where an individual alleges to have been expelled in breach of Article 3 and the respondent State submitted that he had signed a "voluntary return" document, the Court questioned whether the rights guaranteed by Article 3 could be waived at all and found that the requirements of an effective waiver were, in any event, not met (*M.A. v. Belgium*, 2020, §§ 60-61; *H.T. v. Germany and Greece*, 2024, § 119). It reached a similar conclusion in *M.D. and Others v. Hungary*, 2024, in a case concerning Article 4 of Protocol No. 4 (§ 44).

E. Rule 39 / Interim measures[14]

120. When the Court receives an application, it may indicate to the respondent State under Rule 39 of the Rules of Court certain interim measures which it considers should be adopted pending the Court's examination of the case. According to its well-established case-law and practice, the Court indicates interim measures only where there is a real and imminent risk of serious and irreparable harm. These measures most commonly consist of requesting a State to refrain from removing individuals to countries where it is alleged that they would face death or torture or other ill-treatment, and may include requesting the respondent State to receive and examine asylum applications of persons presenting themselves at a border checkpoint (*M.K. and Others v. Poland*, 2020, § 235.). In many cases, interim measures concern asylum-seekers or persons who are to be extradited whose

14. Rule 39 / Interim measures

claims have been finally rejected and who do not have any further appeal with suspensive effect at the domestic level at their disposal to prevent their removal or extradition (see section "Procedural aspects" above). The Court has, however, also indicated interim measures in other kinds of immigration related cases, including with regard to the detention of children. Failure by the respondent State to comply with any Rule 39 measure indicated by the Court amounts to a breach of Article 34 of the Convention (for cases in which the applicants' removal or extradition was in breach of Article 34 see *Mamatkulov and Askarov v. Turkey* [GC], 2005, §§ 99-129; see also *Savriddin Dzhurayev v. Russia*, 2013, *M.A. v. France*, 2018, and *O.M. and D.S. v. Ukraine*, 2022, for a case in which the interim measure indicated was to end the applicant family's immigration detention and the respondent State refused to release the family until their removal from the respondent State seven days later, in breach of Article 34, see *N.B. and Others v. France*, 2022, §§ 62-65).

V. Other case scenarios

Article 4 of the Convention

"1. No one shall be held in slavery or servitude.

2. No one shall be required to perform forced or compulsory labour.

3. For the purpose of this Article the term 'forced or compulsory labour' shall not include:

(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of [the] Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations."

Article 8 of the Convention

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 12 of the Convention

"Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

Article 14 of the Convention

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Article 2 of Protocol No. 4 of the Convention

"1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society."

A. Economic and social rights[15]

121. Other than in the context of reception conditions and assistance to be provided to persons due to be removed (see sections "Reception conditions, age-assessment procedures and freedom of movement" and "Assistance to be provided to persons due to be removed" above), the Court has dealt with a number of cases concerning the economic and social rights of migrants, asylum-seekers and refugees, primarily under the angle of Article 14 in view of the fact that, where a Contracting State decides to provide social benefits, it must to do so in a way that is compliant with Article 14. In this respect, the Court found that a State may have legitimate reasons for curtailing the use of resource‑hungry public services - such as welfare programmes, public benefits and health care - by short‑term and illegal immigrants, who, as a rule, do not contribute to their funding and that it may also, in certain circumstances, justifiably differentiate between different categories of aliens residing in its territory (*Ponomaryovi v. Bulgaria*, 2011, § 54).

122. Differential treatment based on the immigration status of the child of an alien, whose application for refugee status had been rejected but who had been granted indefinite leave to remain, in respect of allocating social housing may thus be justified (*Bah v. the United Kingdom*, 2011). In *Ponomaryovi v. Bulgaria*, 2011, the Court found that a requirement to pay secondary school fees based on the immigration status and nationality of the applicants was not justified. In *Bigaeva v. Greece*, 2009, the Court found that excluding foreigners from the law profession was, in itself, not discriminatory, but that there had been a breach of the applicant's right to respect for her private life in view of the incoherent approach by the authorities, which had permitted the applicant to commence an 18-month traineeship with a view to being admitted to the bar, but upon completion refused her to sit for the bar examinations on that ground that she was a foreigner. Other cases adjudicated by the Court concerned child benefits (*Niedzwiecki v. Germany*, 2005; *Weller v. Hungary*, 2009; *Saidoun v. Greece*, 2010), unemployment benefits (*Gaygusuz v. Austria*, 1996), disability benefits (*Koua Poirrez v. France*, 2003), contribution-based benefits, including pension (*Andrejeva v. Latvia* [GC], 2009), and admission to a contribution-based social security scheme (*Luczak v. Poland*, 2007).

123. The Court also found that the requirement for persons subject to immigration control to submit an application for a certificate of approval before being permitted to marry in the United Kingdom breached Article 12 (*O'Donoghue and Others v. the United Kingdom*, 2010).

B. Freedom to leave any country[16]

124. In *L.B. v. Lithuania*, 2022, the Court examined the refusal to issue a travel document to a foreign national, who was a permanent resident and a former beneficiary of subsidiary protection, in the respondent State. It found Article 2 § 2 of Protocol No. 4 to the Convention to be applicable and to have been breached. The impugned refusal had been based on formalistic grounds without an adequate examination of the situation in his country of origin and without a proper assessment of the accessibility for the applicant to obtain a passport of that country, given that he had claimed to be afraid to contact its authorities. In *S.E. v. Serbia*, 2023, the Court found a violation of Article 2 § 2 of Protocol No. 4 on account of the refusal to issue a recognised refugee with a travel document for refugees for seven years due to the absence of regulations implementing domestic asylum law. The Court also indicated under Article 46 of the Convention that the respondent State needed to complete the legislative framework and implementing regulations for an effective right to leave the country (§§ 97-98).

[15] See also the Guide on Article 14 and Article 1 of Protocol No. 12 - Prohibition of discrimination.
[16] See also the Guide on Article 2 of Protocol No. 4 - Freedom of movement.

C. Trafficking in human beings

125. A number of cases, dealt with by the Court under Article 4 in the context of trafficking in human beings, concerned foreigners.[17]

D. Obligations to prevent (self-)harm and to carry out an effective investigation in other migrant-specific situations[18]

126. In *Hasani v. Sweden*, 2025, the Court examined a complaint under Article 2 of the Convention about the domestic authorities' alleged failure to protect the life of an asylum-seeker suffering from mental health problems, who committed suicide, while he was living in an accommodation for people in need of assistance which had been provided by the authorities, after his asylum application had been rejected at first-instance level. The Court found that, while the individual had previously attempted to commit suicide, there had been no signs of mental distress or suicidal tendencies in the days prior to the suicide, and hence no reason to consider that the authorities knew or ought to have known that there was a real and immediate risk of suicide which would have triggered positive obligations on the part of the authorities to take operational measures to prevent that risk from materialising (§§ 69-77). As regards cases the removal of an individual who threatened to commit suicide, see section "Transfers preceding the removal and the removal itself" above.

127. In *M.H. and Others v. Croatia,* 2021, the Court found a violation of the procedural limb of Article 2 of the Convention because the Croatian authorities failed to carry out an effective investigation into the death of a six-year old Afghan girl, who was hit by a train and died on the Serbian side of the Croatian-Serbian border after allegedly being denied the opportunity to seek asylum by the Croatian police officers and ordered to return to Serbia by following the train tracks (§§ 127-131 and 148-166). In *Alhowais v. Hungary*, 2023, the Court found a violation of the procedural limb of Articles 2 and 3 because the Hungarian authorities failed to carry out an effective investigation into the death of the applicant's brother, who had drowned during a border control operation at a river at the Hungarian-Serbian border, and into arguable allegations of police ill-treatment (§§ 78-94 and section "Rescue operations at land borders" above). With regard to the obligation to carry out an effective investigation into a fatal accident that led to the deaths of migrants at sea, see section "Interception, rescue operations and summary returns ("push-backs") at sea" above. In respect of a case concerning the obligation to carry out an effective investigation into alleged ill-treatment during the deportation process, see section "Transfers preceding the removal and the removal itself" above. As regards the procedural obligations under Article 3 when investigating a racist assault on a migrant, see *Sakir v. Greece*, 2016.

[17] For detailed and up to date case-law references in this regard, see the Guide on Article 4 - Prohibition of slavery and forced labour.

[18] See also the Guide on Article 2 - Right to life, the Guide on Article 4 - Prohibition of slavery and forced labour and the Guide on Article 3 – Prohibition of torture.

VI. Procedural aspects of applications before the Court

Article 37 of the Convention

"1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application; or

(b) the matter has been resolved; or

(c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.

2. The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course."

A. Applicants in poor mental health

128. The case of *Tehrani and Others v. Turkey*, 2010, concerned, *inter alia*, the removal of the applicants, Iranian nationals and ex-members of the PMOI recognised as refugees by UNHCR. After one of the applicants had written to the Court that he wished to withdraw his application, his representative informed the Court that he wished to pursue the application and that the applicant was in poor mental health and needed treatment. The Government stated that the applicant did not suffer from a psychotic illness but that further diagnosis could not be carried out due to his lack of cooperation. The Court noted that one of the applicant's allegations concerned the possible risk of death or ill-treatment and considered that striking the case out of its list would lift the protection afforded by the Court on a subject as important as the right to life and physical well-being of an individual, that there were doubts about the applicant's mental state and discrepancies of the medical reports, and concluded that respect for human rights as defined in the Convention and the Protocols thereto required the examination of the application to continue (§§ 56-57).

B. Starting point of the four-month period in Article 2 or 3 removal cases

129. While the date of the final domestic decision providing an effective remedy is normally the starting-point for the calculation of the four-month time-limit for which Article 35 § 1 of the Convention provides, the responsibility of a sending State under Article 2 or Article 3 of the Convention is, as a rule, incurred only when steps are taken to remove the individual from its territory. The date of the State's responsibility under Article 2 or 3 corresponds to the date when that four-month time-limit starts to run for the applicant. Consequently, if a decision ordering a removal has not been enforced and the individual remains on the territory of the State wishing to remove him or her, the four-month time-limit has not yet started to run (see *M.Y.H. and Others v. Sweden*, 2013, §§ 38-41; *J.A. and A.A. v. Türkiye*, 2024, § 41). The same would apply to removals concerning a sending State's responsibility for an alleged risk of a flagrant denial of rights under Article 5 and 6 in the receiving State (see section "Flagrant denial of justice: Articles 5 and 6" above).

130. Before the entry into force of Protocol No. 15 to the Convention (1 August 2021), Article 35 § 1 of the Convention referred to a period of six months. Article 4 of Protocol No. 15 has amended Article 35 § 1 to reduce the period from six to four months. Although the judgments and decisions

pre-dating Protocol No. 15 mentioned in this guide referred to the "six-month period" or "six-month rule", this term has been replaced in this guide by the term "four-month period", in order to reflect the new time-limit established in the Convention. The general principles in the Court's case-law on how the former rule operated remain valid for the operation of the new time limit (*Saakashvili v. Georgia* (dec.), 2022, § 46).

C. Absence of an imminent risk of removal

131. In removal cases, in which the applicant no longer faces any risk, at the moment or for a considerable time to come, of being expelled and in which he has the opportunity to challenge any new expulsion order before the national authorities and if necessary before the Court, the Court normally finds that it is no longer justified to continue to examine the application within the meaning of Article 37 § 1(c) of the Convention and strikes it out of its list of cases, unless there are special circumstances relating to respect for human rights as defined in the Convention and the Protocols thereto requiring the continued examination of the application (see *Khan v. Germany* [GC], 2016). After the Court has struck an application out of its list of cases, it can at any time decide to restore it to the list if it considers that the circumstances justify such a course, in accordance with Article 37 § 2 of the Convention. Where domestic law provides for two separate decisions – one refusing the application for international protection and one subsequently ordering expulsion – and the latter decision can be challenged with a remedy that has automatic suspensive effect, the individual lacks victim status to complain that his impending expulsion would be contrary to Article 3 of the Convention, if his application for international protection has been refused but his expulsion has not yet been ordered (see *F.O. and G.H. v. Belgium* (dec.), 2024, §§ 31-40).

D. Standing to lodge an application on behalf of the applicant

132. In *G.J. v. Spain* (dec.), 2016, the Court found that a non-governmental organisation did not have standing to lodge an application on behalf of the applicant, an asylum-seeker, after his expulsion, as it had not presented a written authority to act as his representative, contrary to the requirements of Rule 36 § 1 of the Rules of Court. The case of *N. and M. v. Russia* (dec.), 2016, concerned the alleged disappearance of the applicants, two Uzbek nationals, whose extradition had been requested by the Uzbek authorities. The Court had indicated to the respondent Government, under Rule 39 of the Rules of Court, that they should not be removed to Uzbekistan or any other country for the duration of the proceedings before the Court. The Court later found that the lawyer who lodged the application to the Court on behalf of the applicants did not have standing to do so: the lawyer had not presented a specific authority to represent the applicants; there were no exceptional circumstances that would allow the lawyer to act in the name and on behalf of the applicants. There was no risk of the applicants being deprived of effective protection of their rights since they had close family members in Uzbekistan with whom they had been in regular contact and who, in turn, had been in contact with the lawyer after the applicants' alleged abduction: it was open to the applicants' immediate family to complain to the Court on their own behalf and there was no information that they had been unable to lodge applications with the Court.

E. Investigative measures to clarify the facts of the case

133. In *W.A. and Others v. Italy*, 2023, the Government submitted that the applicants were not, in fact, and as they alleged, part of a group of persons removed from the respondent State. The Court requested, under Rule A1 §§ 1 and 2 of the Rules of Court, an expert report on facial comparison from the police of another member State to assess whether the applicants, as named in the application forms and depicted in the photographs and video material provided by their representatives, were

among the persons removed from the respondent State, in view of the photographs and names of the persons removed provided by the Government.

F. Abuse of the right of individual application

134. In *N.A. v. Finland* (revision), 2021, the Court revised and annulled its earlier judgment in that case – in which it had found that the removal of the applicant's father to Iraq had breached Articles 2 and 3 of the Convention – in its entirety and rejected the application as an abuse of the right of individual application under Article 35 § 3 (a) of the Convention, after it subsequently came to light that the documents regarding the death of the applicant's father had been forged and that he was alive in Iraq. The Court similarly found that it amounted to an abuse of the right of application where an applicant, who had alleged that his lengthy detention with a view to him being deported to his country of origin had not been justified under Article 5 § 1 (f), had claimed to be of another nationality and had refused to cooperate in order to clarify his identity, while the authorities intending to remove him were in contact over a lengthy period with their counterparts in the alleged country of nationality, and who had also tried to deceive the Court as to his nationality (see *Bencheref v. Sweden* (dec.), 2017).

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 former 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 are not final within the meaning of Article 44 of the Convention 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, advisory opinions and legal summaries from the Case-Law Information Note), and of the former 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.

—A—

A. and Others v. the United Kingdom [GC], no. 3455/05, ECHR 2009
A. v. Switzerland, no. 60342/16, 19 December 2017
A.A. v. Sweden, no. 4677/20, 13 July 2023
A.A. v. Switzerland, no. 58802/12, 7 January 2014
A.A. v. Switzerland, no. 32218/17, 5 November 2019
A.A. v. the United Kingdom, no. 8000/08, 20 September 2011
A.A. and Others v. North Macedonia, nos. 55798/16 and 4 others, 5 April 2022
A.A. and Others v. Sweden, no. 14499/09, 28 June 2012
A.B. and Others v. France, no. 11593/12, 12 July 2016
A.B. and Y.W. v. Malta, no. 2559/23, 4 February 2025
A.C. v. France, no. 15457/20, 16 January 2025
A.D. v. Malta, no. 12427/22, 17 October 2023
A.D. and Others v. Sweden, no. 22283/21, 7 May 2024
A.E. and Others v. Italy, nos. 18911/17 and 2 others, 16 November 2023
A.E.A. v. Greece, no. 39034/12, 15 March 2018
A.F. v. France, no. 80086/13, 15 January 2015
A.J. v. Greece (dec.), no. 34298/18, 26 April 2022
A.L. (X.W.) v. Russia, no. 44095/14, 29 October 2015

—B—

Bigaeva v. Greece, no. 26713/05, 28 May 2009
Bijan Balahan v. Sweden, no. 9839/22, 29 June 2023
Bistieva and Others v. Poland, no. 75157/14, 10 April 2018
Bivolaru and Moldovan v. France, nos. 40324/16 and 12623/17, 25 March 2021
Boumediiene and Others v. Bosnia and Herzegovina (dec.), nos. 38703/06 and 5 others, 18 November 2008
Butt v. Norway, no. 47017/09, 4 December 2012

—C—

Camara v. Belgium, no. 49255/22, 18 July 2023
Carvajal Barrios v. Spain (dec.), no. 13869/22, 4 July 2023
Ceesay v. Austria, no. 72126/14, 16 November 2017
Chahal v. the United Kingdom [GC], 15 November 1996, *Reports of Judgments and Decisions* 1996-V
Chapman v. the United Kingdom [GC], no. 27238/95, ECHR 2001-I
Čonka v. Belgium, no. 51564/99, ECHR 2002-I
Corley and Others v. Russia, nos. 292/06 and 43490/06, 23 November 2021

—D—

D v. Bulgaria, no. 29447/17, 20 July 2021
D. v. the United Kingdom, 2 May 1997, *Reports of Judgments and Decisions* 1997-III
D.A. and Others v. Poland, no. 51246/17, 8 July 2021
D.H. and Others v. Sweden, no. 34210/19, 25 July 2024
Dabo v. Sweden, no. 12510/18, 18 January 2024
Dalea v. France (dec.), no. 964/07, 2 February 2010
Darboe and Camara v. Italy, no. 5797/17, 21 July 2022
Dbouba v. Turkey, no. 15916/09, 13 July 2010
Demirci v. Hungary, no. 48302/21, 6 May 2025
De Sousa v. Portugal (dec.), no. 28/17, 7 December 2021
De Souza Ribeiro v. France [GC], no. 22689/07, ECHR 2012
Dubovik v. Ukraine, nos. 33210/07 and 41866/08, 15 October 2009

—E—

E.H. v. France, no. 39126/17, 22 July 2021
El Ghatet v. Switzerland, no. 56971/10, 8 November 2016
Eminbeyli v. Russia, no. 42443/02, 26 February 2009

—F—

F.B. v. Belgium, no. 47836/21, 6 March 2025
F.G. v. Sweden [GC], no. 43611/11, 23 March 2016
F.M. and Others v. Greece, no. 17622/21, 14 October 2025
F.O. and G.H. v. Belgium (dec.), no. 9568/22, 16 April 2024

—G—

G.B. and Others v. Turkey, no. 4633/15, 17 October 2019
G.J. v. Spain (dec.), no. 59172/12, 21 June 2016
G.R. v. the Netherlands, no. 22251/07, 10 January 2012
G.R.J. v. Greece (dec.), no. 15067/21, 3 December 2024
Gaygusuz v. Austria, 16 September 1996, *Reports of Judgments and Decisions* 1996-IV
Gaspar v. Russia, no. 23038/15, 12 June 2018
Gebremedhin [Gaberamadhien] v. France, no. 25389/05, ECHR 2007-II
Genovese v. Malta, no. 53124/09, 11 October 2011
Georgia v. Russia (I) [GC], no. 13255/07, ECHR 2014 (extracts)
Ghadamian v. Switzerland, no. 21768/19, 9 May 2023

—H—

H.A. v. the United Kingdom, no. 30919/20, 5 December 2023
H.A and Others v. Greece, no. 19951/16, 28 February 2019
H.M. v. Sweden (dec.), no. 10859/24, 9 December 2025
H.M. and Others v. Hungary, no. 38967/17, 2 June 2022
H.Q. and Others v. Hungary, nos. 46084/21 and 2 others, 24 June 2025
H.T. v. Germany and Greece, no. 13337/19, 15 October 2024
Harkins v. the United Kingdom (dec.) [GC], no. 71537/14, 15 June 2017
Hasanbasic v. Switzerland, no. 52166/09, 11 June 2013
Hasani v. Sweden, no. 35950/20, 6 March 2025
Hashemi and Others v. Azerbaijan, nos. 1480/16 and 6 others, 13 January 2022
Hayes and Others v. the United Kingdom, nos. 56532/22 and 2 others, 1 July 2025
Hirsi Jamaa and Others v. Italy [GC], no. 27765/09, ECHR 2012
Hode and Abdi v. the United Kingdom, no. 22341/09, 6 November 2012
Hoti v. Croatia, no. 63311/14, 26 April 2018
Hunde v. the Netherlands (dec.), no. 17931/16, 5 July 2016

—I—

I.K. v. Switzerland (dec.), no. 21417/17, 19 December 2017
I.M. v. France, no. 9152/09, 2 February 2012
I.M. v. Switzerland, no. 23887/16, 9 April 2019
Ilias and Ahmed v. Hungary [GC], no. 47287/15, 21 November 2019

—J—

J.A. and A.A. v. Türkiye, no. 80206/17, 6 February 2024
J.A. and Others v. Italy, no. 21329/18, 30 March 2023
J.H. v. the United Kingdom, no. 48839/09, 20 December 2011
J.K. and Others v. Sweden [GC], no. 59166/12, 23 August 2016
J.N. v. the United Kingdom, no. 37289/12, 19 May 2016
J.R. and Others v. Greece, no. 22696/16, 25 January 2018
Jeunesse v. the Netherlands [GC], no. 12738/10, 3 October 2014
Johansen v. Denmark (dec.), no. 27801/19, 1 February 2022

—K—

K2 v. the United Kingdom (dec.), no. 42387/13, 7 February 2017
K.G. v. Belgium, no. 52548/15, 6 November 2018
K.I. v. France, no. 5560/19, 15 April 2021
Kanagaratnam and Others v. Belgium, no. 15297/09, 13 December 2011
Khachaturov v. Armenia, no. 59687/17, 24 June 2021
Khachatryan and Konovalova v. Russia, no. 28895/14, 13 July 2021
Khan v. France, no. 12267/16, 28 February 2019
Khan v. Germany [GC], no. 38030/12, 21 September 2016
Khasanov and Rakhmanov v. Russia [GC], nos. 28492/15 and 49975/15, 29 April 2022
Kaya v. Germany, no. 31753/02, 28 June 2007
Kebe and Others v. Ukraine, no. 12552/12, 12 January 2017
Khlaifia and Others v. Italy [GC], no. 16483/12, 15 December 2016
Khudyakova v. Russia, no. 13476/04, 8 January 2009
Kim v. Russia, no. 44260/13, 17 July 2014
Kiyutin v. Russia, no. 2700/10, ECHR 2011
Komissarov v. the Czech Republic, no. 20611/17, 3 February 2022
Koua Poirrez v. France, no. 40892/98, ECHR 2003-X
Kumari v. the Netherlands (dec.), no. 44051/20, 19 November 2024

—L—

L.B. v. Lithuania, no. 38121/20, 14 June 2022
L.M. and Others v. Russia, nos. 40081/14 and 2 others, 15 October 2015
L.O. v. France (dec.), no. 4455/14, 26 May 2015
Lazăr v. Romania, no. 20183/21, 9 April 2024
Levakovic v. Denmark, no. 7841/14, 23 October 2018
Ljatifi v. the former Yugoslav Republic of Macedonia, no. 19017/16, 17 May 2018
Liu v. Poland, no. 37610/18, 6 October 2022
Longa Yonkeu v. Latvia, no. 57229/09, 15 November 2011
Louled Massoud v. Malta, no. 24340/08, 27 July 2010
Luczak v. Poland, no. 77782/01, 27 November 2007

—M—

M and Others v. Bulgaria, no. 41416/08, 26 July 2011
M.A. v. Belgium, no. 19656/18, 27 October 2020
M.A. v. Cyprus, no. no. 41872/10, ECHR 2013
M.A. v. Denmark [GC], no. 6697/18, 9 July 2021
M.A. v. France, no. 9373/15, 1 February 2018
M.A. v. Italy, no. 70583/17, 31 August 2023
M.A. v. Switzerland, no. 52589/13, 18 November 2014
M.A. and Others v. Latvia (dec.), no. 25564/18, 29 March 2022
M.A. and Others v. Lithuania, no. 59793/17, 11 December 2018
M.A. and Z.R. v. Cyprus, no. 39090/20, 8 October 2024
M.A.M. v. Switzerland, no. 29836/20, 26 April 2022
M.B. v. the Netherlands, no. 71008/16, 23 April 2024
M.D. v. France, no. 50376/13, 10 October 2019
M.D. and A.D. v. France, no. 57035/18, 22 July 2021

M.D. and M.A. v. Belgium, no. 58689/12, 19 January 2016
M.D. and Others v. Hungary, no. 60778/19, 19 September 2024
M.D. and Others v. Russia, nos. 71321/17 and 8 others, 14 September 2021
M.G. v. Bulgaria, no. 59297/12, 25 March 2014
M.H. and Others v. Croatia, nos. 15670/18 and 43115/18, 18 November 2021
M.H. and S.B. v. Hungary, nos. 10940/17 and 15977/17, 22 February 2024
M.K. and Others v. France, nos. 34349/18 and 2 others, 8 December 2022
M.K. and Others v. Poland, nos. 40503/17 and 2 others, 23 July 2020
M.M. v. Bulgaria, no. 75832/13, 8 June 2017
M.M. v. Switzerland, no. 59006/18, 8 December 2020
M.M.R. v. the Netherlands (dec.), no. 64047/10, 24 May 2016
M.N. and Others v. Belgium (dec.) [GC], no. 3599/18, 5 May 2020
M.N. and Others v. Turkey, no. 40462/16, 21 June 2022
M.O. v. Switzerland, no. 41282/16, 20 June 2017
M.S.S. v. Belgium and Greece [GC], no. 30696/09, ECHR 2011
M.T. and Others v. Sweden, no. 22105/18, 20 October 2022
M.Y.H. and Others v. Sweden, no. 50859/10, 27 June 2013
Maaouia v. France [GC], no. 39652/98, ECHR 2000-X
Mahmundi and Others v. Greece, no. 14902/10, 31 July 2012
Makdoudi v. Belgium, no. 12848/15, 18 February 2020
Mamatkulov and Askarov v. Turkey [GC], nos. 46827/99 and 46951/99, ECHR 2005-I
Mamazhonov v. Russia, no. 17239/13, 23 October 2014
Mansouri v. Italy (dec.) [GC], no. 63386/16, 29 April 2025
Martinez Alvarado v. the Netherlands, no. 4470/21, 10 December 2024
Maslov v. Austria [GC], no. 1638/03, ECHR 2008
Matthews and Johnson v. Romania, nos. 19124/21 and 20085/21, 9 April 2024
McCallum v. Italy (dec.) [GC], no. 20863/21, 21 September 2022
Mikolenko v. Estonia, no. 10664/05, 8 October 2009
Minasian and Others v. the Republic of Moldova, no. 26879/17, 17 January 2023
Mir Isfahani v. the Netherlands (dec.), no. 31252/03, 31 August 2008
Mirzoyan v. the Czech Republic, nos. 15117/21 and 15689/21, 16 May 2024
Moustahi v. France, no. 9347/14, 25 June 2020
Mubilanzila Mayeka and Kaniki Mitunga v. Belgium, no. 13178/03, ECHR 2006-XI
Mugenzi v. France, no. 52701/09, 10 July 2014
Muhammad and Muhammad v. Romania [GC], no. 80982/12, 15 October 2020
Muhammad Saqawat v. Belgium, no. 54962/18, 30 June 2020
Muskhadzhiyeva and Others v. Belgium, 41442/07, 19 January 2010

—N—

N. and M. v. Russia (dec.), nos. 39496/14 and 39727/14, 26 April 2016
N. v. Finland, no. 38885/02, 26 July 2005
N. v. Sweden, no. 23505/09, 20 July 2010
N. v. the United Kingdom [GC], no. 26565/05, ECHR 2008
N.A. v. Finland (revision), no. 25244/18, 13 July 2021
N.B. and Others v. France, no. 49775/20, 31 March 2022
N.D. and N.T. v. Spain [GC], nos. 8675/15 and 8697/15, 13 February 2020
N.H. and Others v. France, nos. 28820/13 and 2 others, 2 July 2020
N.T.P. and Others v. France, no. 68862/13, 24 May 2018
NA. v. the United Kingdom, no. 25904/07, 17 July 2008
Nada v. Switzerland [GC], no. 10593/08, ECHR 2012

Ndidi v. the United Kingdom, no. 41215/14, 14 September 2017
Niedzwiecki v. Germany, no. 58453/00, 25 October 2005
Nikoghosyan and Others v. Poland, no. 14743/17, 3 March 2022
Novruk and Others v. Russia, nos. 31039/11 and 4 others, 15 March 2016
Nowak v. Ukraine, no. 60846/10, 31 March 2011

—O—

O.D. v. Bulgaria, no. 34016/18, 10 October 2019
O.H. and Others v. Serbia, no. 57185/17, 3 February 2026
O.M. v. Hungary, no. 9912/15, 5 July 2016
O.M. and D.S. v. Ukraine, no. 18603/12, 15 September 2022
O.R. v. Greece, no. 24650/19, 23 January 2024
O'Donoghue and Others v. the United Kingdom, no. 34848/07, ECHR 2010 (extracts)
Ojei v. the Netherlands (dec.), no. 64724/10, 14 March 2017
Okubamichael Debru v. Sweden, no. 49755/18, 25 July 2024
Omwenyeke v. Germany (dec.), no. 44294/04, 20 November 2007
Onyejiekwe v. Austria (dec.), no. 20203/11, 9 October 2012
Othman (Abu Qatada) v. the United Kingdom, no. 8139/09, ECHR 2012 (extracts)

—P—

P.J. and R.J. v. Switzerland, no. 52232/20, 17 September 2024
Panjeheighalehei v. Denmark (dec.), no. 11230/07, 13 October 2009
Paposhvili v. Belgium [GC], no. 41738/10, 13 December 2016
Piermont v. France, 27 April 1995, Series A no. 314
Ponomaryovi v. Bulgaria, no. 5335/05, ECHR 2011
Popov v. France, nos. 39472/07 and 39474/07, 19 January 2012
Pormes v. the Netherlands, no. 25402/14, 28 July 2020

—R—

R v. France, no. 49857/20, 30 August 2022
R.B.A.B. v. the Netherlands, no. 7211/06, 7 June 2016
R.C. and V.C. v. France, no. 76491/14, 12 July 2016
R.D. v. France, no. 34648/14, 16 June 2016
R.H. v. Sweden, no. 4601/14, 10 September 2015
R.K. and Others v. France, no.68264/14, 12 July 2016
R.M. and Others v. France, no. 33201/11, 12 July 2016
R.R. and Others v. Hungary, no. 36037/17, 2 March 2021
R.U. v. Greece, no. 2237/08, 7 June 2011
Rahimi v. Greece, no. 8687/08, 5 April 2011
Ramadan v. Malta, no. 76136/12, 21 June 2016
Rantsev v. Cyprus and Russia, no. 25965/04, ECHR 2010 (extracts)
Riad and Idiab v. Belgium, nos. 29787/03 and 29810/03, 24 January 2008
Rodrigues da Silva and Hoogkamer v. the Netherlands, no. 50435/99, ECHR 2006-I

—S—

S.D. v. Greece, no. 53541/07, 11 June 2009
S.E. v. Serbia, no. 61365/16, 11 July 2023
S.F. v. Finland, no. 35276/20, 8 October 2024
S.F. and Others v. Bulgaria, no. 8138/16, 7 December 2017
S.H. v. Malta, no. 37241/21, 20 December 2022
Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia, no. 14165/16, 13 June 2019
S.L. v. Romania (dec.), no. 52693/12, 29 November 2022
S.S. and Others v. Hungary, nos. 56417/19 and 44245/20, 12 October 2023
S.S. and Others v. Italy (dec.), no. 21660/18, 20 May 2025
S.Z. v. Greece, no. 66702/13, 21 June 2018
Saadi v. Italy [GC], no. 37201/06, ECHR 2008
Saadi v. the United Kingdom [GC], no. 13229/03, ECHR 2008
Saakashvili v. Georgia (dec.), nos. 6232/20 and 22394/20, 1 March 2022
Safi and Others v. Greece, no. 5418/15, 7 July 2022
Sahiti v. Belgium, no. 24421/20, 9 October 2025
Sanchez-Sanchez v. the United Kingdom [GC], no. 22854/20, 3 November 2022
Saidoun v. Greece, no. 40083/07, 28 October 2010
Sakkal and Fares v. Turkey (dec.), no. 52902/15, 7 June 2016
Sakir v. Greece, no. 48475/09, 24 March 2016
Salah Sheekh v. the Netherlands, no. 1948/04, 11 January 2007
Savran v. Denmark [GC], no. 57467/15, 7 December 2021
Savriddin Dzhurayev v. Russia, no. 71386/10, ECHR 2013 (extracts)
Schembri v. Malta (dec.), no. 66297/13, 19 September 2017
Senigo Longue and Others v. France, no. 19113/09, 10 July 2014
Sergey Smirnov v. Russia (dec.), no. 14085/04, 6 July 2006
Shahzad v. Hungary, no. 12625/17, 8 July 2021
Shahzad v. Hungary (no. 2), no. 37967/18, 5 October 2023
Shamayev and Others v. Georgia and Russia, no. 36378/02, ECHR 2005-III
Sharafane v. Denmark, no. 5199/23, 12 November 2024
Sharifi and Others v. Italy and Greece, no. 16643/09, 21 October 2014
Shenturk and Others v. Azerbaijan, nos. 41326/17 and 3 others, 10 March 2022
Sherov and Others v. Poland, nos. 54029/17 and 3 others, 4 April 2024
Shiksaitov v. Slovakia, nos. 56751/16 and 33762/17, 10 December 2020
Shioshvili and Others v. Russia, no. 19356/07, 20 December 2016
Siles Cabrera v. Spain, no. 5212/23, 17 July 2025
Singh v. the Czech Republic, no. 60538/00, 25 January 2005
Singh and Others v. Belgium, no. 33210/11, 2 October 2012
Slivenko and Others v. Latvia (dec.) [GC], no. 48321/99, ECHR 2002-II (extracts)
Soering v. the United Kingdom, 7 July 1989, Series A no. 161
Sow v. Belgium, no. 27081/13, 19 January 2016
Stamose v. Bulgaria, no. 29713/05, ECHR 2012
Sudita Keita v. Hungary, no. 42321/15, 12 May 2020
Sufi and Elmi v. the United Kingdom, nos. 8319/07 and 11449/07, 28 June 2011
Sultani v. France, no. 45223/05, ECHR 2007-IV (extracts)
Sumbayev v. Georgia (dec.), no. 45240/22, 24 June 2025
Suso Musa v. Malta, no. 42337/12, 23 July 2013

—T—

T.C.E. v. Germany, no. 58681/12, 1 March 2018
T.I. and Others v. Greece, 40311/10, 18 July 2019
T.K. and Others v. Lithuania, no. 55978/20, 22 March 2022
Taddeucci and McCall v. Italy, no. 51362/09, 30 June 2016
Tanda-Muzinga v. France, no. 2260/10, 10 July 2014
Tarakhel v. Switzerland [GC], no. 29217/12, ECHR 2014 (extracts)
Tehrani and Others v. Turkey, nos. 32940/08 and 2 others, 13 April 2010
Thiam v. Italy (dec.), no. 21329/16, 30 August 2022
Thimothawes v. Belgium, no. 39061/11, 4 April 2017
Thuo v. Cyprus, no. 3869/07, 4 April 2017

—U—

Üner v. the Netherlands [GC], no. 46410/99, ECHR 2006-XII
Unuane v. the United Kingdom, no. 80343/17, 24 November 2020
Usmanov v. Russia, no. 43936/18, 22 December 2020

—V—

V.F. v. France (dec.), no. 7196/10, 29 November 2011

—W—

W v. France, no. 1348/21, 30 August 2022
W.A. and Others v. Italy, no. 18787/17, 16 November 2023
Weller v. Hungary, no. 44399/05, 31 March 2009
Winther v. Denmark, no. 9588/21, 12 November 2024

—X—

X v. Sweden, no. 36417/16, 9 January 2018
X v. Switzerland, no. 16744/14, 26 January 2017

—Y—

Yoh-Ekale Mwanje v. Belgium, no. 10486/10, 20 December 2011

—Z—

Z and T v. the United Kingdom (dec.), no. 27034/05, 28 February 2006
Z.A. and Others v. Russia [GC], no. 61411/15 and 3 others, 21 November 2019