Compilation of jurisprudence

Vulnerability in the context of applications for international protection

EASO Professional Development Series for members of courts and tribunals

Produced by IARMJ-Europe under contract to EASO

2021

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European Asylum Support Office

EASO is an agency of the European Union that plays a key role in the concrete development of the Common European Asylum System (CEAS). It was established with the aim of enhancing practical cooperation on asylum matters and helping Member States fulfil their European and international obligations to give protection to people in need.

Article 6 of the EASO founding Regulation ([1]) (hereinafter the Regulation) specifies that the Agency shall establish and develop training available to members of courts and tribunals in the Member States. For this purpose, EASO shall take advantage of the expertise of academic institutions and other relevant organisations, and take into account the Union's existing cooperation in the field with full respect to the independence of national courts and tribunals.

International Association of Refugee and Migration Judges

The International Association of Refugee and Migration Judges (IARMJ) ([2]) is a transnational, non-profit association that seeks to foster recognition that protection from persecution on account of race, religion, nationality, membership in a particular social group, or political opinion is an individual right established under international law, and that the determination of refugee status and its cessation should be subject to the rule of law. Since the foundation of the association in 1997, it has been heavily involved in the training of judges around the world dealing with asylum cases. The European Chapter of the IARMJ (IARMJ-Europe) is the regional representative body for judges within Europe. One of the Chapter's specific objectives under its Constitution is 'to enhance knowledge and skills and to exchange views and experiences of judges on all matters concerning the application and functioning of the Common European Asylum System (CEAS)'.

Contributors

This compilation of jurisprudence has been developed by a process with two components: an Editorial team (ET) of judges and tribunal members with overall responsibility for the final product and two researchers responsible for drafting.

In order to ensure the integrity of the principle of judicial independence and that the EASO Professional development series for members of courts and tribunals is developed and delivered under judicial guidance, an ET, composed of serving judges and tribunal members with extensive experience and expertise in the field of asylum law, was selected under the auspices of a Joint monitoring group (JMG). The JMG is composed of representatives of the contracting parties, EASO and IARMJ-Europe. The ET reviewed drafts, gave detailed instructions to the drafting team, drafted amendments, and was the final decision-making body as to the scope, structure, content, and design of the work. The work of the ET was undertaken through regular electronic/ telephonic communication.

Editorial team of judges and tribunal members

The judges and tribunal members of the ET for this compilation of jurisprudence were: **Mona Aldestam** (Sweden, Co-Chair), **Michael Hoppe** (Germany, Co-Chair), **Johan Berg** (Norway), **Katelijne Declerck** (Belgium), **Nadine Finch** (UK), **Florence Malvasio** (France), **Melanie Plimmer** (UK), and **Boštjan Zalar** (Slovenia). The ET was supported and assisted in its task by Project Coordination Manager, **Clara Odofin**.

([1]) Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office [2010] OJ L 132/11.

([2]) Formerly known as the International Association of Refugee Law Judges (IARLJ).

Drafters

Claire Thomas (consultant) was the primary drafter, along with **Frances Nicholson** (consultant) who provided editorial support.

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Comments on the draft were received from **Lars Bay Larsen**, a judge, and **Yann Laurans**, a legal secretary, both of the Court of Justice of the European Union (CJEU), and from the judge **Jolien Schukking** and the lawyers **Elise Russcher** and **Agnes van Steijn** of the European Court of Human Rights (ECtHR) in their personal capacities.

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Comments were also received from the following EASO Court and Tribunal Network members and the EASO Consultative Forum: European Union Agency for Fundamental Rights; **Anders Bengtsson** (legal expert, Administrative Court in Gothenburg, Sweden); **Volker Ellenberger** (President of the Higher Administrative Court of Baden-Württemberg, Germany); **Jonas Säfwenberg** (legal expert, Administrative Court in Gothenburg, Sweden); and **Hugo Storey** (Upper Tribunal (Immigration and Asylum Chamber), UK).

All these comments were taken into consideration by the ET in finalising the text for publication. The members of the ET and EASO are grateful to all those who have made comments which have been very helpful in finalising this Compilation.

This compilation of jurisprudence will be updated, as necessary, by EASO in accordance with the methodology for the EASO Professional development series for members of courts and tribunals.

Compilation of jurisprudence – explanatory note

The purpose of this Compilation of Jurisprudence is to be an accompanying resource to the Judicial analysis and to provide courts and tribunals in Member States with a helpful aid when hearing appeals or conducting reviews of decisions on applications concerning vulnerability.

The cases in this Compilation are confined to those which have been named within the main body of text of the Judicial analysis. Included in this Compilation is jurisprudence from

— European courts, that is, the Court of Justice of the European Union (CJEU) and the European Court of Human rights (ECtHR);

— United Nations, that is the Committee on the Rights of the Child (CRC); the Committee Against Torture (CAT) and the Human Rights Committee (HRC).

Within these sections, cases are listed in date order from the oldest to the most recent.

All cases cited or otherwise mentioned in the footnotes of the Judicial analysis, included all National cases, can be found in *Appendix B: Primary Sources of the Judicial Analysis.* Further information on all cases can be found through the hyperlinks provided or via the list of websites provided at the end of this Compilation.

Court of Justice of the European Union (CJEU)

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU (Grand Chamber [GC])	***Elgafaji v Staatssecretaris van Justitie*** C-465/07 EU:C:2009:94 17.02.2009	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 15(c) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, in conjunction with Article 2(e) of that directive Directive 2004/83/EC – Minimum standards for determining who qualifies for refugee status or for subsidiary protection status – Person eligible for subsidiary protection – Article 2(e) – Real risk of suffering serious harm – Article 15(c) – Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of armed conflict **Paras. 38-39:** '38. The exceptional nature of that situation is also confirmed by the fact that the relevant protection is subsidiary, and by the broad logic of Article 15 of the Directive, as the harm defined in paragraphs (a) and (b) of that article requires a clear degree of individualisation. While it is admittedly true that collective factors play a significant role in the application of Article 15(c) of the Directive, in that the person concerned belongs, like other people, to a circle of potential victims of indiscriminate violence in situations of international or internal armed conflict, it is nevertheless the case that that provision must be subject to a coherent interpretation in relation to the other two situations referred to in Article 15 of the Directive and must, therefore, be interpreted by close reference to that individualisation. '39. In that regard, the more the applicant is able to show that he is specifically affected by reason of factors particular to his personal circumstances, the lower the level of indiscriminate violence required for him to be eligible for subsidiary protection.' **Para. 42:** '42.According to settled case-law, in applying national law, whether the provisions in question were adopted before or after the directive, the national court called upon to interpret it is required to do so, as far as possible, in the light of the wording and the purpose of the directive in order to achieve the result pursued by the latter and thereby comply with the third paragraph of Article 249 EC.'	*Marle asing*, C-106/89, 13 November 1990 *Commune de Mesquer*, C-188/07, 24 June 2008 *NA* v *United Kingdom*, C-115/15, 30 June 2016

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***Samba Diouf* v *Ministre du Travail, de l'Emploi et de l'Immigration*** C-69/10 EU:C:2011:524 28.07.2011	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 39 of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status Directive 2005/85/EC – Minimum standards on procedures in Member States for granting and withdrawing refugee status – 'Decision taken on [the] application for asylum' within the meaning of Article 39 of Directive 2005/85 – Application by a third country national for refugee status – Failure to provide reasons justifying the grant of international protection – Application rejected under an accelerated procedure – No remedy against the decision to deal with the application under an accelerated procedure – Right to effective judicial review. **Paras. 65-68:** '65. In that regard, it must be stated at the outset that the differences that exist, in the national rules, between the accelerated procedure and the ordinary procedure, the effect of which is that the time-limit for bringing an action is shortened and that there is only one level of jurisdiction, are connected with the nature of the procedure put in place. The provisions at issue in the main proceedings are intended to ensure that unfounded or inadmissible applications for asylum are processed more quickly, in order that applications submitted by persons who have good grounds for benefiting from refugee status may be processed more efficiently. '66. As regards the fact that the time-limit for bringing an action is 15 days in the case of an accelerated procedure, whilst it is 1 month in the case of a decision adopted under the ordinary procedure, the important point, as the Advocate General has stated in point 63 of his Opinion, is that the period prescribed must be sufficient in practical terms to enable the applicant to prepare and bring an effective action. '67. With regard to abbreviated procedures, a 15-day time limit for bringing an action does not seem, generally, to be insufficient in practical terms to prepare and bring an effective action and appears reasonable and proportionate in relation to the rights and interests involved. '68. It is, however, for the national court to determine – should that time-limit prove, in a given situation, to be insufficient in view of the circumstances – whether that element is such as to justify, on its own, upholding the action brought indirectly against the decision to examine the application for asylum under an accelerated procedure, so that, in upholding the action, the national court would order that the application be examined under the ordinary procedure.'	*DEB,* C-279/09, 22 December 2010 *Chartry*, C-457/09, 1 March 2011 *Safalero*, C-13/01, 11 September 2003 *Wilson,* C-506/04, 19 September 2006 *Angelidaki and Others*, joined cases C-378/07 to 380/07, 23 April 2009 *Impact*, C-268/06, 15 April 2008

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***NS* v *Secretary of State for the Home Department and ME and Others* v *Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*** C-411/10 and C-493/10 EU:C:2011:865 21.12.2011	Judgment after a reference for a preliminary ruling concerning the interpretation, first, of Article 3(2) of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and, second, the fundamental rights of the European Union and, third, Protocol (No 30) on the application of the Charter to Poland and to the United Kingdom European Union law – Principles – Fundamental rights – Implementation of European Union law – Prohibition of inhuman or degrading treatment – Common European Asylum System – Regulation (EC) No 343/2003 – Concept of 'safe countries' – Transfer of an asylum seeker to the Member State responsible – Obligation – Rebuttable presumption of compliance, by that Member State, with fundamental rights **Para. 77:** '77. According to settled case-law, the Member States must not only interpret their national law in a manner consistent with European Union law but also make sure they do not rely on an interpretation of an instrument of secondary legislation which would be in conflict with the fundamental rights protected by the European Union legal order or with the other general principles of European Union law.' **Para. 94:** '94. It follows from the foregoing that in situations such as that at issue in the cases in the main proceedings, to ensure compliance by the European Union and its Member States with their obligations concerning the protection of the fundamental rights of asylum seekers, the Member States, including the national courts, may not transfer an asylum seeker to the 'Member State responsible' within the meaning of Regulation No 343/2003 where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that Member State amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment within the meaning of Article 4 of the Charter.' **Para. 98:** '98. The Member State in which the asylum seeker is present must, however, ensure that it does not worsen a situation where the fundamental rights of that applicant have been infringed by using a procedure for determining the Member State responsible which takes an unreasonable length of time. If necessary, that Member State must itself examine the application in accordance with the procedure laid down in Article 3(2) of Regulation No 343/2003.'	*Wachauf*, C-5/88, 13 July 1989 *Chakroun*, C-578/08, 4 March 2010 *McB*, C-400/10, 5 October 2010 *ERT*, C-260/89, 18 June 1991 *Salahadin Abdulla and Others*, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, 2 March 2010 *Bolbol*, C-31/09, 17 June 2010 *Lindqvist*, C-101/01, 6 November 2003 *Ordre des barreaux francophones et germanophone and Others*, C-305/05, 26 June 2007 ECtHR, *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 99: '99. It follows from all of the foregoing considerations that, as stated by the Advocate General in paragraph 131 of her Opinion, an application of Regulation No 343/2003 on the basis of the conclusive presumption that the asylum seeker's fundamental rights will be observed in the Member State primarily responsible for his application is incompatible with the duty of the Member States to interpret and apply Regulation No 343/2003 in a manner consistent with fundamental rights.'	ECtHR, *KRS* v *United Kingdom* (dec), no 32733/08, 2 December 2008
CJEU	***Bundesrepublik Deutschland* v *Y and Z*** C-71/11 and C-99/11 EU:C:2012:518 05.09.2012	Judgment after a reference for a preliminary ruling concerning the interpretation of Articles 2(c) and 9(1)(a) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or Stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted Directive 2004/83/EC – Minimum standards for determining who qualifies for refugee status or for subsidiary protection status – Classification as a 'refugee'– Definition of 'acts of persecution' — Religion as ground for persecution – Acts by the Pakistani authorities designed to prohibit the manifestation of a person's religion in public – well-founded fear of being persecuted on account of his religion **Para. 70:** '70. In assessing such a risk, the competent authorities must take account of a number of factors, both objective and subjective. The subjective circumstance that the observance of a certain religious practice in public, which is subject to the restrictions at issue, is of particular importance to the person concerned in order to preserve his religious identity is a relevant factor to be taken into account in determining the level of risk to which the applicant will be exposed in his country of origin on account of his religion, even if the observance of such a religious practice does not constitute a core element of faith for the religious community concerned.'	*Salahadin Abdulla and Others*, joined Cases C-175/08, C-176/08, C-178/08 and C-179/08, 2 March 2010 *Bolbol*, C-31/09, 17 June 2010 *NS* v *Secretary of State for the Home Department and ME and Others* v *Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*, joined Cases C-411/10 and C-493/10, 21 December 2011

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***Cimade and Groupe d'information et de soutien des immigrés (GISTI) v Ministre de l'intérieur, de l'outre-mer, des collectivités territoriales et de l'immigration*** C-179/11 EU:C:2012:594 27.09.2012	Judgment after a reference for a preliminary ruling concerning the interpretation of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers in the Member States. Applications for asylum – Directive 2003/9/EC – Minimum standards for the reception of asylum seekers in the Member States – Regulation (EC) No 343/2003 – Obligation to guarantee asylum seekers minimum reception conditions during the procedure of taking charge or taking back by the responsible Member State – Determining the Member State obliged to assume the financial burden of the minimum conditions **Para. 52:** '52. With regard to the duration of the obligation to grant the minimum reception conditions, it should be recalled, first, as was stated in paragraphs 36 and 37 above, that the personal scope of Directive 2003/9 encompasses any asylum seeker who has lodged an application for asylum for the first time with a Member State.' **Para. 54:** '54. Third, it follows from Articles 17 to 19 of Regulation No 343/2003 that the mere request by a Member State in receipt of an application for asylum for the taking charge of the applicant concerned by another Member State does not bring the examination of the application for asylum by the requesting Member State to an end. Even where the requested Member State accepts that taking charge, the fact nevertheless remains that, in accordance with Article 19(4) of Regulation No 343/2003, the responsibility for the examination of the application for asylum falls to the Member State with which that application was lodged, if the transfer is not carried out within the six-month period. Furthermore, as stated in paragraph 44 above, where the requested Member State replies in the negative, the legislation in question provides only for a voluntary conciliation procedure and, in such a case, it cannot be excluded that the asylum seeker will remain in the territory of the requesting Member State.' **Para. 56:** '56. In addition, further to the general scheme and purpose of Directive 2003/9 and the observance of fundamental rights, in particular the requirements of Article 1 of the Charter, under which human dignity must be respected and protected, the asylum seeker may not, as stated in paragraphs 41 to 44 above, be deprived – even for a temporary period of time after the making of the application for asylum and before being actually transferred to the responsible Member State – of the protection of the minimum standards laid down by that directive.'	None.

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 61: '61. Accordingly, the answer to the second question is that the obligation on a Member State in receipt of an application for asylum to grant the minimum reception conditions laid down in Directive 2003/9 to an asylum seeker in respect of whom it decides, under Regulation No 343/2003, to call upon another Member State, as the Member State responsible for examining his application for asylum, to take charge of or take back that applicant, ceases when that same applicant is actually transferred by the requesting Member State, and the financial burden of granting those minimum conditions is to be assumed by that requesting Member State, which is subject to that obligation.'	
CJEU	***The Queen, on the application of MA and Others* v *Secretary of State for the Home Department*** C-648/11 EU:C:2013:367 06.06.2013	Judgment after a reference for a preliminary ruling under Article 267 TFEU from the Court of Appeal (England and Wales) (Civil Division) (United Kingdom), concerning the interpretation of the second paragraph of Article 6 of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national Regulation (EC) No 343/2003 – Determining the Member State responsible – Unaccompanied minor – Successive applications lodged in two Member States – Absence of a member of the family of the minor in the territory of a Member State – Transfer of the minor to the Member State in which he lodged his first application – Compatibility – Child's best interests. **Para. 57:** '57. Those fundamental rights include, in particular, that set out in Article 24(2) of the Charter, whereby in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests are to be a primary consideration.'	*Djabali*, C-314/96, 12 March 1998 *García Blanco*, C-225/02, 20 January 2005 *Unió de Pagesos de Catalunya,* C-197/10, 15 September 2011 *Rosenbladt*, C-45/09, 12 October 2010 *Migrationsverket* v *Edgar Petrosian and Others*, C-19/08, 29 January 2009 *Detiček* , C-403/09, 23 December 2009 *McB.*, C-400/10, 5 October 2010

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***Minister voor Immigratie en Asiel* v *X, Y, and Z* v *Minister voor Immigratie en Asiel*** Joined cases C-199/12 to C-201/12 EU:C:2013:720 07.11.2013	Judgment after a reference for a preliminary concerning the interpretation of Article 9(1)(a) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or Stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, read in conjunction with Article 9(2)(c) and Article 10(1)(d) thereof Directive 2004/83/EC – Minimum standards relating to the conditions for granting refugee status or subsidiary protection status – Membership of a particular social group – Sexual orientation – Concept of 'persecution' –persecuted on account of membership of a particular social group **Para. 40:** '40. The Directive must, for that reason, be interpreted in the light of its general scheme and purpose, and in a manner consistent with the Geneva Convention and the other relevant treaties referred to in Article 78(1) TFEU. As is apparent from recital 10 in the preamble thereto, the directive must also be interpreted in a manner consistent with the rights recognised by the Charter.' **Paras. 53-54:** '53. It is clear from those provisions that, for a violation of fundamental rights to constitute persecution within the meaning of Article 1(A) of the Geneva Convention, it must be sufficiently serious. Therefore, not all violations of fundamental rights suffered by a homosexual asylum seeker will necessarily reach that level of seriousness. '54. In that connection, it must be stated at the outset that the fundamental rights specifically linked to the sexual orientation concerned in each of the cases in the main proceedings, such as the right to respect for private and family life, which is protected by Article 8 of the ECHR, to which Article 7 of the Charter corresponds, read together, where necessary, with Article 14 ECHR, on which Article 21(1) of the Charter is based, is not among the fundamental human rights from which no derogation is possible.' **Paras. 56-57:** '56. However, the term of imprisonment which accompanies a legislative provision which, like those at issue in the main proceedings, punishes homosexual acts is capable, in itself of constituting an act of persecution within the meaning of Article 9(1) of the Directive, provided that it is actually applied in the country of origin which adopted such legislation.	*Y and Z*, joined cases C-71/11 and C-99/11, 5 September 2012 *Abed El Karem El Kott and Others*, C-364/11, 19 December 2012 *Salahadin Abdulla and Others*, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, 2 March 2010

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'57. Such a sanction infringes Article 8 ECHR, to which Article 7 of the Charter corresponds, and constitutes punishment which is disproportionate or discriminatory within the meaning of Article 9(2)(c) of the Directive.' **Paras. 63-64:** '63. In order to answer that question, that the referring court has divided into several parts, it must be observed that it refers to a situation in which, as in the cases in the main proceedings, the applicant has not shown that he has already been persecuted or has already been subject to direct threats of persecution on account of his membership of a particular social group whose members share the same sexual orientation. '64. The lack of such a serious indication of a well-founded fear on the part of the applicants, within the meaning of Article 4(4) of the Directive, explains the referring court's need to know to what extent it may be open to it, where an applicant cannot base his fear on persecution already suffered on account of his membership of that group, to require that, on return to his country of origin, he should continue to avoid the risk of persecution by concealing his homosexuality or, at the very least, that he should exercise restraint in expressing his sexual orientation.'	
CJEU	***Federal agentshap voor de opvang van asielzoekers* v *Selver Saciri, Danijela Dordevic, Danjel Saciri, Sanela Saciri, Denis Saciri, Openbaar Centrum voor Maatschappelijk Welzijn van Diest*** C-79/13 EU:C:2014:103 27.02.2014	Judgment after a reference for a preliminary ruling concerns the interpretation of Article 13(5) of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers Directive 2003/9/EC – Minimum standards for the reception of asylum seekers in the Member States – Time-limits for material reception conditions – Provisions on material reception conditions – Guarantees – Setting and grant of minimum reception conditions for asylum seekers – Size of the aid granted. **Para. 34:** '34. It is apparent from the very terms of Article 13(1) of Directive 2003/9 that the material reception conditions must be available to asylum seekers, whether provided in kind or in the form of financial allowances, when they make their application for asylum.' **Para. 41:** '41. It follows therefrom that, although the amount of the financial aid granted is to be determined by each Member State, it must be sufficient to ensure a dignified standard of living and adequate for the health of applicants and capable of ensuring their subsistence.'	*Cimade and GISTI*, C-179/11, 27 September 2012

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 42: '42. In the context of setting the material reception conditions in the form of financial allowances, pursuant to the second subparagraph of Article 13(2) of Directive 2003/9, the Member States are required to adjust the reception conditions to the situation of persons having specific needs, as referred to in Article 17 of the directive. Accordingly, the financial allowances must be sufficient to preserve family unity and the best interests of the child which, pursuant to Article 18(1), are to be a primary consideration.' **Para. 45:** '45. However, although Article 14(3) of that directive does not apply where the material reception conditions are provided exclusively in the form of financial allowances, the fact remains that those allowances must enable, if necessary, minor children of asylum seekers to be housed with their parents, so that the family unity, as referred to in paragraph 41 of the present judgment, is maintained.' **Para. 48:** '48. In that regard, it is necessary to bear in mind that, if the Member States are not in a position to grant the material reception conditions in kind, Directive 2003/9 leaves them the possibility of opting to grant the material reception conditions in the form of financial allowances. Those allowances must, however, be sufficient to meet the basic needs of asylum seekers, including a dignified standard of living, and must be adequate for their health.' **Para. 49:** '49. Given that the Member States have a certain margin of discretion as regards the methods by which they provide the material reception conditions, they may thus make payment of the financial allowances using the bodies which form part of the general public assistance system as intermediary, provided that those bodies ensure that the minimum standards laid down in that directive as regards the asylum seekers are met.' **Para. 50:** '50. In that regard, it must be pointed out that it is for the Member States to ensure that those bodies meet the minimum standards for the reception of asylum seekers, saturation of the reception networks not being a justification for any derogation from meeting those standards.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***A, B, and C v Staatssecretaris van Veiligheid en Justitie*** Joined Cases C-148/13 to C-150/13 ECLI:EU:C:2014:2406 02.12.2014	Judgment after a reference for a preliminary ruling concern the interpretation of Article 4 of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted and Articles 3 and 7 of the Charter of Fundamental Rights of the European Union Area of freedom, security and justice — Directive 2004/83/EC — Minimum standards for granting refugee status or subsidiary protection status — Article 4 — Assessment of facts and circumstances — Methods of assessment — Acceptance of certain types of evidence — Extent of the competent national authority's powers — Fear of persecution on grounds of sexual orientation. **Para. 57:** '57. It should be noted in that regard that, in accordance with Article 4(3)(c) of Directive 2004/83, that assessment must be made on an individual basis and must take account of the individual situation and personal circumstances of the applicant, including factors such as background, gender and age, in order for it to be determined whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm.' **Paras. 61-62:** '61. In that respect, it should be recalled that Article 4(3)(c) of Directive 2004/83 requires the competent authorities to carry out an assessment that takes account of the individual position and personal circumstances of the applicant and that Article 13(3)(a) of Directive 2005/85 requires those authorities to conduct the interview in a manner that takes account of the personal and general circumstances surrounding the application. '62.While questions based on stereotyped notions may be a useful element at the disposal of competent authorities for the purposes of the assessment, the assessment of applications for the grant of refugee status on the basis solely of stereotyped notions associated with homosexuals does not, nevertheless, satisfy the requirements of the provisions referred to in the previous paragraph, in that it does not allow those authorities to take account of the individual situation and personal circumstances of the applicant for asylum concerned.'	*N*, C-604/12, 8 May 2014 *X and Others*, C-199/12 to C-201/12, 7 November 2013 *M*, C-277/11, 22 November 2012

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Paras. 64-66: '64. In the second place, while the national authorities are entitled to carry out, where appropriate, interviews in order to determine the facts and circumstances as regards the declared sexual orientation of an applicant for asylum, questions concerning details of the sexual practices of that applicant are contrary to the fundamental rights guaranteed by the Charter and, in particular, to the right to respect for private and family life as affirmed in Article 7 thereof. '65. In relation, in the third place, to the option for the national authorities of allowing, as certain applicants in the main proceedings proposed, homosexual acts to be performed, the submission of the applicants to possible 'tests' in order to demonstrate their homosexuality or even the production by those applicants of evidence such as films of their intimate acts, it must be pointed out that, besides the fact that such evidence does not necessarily have probative value, such evidence would of its nature infringe human dignity, the respect of which is guaranteed by Article 1 of the Charter. '66. Furthermore, the effect of authorising or accepting such types of evidence would be to incite other applicants to offer the same and would lead, de facto, to requiring applicants to provide such evidence.' **Para. 69:** '69. However, having regard to the sensitive nature of questions relating to a person's personal identity and, in particular, his sexuality, it cannot be concluded that the declared sexuality lacks credibility simply because, due to his reticence in revealing intimate aspects of his life, that person did not declare his homosexuality at the outset.' **Para. 70:** '70. Moreover, it must be observed that the obligation laid down by Article 4(1) of Directive 2004/83 to submit all elements needed to substantiate the application for international protection 'as soon as possible' is tempered by the requirement imposed on the competent authorities, under Article 13(3)(a) of Directive 2005/85 and Article 4(3) of Directive 2004/83 to conduct the interview taking account of the personal or general circumstances surrounding the application, in particular, the vulnerability of the applicant, and to carry out an individual assessment of the application, taking account of the individual position and personal circumstances of each applicant.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***Khaled Boudjlida v Préfet des Pyrénées-Atlantiques*** C-249/13 EU:C:2014:2431 11.12.2014	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 6 of Directive 2008/115/EC for returning illegally staying third-country nationals and of the right to be heard in all proceedings Directive 2008/115/EC — Return of illegally staying third-country nationals — Principle of respect for the rights of the defence — Right of an illegally staying third-country national to be heard before the adoption of a decision liable to affect his interests — Return decision — Right to be heard before the return decision is issued — Extent of that right **Paras. 33-34:** '33. Consequently, an applicant for a resident permit cannot derive from Article 41(2)(a) of the Charter a right to be heard in all proceedings relating to his application (the judgment in *Mukarubega*, EU:C:2014:2336, paragraph 44). '34. Such a right is however inherent in respect for the rights of the defence, which is a general principle of EU law (the judgment in *Mukarubega*, EU:C:2014:2336, paragraph 45).'	*Mukarubega*, C-166/13, 5 November 2014 *Kamino International Logistics*, C-129/13, 3 July 2014 *YS and Others*, C-141/12 and C-372/12, 17 July 2014 *Cicala,* C-482/10, 21 December 2011 *M*, C-277/11, 22 November 2012 *Technische Universität München,* C-269/90, 21 November 1991 *Sopropé,* C-349/07, 18 December 2008 *G and R,* C-383/13, 10 September 2013 *Alassini and Others*, C-317/08 to C-320/08, 18 March 2010 *Texdata Software*, C-418/11, 26 September 2013 *Achughbabian,* C-329/11, 6 December 2011

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***Mohamed M'Bodj* v *État belge*** C-542/13 EU:C:2014:2452 18.12.2014	Judgment after a reference for a preliminary ruling concerning the interpretation of Articles 2(e) and (f), 15, 18, 20(3), 28 and 29 of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted Charter of Fundamental Rights of the European Union — Directive 2004/83/EC — Minimum standards for determining who qualifies for refugee status or subsidiary protection status — Torture or inhuman or degrading treatment or punishment of an applicant in the country of origin — More favourable standards — Applicant suffering from a serious illness — No appropriate treatment available in the country of origin —Social protection —Health care **Paras. 35-37:** '35. Accordingly, Article 6 of Directive 2004/83 sets out a list of those deemed responsible for inflicting serious harm, which supports the view that such harm must take the form of conduct on the part of a third party and that it cannot therefore simply be the result of general shortcomings in the health system of the country of origin. '36. Similarly, recital 26 in the preamble to Directive 2004/83 states that risks to which the population of a country or a section of the population is generally exposed do not normally in themselves create an individual threat which would qualify as serious harm. It follows that the risk of deterioration in the health of a third country national suffering from a serious illness as a result of the absence of appropriate treatment in his country of origin is not sufficient, unless that third country national is intentionally deprived of health care, to warrant that person being granted subsidiary protection. '37. That interpretation is also supported by recitals 5, 6, 9 and 24 in the preamble to Directive 2004/83, from which it is apparent that, while the directive is intended to complement and add to, by means of subsidiary protection, the protection of refugees enshrined in the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951, through the identification of persons genuinely in need of international protection (see, to that effect, judgment in *Diakité,* EU:C:2014:39, paragraph 33), its scope does not extend to persons granted leave to reside in the territories of the Member States for other reasons, that is, on a discretionary basis on compassionate or humanitarian grounds.'	*Elgafaji,* C-465/07, 17 February 2009 *Diakité,* C-285/12, 30 January 2014 *Maatschap LA en DAB Langestraat en P Langestraat-Troost*, C-11/12, 13 December 2012 ECtHR, *N* v *United Kingdom* [GC], 27 May 2008, no 26565/05, 30 October 1991 *B and D*, C-57/09 and C-101/09, 9 November 2010

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 39: '39. It should be noted in that regard that, according to the case-law of the European Court of Human Rights that, while non-nationals subject to a decision authorising their removal cannot, in principle, claim any entitlement to remain in the territory of a State in order to continue to benefit from medical, social or other forms of assistance and services provided by that State, a decision to remove a foreign national suffering from a serious physical or mental illness to a country where the facilities for the treatment of the illness are inferior to those available in that State may raise an issue under Article 3 ECHR in very exceptional cases, where the humanitarian grounds against removal are compelling.'	
CJEU [GC]	***Mehrdad Ghezelbash v Staatssecretaris van Veiligheid en Justitie*** C-63/15 EU:C:2016:409 17.6.2016	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 27 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person Regulation (EU) No 604/2013 — Determination of the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national — Article 12 — Issue of residence documents or visas — Article 27 — Remedies — Extent of judicial scrutiny **Para. 36:** '36. It is apparent from the wording of Article 27(1) of Regulation No 604/2013 that the legal remedy provided for in that article must be effective and cover questions of both fact and law. Moreover, the drafting of that provision makes no reference to any limitation of the arguments that may be raised by the asylum seeker when availing himself of that remedy. The same applies to the drafting of Article 4(1)(d) of that regulation, concerning the information that must be provided to the applicant by the competent authorities as to the possibility of challenging a transfer decision.'	*NS* v *Secretary of State for the Home Department and ME and Others* v *Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*, joined cases C-411/10 and C-493/10, 21 December 2011 *Abdullahi* C-394/12, 10 December 2013 *Migrationsverket* v *Edgar Petrosian and Others*, C-19/08, 29 January 2009 *B and D*, C-57/09 and C-101/09, 9 November 2010

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***M* v *Minister for Justice and Equality Ireland and the Attorney General*** C-560/14 EU:C:2017:101 09.02.2017	Judgment after a reference for a preliminary ruling concerns the interpretation of the right to be heard in the context of the procedure for grant of subsidiary protection status under Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted Area of freedom, security and justice — Directive 2004/83/EC — Minimum standards for the qualification and status of third country nationals or stateless persons as refugees — Application for subsidiary protection — lawfulness of the national procedure for examining an application for subsidiary protection made after the rejection of an application for refugee status — Right to be heard — Right to an interview — Right to call and cross-examine witnesses **Paras. 51-52:** '51. An interview must also be arranged if it is apparent — in the light of the personal or general circumstances in which the application for subsidiary protection has been made, in particular any specific vulnerability of the applicant, due for example to his age, his state of health or the fact that he has been subjected to serious forms of violence — that one is necessary in order to allow him to comment in full and coherently on the elements capable of substantiating that application. '52. Consequently, the referring court has the task of establishing whether in the main proceedings there are specific circumstances that render an interview with the applicant for subsidiary protection necessary in order that his right to be heard is effectively observed.'	*Danqua,* C-429/15, 20 October 2016 *Mukarubega,* C-166/13, 5 November 2014 *Boudjlida,* C-249/13, 11 December 2014 *Lesoochranárske zoskupenie VLK,* C-243/15, 8 November 2016 *Bensada Benallal,* C-161/15, 17 March 2016 *Sopropé,* C-349/07, 18 December 2008 *G and R*, C-83/13, 10 September 2013 *M*, C-277/11, 22 November 2012 *Aalborg Portland and Others* v *Commission*, C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P and C-219/00 P, 7 January 2004

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***CK and Others v Republika Slovenija*** C-578/16 PPU EU:C:2017:127 16.02.2017	Judgment after a reference for a preliminary ruling concerns the interpretation of Articles 3(2) and 17(1) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, Article 267 TFEU and Article 4 of the Charter of Fundamental Rights of the European Union Area of freedom, security and justice — Borders, asylum and immigration — Dublin system — Regulation (EU) No 604/2013 — Article 4 of the Charter of Fundamental Rights of the European Union — Inhuman or degrading treatment — Transfer of a seriously ill asylum seeker to the State responsible for examining his application — No substantial grounds for believing that there are proven systemic flaws in that Member State — Obligations imposed on the Member State having to carry out the transfer. **Para. 44:** '44. It follows, according to that court, that there is an obligation on the competent authorities and the national court to examine all the circumstances of significance for observance of the principle of non-refoulement, including the state of health of the person concerned, in the case where an asylum seeker claims that the Member State responsible for his application is not a 'safe State' for him. In that context, those authorities must take into account the applicant's personal situation in Slovenia and assess whether the mere fact of transferring that person might in itself be contrary to the principle of non-refoulement.' **Para. 59:** '59. However, in accordance with the settled case-law of the Court, the rules of secondary EU law, including the provisions of the Dublin III Regulation, must be interpreted and applied in a manner consistent with the fundamental rights guaranteed by the Charter (see, by analogy, as regards the Dublin II Regulation, judgment of 21 December 2011, *N. S. and Others*, C-411/10 and C-493/10, EU:C:2011:865, paragraphs 77 and 99). The prohibition of inhuman or degrading treatment or punishment, laid down in Article 4 of the Charter, is, in that regard, of fundamental importance, to the extent that it is absolute in that it is closely linked to respect for human dignity, which is the subject of Article 1 of the Charter (see, to that effect, judgment of 5 April 2016, *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraphs 85 and 86).'	*NS and Others*, C-411/10 and C-493/10, 21 December 2011 *Aranyosi and Căldăraru*, C-404/15 and C-659/15, 5 April 2016 *Ghezelbash,* C-63/15, 7 June 2016 ECtHR, *Paposhvili v Belgium,* no 41738/10, 13 December 2016 *I*, C-255/13, 5 June 2014 *Aranyosi and Căldăraru*, C-404/15 and C-659/15, 5 April 2016 ECtHR, *Karim v Sweden,* no 24171/05, 4 July 2006 ECtHR, *Kochieva and Others v Sweden* (dec), no 75203/12, 30 April 2013

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 63: '63. As regards the fundamental rights that are conferred on them, in addition to the codification, in Article 3(2) of the Dublin III Regulation, of the case-law arising from the judgment of 21 December 2011, *N. S. and Others* (C-411/10 and C-493/10, EU:C:2011:865), referred to in paragraph 60 of the present judgment, the EU legislature stressed, in recitals 32 and 39 of that regulation, that the Member States are bound, in the application of that regulation, by the case-law of the European Court of Human Rights and by Article 4 of the Charter.' **Para. 65:** '65. It follows from all of the preceding considerations that the transfer of an asylum seeker within the framework of the Dublin III Regulation can take place only in conditions which preclude that transfer from resulting in a real risk of the person concerned suffering inhuman or degrading treatment, within the meaning of Article 4 of the Charter.' **Para. 70:** **'**70. In that regard, it must be stated, as regards the reception conditions and the care available in the Member State responsible, that the Member States bound by the 'reception' directive, including the Republic of Croatia, are required, including in the context of the procedure under the Dublin III Regulation, in accordance with Articles 17 to 19 of that directive, to provide asylum seekers with the necessary health care and medical assistance including, at least, emergency care and essential treatment of illnesses and of serious mental disorders. In those circumstances, and in accordance with the mutual confidence between Member States, there is a strong presumption that the medical treatments offered to asylum seekers in the Member States will be adequate.' **Para. 73:** '73 That said, it cannot be ruled out that the transfer of an asylum seeker whose state of health is particularly serious may, in itself, result, for the person concerned, in a real risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter, irrespective of the quality of the reception and the care available in the Member State responsible for examining his application.'	ECtHR, *Dragan and Others* v *Germany*, (dec), no 33743/03, 7 October 2004 *Halaf*, C-528/11, 30 May 2013 *Abdullahi*, C-394/12, 10 December 2013

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Paras. 75-77: '75. Consequently, where an asylum seeker provides, particularly in the context of an effective remedy guaranteed to him by Article 27 of the Dublin III Regulation, objective evidence, such as medical certificates concerning his person, capable of showing the particular seriousness of his state of health and the significant and irreversible consequences to which his transfer might lead, the authorities of the Member State concerned, including its courts, cannot ignore that evidence. They are, on the contrary, under an obligation to assess the risk that such consequences could occur when they decide to transfer the person concerned or, in the case of a court, the legality of a decision to transfer, since the execution of that decision may lead to inhuman or degrading treatment of that person. '76. It is, therefore, for those authorities to eliminate any serious doubts concerning the impact of the transfer on the state of health of the person concerned. In this regard, in particular in the case of a serious psychiatric illness, it is not sufficient to consider only the consequences of physically transporting the person concerned from one Member State to another, but all the significant and permanent consequences that might arise from the transfer must be taken into consideration. '77. In that context, the authorities of the Member States concerned must verify whether the state of health of the person at issue may be protected appropriately and sufficiently by taking the precautions envisaged by the Dublin III Regulation and, in the affirmative, must implement those precautions.' **Paras. 81-90:** '81. In this regard, the Member State carrying out the transfer must be able to organise it in such a way that the asylum seeker concerned is accompanied, during transportation, by adequate medical staff with the necessary equipment, resources and medication, so as to prevent any worsening of his health or any act of violence by him towards himself or other persons. '82. That Member State must also be able to ensure that the asylum seeker concerned receives care upon his arrival in the Member State responsible. In that respect, it must be recalled that Articles 31 and 32 of the Dublin III Regulation require the Member State carrying out the transfer to communicate to the Member State responsible such information concerning the state of health of the asylum seeker as to allow that Member State to provide him with the immediate health care required in order to protect his vital interests.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'83. The standard form set out in Annex VI to the implementing regulation and the common health certificate found in Annex IX to that regulation may thus be used to inform the Member State responsible that the asylum seeker concerned requires medical assistance and care upon his arrival, as well as all the relevant aspects of his illness and the care which that illness will make necessary in the future. In that case, that information must be communicated within a reasonable period of time before the transfer is carried out, in order to provide the Member State responsible with sufficient time to take the necessary measures. The Member State carrying out the transfer may, in addition, obtain from the Member State responsible the confirmation that the necessary care will be fully available upon arrival. '84. If the court having jurisdiction finds that those precautions are sufficient to exclude any real risk of inhuman or degrading treatment in the event of transferring the asylum seeker concerned, it will be for that court to take the necessary measures to ensure that they are implemented by the authorities of the requesting Member State before the person concerned is transferred. Where necessary, that person's state of health should be reassessed before the transfer is carried out. '85. On the other hand, if the taking of those precautions is, regard being had to the particular seriousness of the illness of the asylum seeker concerned, not sufficient to ensure that his transfer will not result in a real risk of a significant and permanent worsening of his state of health, it is for the authorities of the Member State concerned to suspend the execution of that person's transfer for such time as his state of health renders him unfit for such a transfer. '86. In that regard, it must be recalled that, in accordance with Article 29(1) of the Dublin III Regulation, the transfer of the applicant from the requesting Member State to the Member State responsible is to be carried out as soon as 'practically possible'. As is apparent from Article 9 of the implementing regulation, the ill health of the asylum seeker is specifically regarded as a 'physical reason' capable of justifying postponement of the transfer. '87. If the state of health of the asylum seeker concerned does not permit his transfer, it is then for the requesting Member State, in accordance with that provision, to inform the Member State responsible without delay of the postponement of the transfer due to the condition of that asylum seeker.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		‘88. Where necessary, if it is noted that the state of health of the asylum seeker concerned is not expected to improve in the short term, or that the suspension of the procedure for a long period would risk worsening the condition of the person concerned, the requesting Member State may choose to conduct its own examination of his application by making use of the ‘discretionary clause’ laid down in Article 17(1) of the Dublin III Regulation (see, to that effect, judgment of 30 May 2013, *Halaf*, C-528/11, EU:C:2013:342, paragraph 38). The fact nevertheless remains that that provision, read in the light of Article 4 of the Charter, cannot be interpreted, in a situation such as that at issue in the main proceedings, as meaning that it implies an obligation on that Member State to make use of it in that way. ‘89. In any event, if the state of health of the asylum seeker concerned does not enable the requesting Member State to carry out the transfer before the expiry of the six-month period provided for in Article 29(1) of the Dublin III Regulation, the Member State responsible would be relieved of its obligation to take charge of the person concerned and responsibility would then be transferred to the first Member State, in accordance with paragraph 2 of that article. ‘90. It is for the referring court to determine, in the main proceedings, whether the state of health of C. K. is of such seriousness that there are substantial grounds for believing that her transfer would result for her in a real risk of inhuman or degrading treatment, within the meaning of Article 4 of the Charter. In the affirmative, it will be for the referring court to eliminate those grounds by ensuring that the precautions referred to in paragraphs 81 to 83 of the present judgment are taken before the transfer of C. K. or, if necessary, that the transfer of that person is suspended until her state of health permits it.’ **Para. 98:** ‘98. Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.’	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***Moussa Sacko v Commissione Territoriale per il riconoscimento della protezione internazionale di Milano*** C-348/16 EU:C:2017:591 26.07.2017	Judgment after a reference for a preliminary ruling concerning the interpretation of Articles 12, 14, 31 and 46 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection Directive 2013/32/EU — Articles 12, 14, 31 and 46 — Charter of Fundamental Rights of the European Union — Article 47 — Right to effective judicial protection — Appeal against a decision refusing an application for international protection — Whether it is possible for the court to adjudicate without hearing the applicant **Paras. 31-49:** '31. It follows that the characteristics of the remedy provided for in Article 46 of Directive 2013/32 must be determined in a manner that is consistent with Article 47 of the Charter, which constitutes a reaffirmation of the principle of effective judicial protection (see, by analogy, with reference to Article 39 of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status. '32. The principle of effective judicial protection of the rights which individuals derive from EU law comprises various elements; in particular, the rights of the defence, the principle of equality of arms, the right of access to a tribunal and the right to be advised, defended and represented. '33. With regard, first, to the proceedings at first instance covered by Chapter III of Directive 2013/32, it should be recalled that when the authorities of the Member States take measures which come within the scope of EU law, they are, as a rule, subject to the obligation to observe the rights of defence of addressees of decisions which significantly affect their interests. '34. In particular, the Court has held that the right to be heard in any procedure, inherent in respect for the rights of the defence, which is a general principle of EU law, guarantees every person the opportunity to make known his views effectively during an administrative procedure and before the adoption of any decision liable to affect his interests adversely. '35. In that regard, the purpose of the rule that the addressee of an adverse decision must be placed in a position to submit his observations before that decision is adopted is, inter alia, to enable that person to correct an error or submit such information relating to his or her personal circumstances as will argue in favour of the adoption or non-adoption of the decision, or in favour of its having a specific content.	*Lesoochranárske zoskupenie VLK*, C-243/15, 8 November 2016 M, C-560/14, 9 February 2017 Berlioz Investment Fund, C-682/15, 16 May 2017 Tall, C-239/14, 17 December 2015 Otis and Others, C-199/11, 6 November 2012 *G and R*, C-383/13, 10 September 2013 *Boudjlida*, C-249/13, 11 December 2014 *Mukarubega*, C-166/13, 5 November 2014 *Samba Diouf*, C-69/10, 28 July 2011 *Lebek*, C-70/15, 7 July 2016

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'36. With regard, on the other hand, to the appeals procedures covered by Chapter V of Directive 2013/32, in order for the right to a remedy to be exercised effectively, the national court must be able to review the merits of the reasons which led the competent administrative authority to find that the application for international protection was unfounded or made in bad faith. '37. In this instance, it should be noted that failure to give the applicant the opportunity to be heard in an appeals procedure such as that covered by Chapter V of Directive 2013/32 constitutes a restriction of the rights of the defence, which form part of the principle of effective judicial protection enshrined in Article 47 of the Charter. '38. However, according to the Court's settled case-law, fundamental rights, such as respect for the rights of the defence, which includes the right to be heard, do not constitute unfettered prerogatives and may be restricted, provided that the restrictions in fact correspond to objectives of general interest pursued by the measure in question and that they do not entail, with regard to the objectives pursued, a disproportionate and intolerable interference which infringes upon the very substance of the rights guaranteed. '39. An interpretation of the right to be heard, guaranteed by Article 47 of the Charter, to the effect that it is not an absolute right is confirmed by the case-law of the European Court of Human Rights, in the light of which Article 47 of the Charter must be interpreted, as the first and second paragraphs of that article correspond to Article 6(1) and Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950. '40. In that regard, the Court has previously stated that Article 6(1) of that convention does not impose an absolute obligation to hold a public hearing and does not necessarily require that a hearing be held in all proceedings. It has held, similarly, that neither the second paragraph of Article 47 of the Charter nor any other provision thereof imposes such an obligation. '41. Furthermore, the Court has also held that the question whether there is an infringement of the rights of the defence and the right to effective judicial protection must be examined in relation to the specific circumstances of each case, including the nature of the act at issue, the context in which it was adopted and the legal rules governing the matter in question.	*Toma and Biroul Executorului Judecătoresc Horațiu-Vasile Cruduleci,* C-205/15, 30 June 2016 *Andechser Molkerei Scheitz* v *Commission,* C-682/13 P, not published, 4 June 2015 (in French) ECtHR, *Jussila* v *Finland,* no 73053/01, 23 November 2006 *Commission and Others* v *Kadi,* C-584/10 P, C-593/10 P and C-595/10 P, 18 July 2013 ECtHR, *Döry* v *Sweden,* no 28394/95, 12 November 2002,

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'42. In this instance, the obligation imposed in Article 46(3) of Directive 2013/32 on the court with jurisdiction to ensure that a full and *ex nunc* examination of both facts and points of law is conducted must be interpreted in the context of the procedure for the examination of applications for international protection as a whole, as governed by that directive, taking into account the close link between appeal proceedings before a court or tribunal and the proceedings at first instance preceding those proceedings, during which the applicant must be given the opportunity of a personal interview on his or her application for international protection, as required by Article 14 of the directive. '43. It should be noted in that regard that, as the report or transcript of any personal interview with an applicant must, in accordance with Article 17(2) of Directive 2013/32, be available in connection with the applicant's file, the content of the report or transcript is an important factor in the assessment by the court with jurisdiction when it carries out the full and *ex nunc* examination of both facts and points of law required under Article 46(3) of the directive. '44. It follows, as the Advocate General observed in points 58, 59 and 65 to 67 of his Opinion, that whether it is necessary for the court or tribunal hearing the appeal provided for in Article 46 of Directive 2013/32 to grant the applicant a hearing has to be assessed in the light of its obligation to carry out the full and *ex nunc* examination required under Article 46(3) of the directive, in the interests of effective judicial protection of the rights and interests of the applicant. It is only if that court or tribunal considers that it is in a position to carry out such an examination solely on the basis of the information in the case-file, including, where applicable, the report or transcript of the personal interview with the applicant in the procedure at first instance, that it may decide not to hear the applicant in the appeal before it. In such circumstances, the possibility of not holding a hearing is in the interest of both the Member States and applicants, as referred to in recital 18 of Directive 2013/32, to have a decision made as soon as possible on applications for international protection, without prejudice to an adequate and complete examination being carried out. '45. On the other hand, if the court or tribunal hearing the appeal considers that the applicant must be afforded a hearing in order to carry out the full and *ex nunc* examination required, that hearing, as ordered by that court or tribunal, constitutes an essential procedural requirement, which cannot be dispensed with on grounds of speed, as referred to in recital 20 of Directive 2013/32. As the Advocate General observed in point 67 of his Opinion, although that recital allows Member States to accelerate the examination procedure in certain cases, inter alia where an application is likely to be unfounded, it does not authorise the elimination of procedures which are essential in order to guarantee the applicant's right to effective judicial protection.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'46. In the case of a manifestly unfounded application within the meaning of Article 32(2) of Directive 2013/32, such as the application in the main proceedings, the obligation for the court or tribunal to carry out the full and *ex nunc* examination referred to in Article 46(3) of the directive is, in principle, fulfilled where that court or tribunal takes into consideration the pleadings submitted to the court or tribunal seised of the application and of the objective information contained in the administrative file in the proceedings at first instance, including, where applicable, the report or recording of the personal interview conducted in those proceedings. '47. That conclusion is supported by the case-law of the European Court of Human Rights to the effect that there is no need for a hearing where the case does not raise any questions of fact or law that cannot be adequately resolved by referring to the file and the written submissions of the parties '48. Moreover, while Article 46 of Directive 2013/32 does not require a court or tribunal hearing an appeal against a decision rejecting an application for international protection to hear the applicant in all circumstances, it does not, nonetheless, authorise the national legislature to prevent that court or tribunal ordering that a hearing be held where, having found that the information gathered during the personal interview conducted in the procedure at first instance is insufficient, it considers it necessary to conduct a hearing to ensure that there is a full and *ex nunc* examination of both facts and points of law, as required under Article 46(3) of the directive. '49. In the light of the foregoing considerations, Directive 2013/32, in particular Articles 12, 14, 31 and 46 thereof, read in the light of Article 47 of the Charter, must be interpreted as not precluding the national court or tribunal hearing an appeal against a decision rejecting a manifestly unfounded application for international protection from dismissing the appeal without hearing the applicant where the factual circumstances leave no doubt as to whether that decision was well founded, on condition that, first, during the proceedings at first instance, the applicant was given the opportunity of a personal interview on his or her application for international protection, in accordance with Article 14 of the directive, and the report or transcript of the interview, if an interview was conducted, was placed on the case-file, in accordance with Article 17(2) of the directive, and, second, the court hearing the appeal may order that a hearing be conducted if it considers it necessary for the purpose of ensuring that there is a full and *ex nunc* examination of both facts and points of law, as required under Article 46(3) of the directive.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***F* v *Bevándorlási és Állampolgársági Hivatal*** C-473/16 EU:C:2018:36 25.01.2018	Judgment after a reference for a preliminary ruling concerns the interpretation of Article 1 of the Charter of Fundamental Rights of the European Union and Article 4 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted Charter of Fundamental Rights of the European Union — Article 7 — Respect for private and family life — Directive 2011/95/EU — Standards for granting refugee status or subsidiary protection status — Fear of persecution on grounds of sexual orientation — Article 4 — Assessment of facts and circumstances — Recourse to an expert's report — Psychological tests. **Para. 22:** '22. By decision of 1 October 2015, the Office rejected F's application for asylum. In that regard, although it considered that F's statements were not fundamentally contradictory, it nonetheless concluded that F lacked credibility on the basis of an expert's report prepared by a psychologist. That expert's report entailed an exploratory examination, an examination of personality and several personality tests, namely the 'Draw-A-Person-In-The-Rain' test and the Rorschach and Szondi tests, and concluded that it was not possible to confirm F's assertion relating to his sexual orientation.' **Para. 33:** '33. That said, it must be noted that Article 4(3) of Directive 2011/95 lists the factors which the competent authorities must take into account during the individual assessment of an application for international protection and that Article 4(5) of that directive specifies the conditions under which a Member State, applying the principle that it is the duty of the applicant to substantiate his application, must consider that certain aspects of the applicant's statements do not require confirmation. Those conditions include, in particular, the fact that the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to his case, as well as the fact that the applicant's general credibility has been established.' **Para. 35:** '35. Nevertheless, the procedures, should recourse be had, in that context, to an expert's report, must be consistent with other relevant EU law provisions, and in particular with the fundamental rights guaranteed by the Charter, such as the right to respect for human dignity, enshrined in Article 1 of the Charter, and the right to respect for private and family life guaranteed by Article 7 thereof.'	*A and Others,* C-148/13 to C-150/13, 2 December 2014 *X and Others,* C-199/12 to C-201/12, 7 November 2013 *Shepherd,* C-472/13, 26 February 2015 *M,* C-560/14, 9 February 2017 *Tempelman and van Schaijk,* C-96/03 and C-97/03, 10 March 2005 *CHEZ Razpredelenie Bulgaria*, C-83/14, 16 July 2015 *N*, C-601/15 PPU, 15 February 2016

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 41: '41. It is apparent, secondly, from Article 4 of that directive that the examination of the application for international protection must include an individual assessment of that application, taking into account, inter alia, all relevant facts as they relate to the country of origin of the applicant at the time of taking a decision on the application, the relevant statements and documentation presented by him as well as his individual position and personal circumstances. Where necessary, the competent authority must also take account of the explanation provided regarding a lack of evidence, and of the applicant's general credibility.' **Para. 46:** '46. In the light of those considerations, the answer to the second question is that Article 4 of Directive 2011/95 must be interpreted as meaning that it does not preclude the authority responsible for examining applications for international protection, or, where an action has been brought against a decision of that authority, the court or tribunal seised, from ordering that an expert's report be obtained in the context of the assessment of the facts and circumstances relating to the declared sexual orientation of an applicant, provided that the procedures for such areport are consistent with the fundamental rights guaranteed by the Charter, that that authority and those courts or tribunals do not base their decision solely on the conclusions of the expert's report and that they are not bound by those conclusions when assessing the applicant's statements relating to his sexual orientation.' **Para. 54:** '54. In those circumstances, as the Advocate General noted in point 43 of his Opinion, the preparation and use of a psychologist's expert report such as that at issue in the main proceedings constitutes an interference with that person's right to respect for his private life.' **Para. 58:** '58. In this respect, it should be noted that the suitability of an expert's report such as that at issue in the main proceedings may be accepted only if it is based on sufficiently reliable methods and principles in the light of the standards recognised by the international scientific community. It should be noted in that regard that, although it is not for the Court to rule on this issue, which is, as an assessment of the facts, a matter within the national court's jurisdiction, the reliability of such an expert's report has been vigorously contested by the French and Netherlands Governments as well as by the Commission.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 62: '62. It is also necessary to take account, in order to assess the seriousness of the interference arising from the preparation and use of a psychologist's expert report, such as that at issue in the main proceedings, of Principle 18 of the Yogyakarta principles on the application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, to which the French and Netherlands Governments have referred, which states, inter alia, that no person may be forced to undergo any form of psychological test on account of his sexual orientation or gender identity.' **Para. 66:** '66. On the one hand, the carrying out of a personal interview conducted by the personnel of the determining authority is such as to contribute to the assessment of those statements, inasmuch as both Article 13(3)(a) of Directive 2005/85 and Article 15(3)(a) of Directive 2013/32 provide that the Member States must ensure that the person who conducts the interview is competent to take account of the personal circumstances surrounding the application, those circumstances covering in particular the applicant's sexual orientation.' **Para. 71:** '71. It follows from the foregoing that the answer to the first question is that Article 4 of Directive 2011/95, read in the light of Article 7 of the Charter, must be interpreted as precluding the preparation and use, in order to assess the veracity of a claim made by an applicant for international protection concerning his sexual orientation, of a psychologist's expert report, such as that at issue in the main proceedings, the purpose of which is, on the basis of projective personality tests, to provide an indication of the sexual orientation of that applicant.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***A and S* v *Staatssecretaris van Veiligheid en Justitie*** C-550/16 EU:C:2018:248 12.04.2018	Judgment after a reference for a preliminary ruling concerns the interpretation of Article 2(f) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification Right to family reunification — Directive 2003/86/EC — Definition of 'unaccompanied minor' —Right of a refugee to family reunification with his parents — Refugee below the age of 18 at the time of entry into the Member State and at the time of application for asylum, but over 18 at the time of the decision granting asylum and of his application for family reunification — Relevant date for assessing 'minor' status of the person concerned **Para. 34:** '34. Whereas, under Article 4(2)(a) of Directive 2003/86, the possibility of such reunification is, in principle, left to the discretion of each Member State and subject, in particular, to the condition that first-degree relatives in the direct ascending line are dependent upon the sponsor and do not enjoy proper family support in the country of origin, Article 10(3)(a) of that directive lays down, by way of exception to that principle, a right to such reunification for refugees who are unaccompanied minors which is not subject to a margin of discretion on the part of the Member States nor to conditions laid down in Article 4(2)(a).' **Para. 44:** '44. Finally, Directive 2003/86 pursues not only, in a general way, the objective of promoting family reunification and granting protection to third-country nationals, in particular minors (see, to that effect, judgment of 6 December 2012, *O and Others*, C-356/11 and C-357/11, EU:C:2012:776, paragraph 69) but, by Article 10(3)(a) thereof, seeks specifically to guarantee an additional protection for those refugees who are unaccompanied minors.' **Para. 55:** '55. In those circumstances, to make the right to family reunification under Article 10(3)(a) of Directive 2003/86 depend upon the moment at which the competent national authority formally adopts the decision recognising the refugee status of the person concerned and, therefore, on how quickly or slowly the application for international protection is processed by that authority, would call into question the effectiveness of that provision and would go against not only the aim of that directive, which is to promote family reunification and to grant in that regard a specific protection to refugees, in particular unaccompanied minors, but also the principles of equal treatment and legal certainty.'	*Ouhrami,* C-225/16, 26 July 2017 *O and Others,* C-356/11 and C-357/11, 6 December 2012 *Noorzia*, C-338/13, 17 July 2014 *HT*, C-373/13, 24 June 2015

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 58: '58. Moreover, instead of prompting national authorities to treat applications for international protection from unaccompanied minors urgently in order to take account of their particular vulnerability, a possibility which is already explicitly offered by Article 31(7)(b) of Directive 2013/32, such an interpretation could have the opposite effect, frustrating the objective pursued both by that directive and by Directives 2003/86 and 2011/95 of ensuring that, in accordance with Article 24(2) of the Charter of Fundamental Rights, the best interests of the child is in practice a primary consideration for Member States in the application of those directives.' **Para. 64:** '64. In the light of all the foregoing, the answer to the question referred is that Article 2(f) of Directive 2003/86, read in conjunction with Article 10(3)(a) thereof, must be interpreted as meaning that a third-country national or stateless person who is below the age of 18 at the moment of his or her entry into the territory of a Member State and of the introduction of his or her asylum application in that State, but who, in the course of the asylum procedure, attains the age of majority and is thereafter granted refugee status must be regarded as a 'minor' for the purposes of that provision.'	
CJEU [GC]	***MP v Secretary of State for the Home Department*** C-353/16 EU:C:2018:276 24.04.2018	Judgment after a reference for a preliminary ruling concerning the interpretation of Articles 2(e) and 15(b) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted Asylum policy — Charter of Fundamental Rights of the European Union — Article 4 — Directive 2004/83/EC — Article 2(e) — Eligibility for subsidiary protection — Article 15(b) — Risk of serious harm to the psychological health of the applicant if returned to the country of origin — Person who has been tortured in the country of origin **Para. 30:** '30. In that context, it must first be pointed out that the fact that the person concerned has in the past been tortured by the authorities of his country of origin is not in itself sufficient justification for him to be eligible for subsidiary protection when there is no longer a real risk that such torture will be repeated if he is returned to that country.'	*Mohamed M'Bodj v État belge*, C-542/13,18 December 2014 *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, 5 April 2016 *CK and Others v Republika Slovenija*; C-578/16 PPU, 16 February 2017

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Paras. 36-58: '36. In that regard, it should be recalled that Article 15(b) of Directive 2004/83 must be interpreted and applied in a manner that is consistent with the rights guaranteed by Article 4 of the Charter of Fundamental Rights of the European Union ('the Charter'), which enshrines one of the fundamental values of the Union and its Member States and is absolute in that that value is closely linked to respect for human dignity, the subject of Article 1 of the Charter. '37. Moreover, it should be recalled that, in accordance with Article 52(3) of the Charter, in so far as the rights guaranteed by Article 4 thereof correspond to those guaranteed by Article 3 of the ECHR, the meaning and scope of those rights are the same as those laid down by Article 3 of the ECHR. '38. It follows from the case-law of the European Court of Human Rights relating to Article 3 of the ECHR that the suffering caused by a naturally occurring illness, whether physical or mental, may be covered by that article if it is, or risks being, exacerbated by treatment, whether resulting from conditions of detention, removal or other measures, for which the authorities can be held responsible, provided that the resulting suffering attains the minimum level of severity required by that article. '39. Pursuant to the case-law of the European Court of Human Rights, the same threshold of severity must be met in order for Article 3 of the ECHR to preclude the deportation of a person whose illness is not naturally occurring where the lack of care that would be available to that person, once expelled, is not attributable to intentional acts or omissions of the receiving State. '40. As regards, specifically, the threshold of severity for finding a violation of Article 3 of the ECHR, it follows from the most recent case-law of the European Court of Human Rights that that provision precludes the removal of a seriously ill person where he is at risk of imminent death or where substantial grounds have been shown for believing that, although not at imminent risk of dying, he 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 suffering a serious, rapid and irreversible decline in his state of health resulting in intense suffering or to a significant reduction in life expectancy.	ECtHR, *Paposhvili v Belgium,* no 41738/10, 13 December 2016 ECtHR [GC], *SHH v United Kingdom,* no 60367/10, 29 January 2013 *Abdida,* C-562/13, 18 December 2014

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'41. Similarly, Article 4 of the Charter must be interpreted as meaning that the removal of a third country national with a particularly serious mental or physical illness constitutes inhuman and degrading treatment, within the meaning of that article, where such removal would result in a real and demonstrable risk of significant and permanent deterioration in the state of health of the person concerned (see, by analogy, judgment of 16 February 2017, *C.K. and Others*, C-578/16 PPU, EU:C:2017:127, paragraph 74). The same conclusion can be drawn as regards the application of Article 19(2) of the Charter, which provides that no one may be removed to a State where there is a serious risk that he would be subjected to inhuman or degrading treatment. '42. In that regard, the Court has held that, particularly in the case of a serious psychiatric illness, it is not sufficient to consider only the consequences of physically transporting the person concerned from a Member State to a third country; rather, it is necessary to consider all the significant and permanent consequences that might arise from the removal (see, by analogy, judgment of 16 February 2017, *C.K. and Others*, C-578/16 PPU, EU:C:2017:127, paragraph 76). Moreover, given the fundamental importance of the prohibition of torture and inhuman or degrading treatment laid down in Article 4 of the Charter, particular attention must be paid to the specific vulnerabilities of persons whose psychological suffering, which is likely to be exacerbated in the event of their removal, is a consequence of torture or inhuman or degrading treatment in their country of origin. '43. It follows that Article 4 and Article 19(2) of the Charter, as interpreted in the light of Article 3 of the ECHR, preclude a Member State from expelling a third country national where such expulsion would, in essence, result in significant and permanent deterioration of that person's mental health disorders, particularly where, as in the present case, such deterioration would endanger his life. '44. Moreover, the Court has previously held that, in such exceptional cases, the removal of a third country national suffering from a serious illness to a country in which appropriate treatment is not available may constitute an infringement of the principle of non-refoulement and, therefore, an infringement of Article 5 of Directive 2008/115, read in the light of Article 19 of the Charter.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		‘45. Nevertheless, it is apparent from the request for a preliminary ruling that the relevant national courts have held that Article 3 of the ECHR precludes MP being removed from the United Kingdom to Sri Lanka. Thus the present case does not concern the protection against removal deriving, under Article 3 of the ECHR, from the prohibition on exposing a person to inhuman or degrading treatment, but rather the separate issue as to whether the host Member State is required to grant subsidiary protection status, under Directive 2004/83, to a third country national who has been tortured by the authorities of his country of origin and suffers severe psychological after-effects which, in the event of him being returned to that country, could be substantially aggravated and lead to a serious risk of him committing suicide. ‘46. The court has also previously held that the fact that Article 3 of the ECHR, as observed in paragraphs 39 to 41 above, precludes, in very exceptional cases, a third country national suffering from a serious illness being removed to a country in which appropriate treatment is not available does not mean that that person should be granted leave to reside in a Member State by way of subsidiary protection under Directive 2004/83. ‘47. Nevertheless, it should be noted that, unlike the case giving rise to the judgment of 18 December 2014, *M’Bodj* (C-542/13, EU:C:2014:2452), which concerned a third country national who had been the victim of an assault in the host Member State, the present case concerns a third country national who was tortured by the authorities of his country of origin and who, according to duly substantiated medical evidence, continues, as a result of those acts, to suffer from post-traumatic after-effects that are likely to be significantly and permanently exacerbated, to the point of endangering his life, if he is returned to that country. ‘48. In those circumstances, both the cause of the current state of health of a third country national in a situation such as that in the main proceedings, namely acts of torture inflicted by the authorities of his country of origin in the past, and the fact that, if he were to be returned to his country of origin, his mental health disorders would be substantially aggravated on account of the psychological trauma that he continues to suffer as a result of that torture, are relevant factors to be taken into account when interpreting Article 15(b) of Directive 2004/83. ‘49. Nevertheless, such substantial aggravation cannot, in itself, be regarded as inhuman or degrading treatment inflicted on that third country national in his country of origin, within the meaning of Article 15(b) of that directive. ‘50. In that regard, it is appropriate to examine, as requested in the order for reference, the effect that may result from a lack, in the country of origin of the person concerned, of facilities offering appropriate care for the physical and mental after-effects resulting from the torture inflicted by the authorities of that country.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'51. In that respect, it should be recalled that the Court has held that the serious harm referred to in Article 15(b) of Directive 2004/83 cannot simply be the result of general shortcomings in the health system of the country of origin. The risk of deterioration in the health of a third country national who is suffering from a serious illness, as a result of there being no appropriate treatment in his country of origin, is not sufficient, unless that third country national is intentionally deprived of health care, to warrant that person being granted subsidiary protection. '52. In order to assess whether a third country national who has in the past been tortured by the authorities of his country of origin, faces, if returned to that country, a real risk of being intentionally deprived of appropriate care for the physical and mental after-effects resulting from the torture inflicted by those authorities, it is necessary, in the light of what has been stated in paragraph 50 above and recital 25 of Directive 2004/83, which states that the criteria for granting subsidiary protection must be drawn from international human rights instruments, to take Article 14 of the Convention against Torture into consideration. '53. According to that provision, State parties to that convention must ensure that, under their legal systems, a victim of torture has the right to obtain redress, including the resources necessary to achieve as full a rehabilitation as possible. '54. In that regard, it must, however, be noted that the regime introduced by Directive 2004/83 pursues different aims and establishes protection mechanisms which are clearly distinct from those of the Convention against Torture. '55. As is apparent from its sixth recital and Article 2, the main objective of the Convention against Torture is to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world, by means of prevention. However, the main objective of Directive 2004/83, as set out in its sixth recital, is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for those persons in all Member States. As regards, more specifically, the beneficiaries of subsidiary protection status, that directive aims to offer, within the territory of the Member States, protection similar to that afforded to refugees by the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, Vol. 189, p. 150, No 2545 (1954)), to persons who cannot be regarded as refugees but are at risk, inter alia, of being subjected to torture or inhuman or degrading treatment if returned to their country of origin.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		‘56. Accordingly, it is not possible, without disregarding the distinct areas covered by those two regimes, for a third country national in a situation such as that of MP to be eligible for subsidiary protection as a result of every violation, by his State of origin, of Article 14 of the Convention against Torture. ‘57. It is therefore for the national court to ascertain, in the light of all current and relevant information, in particular reports by international organisations and non-governmental human rights organisations, whether, in the present case, MP is likely, if returned to his country of origin, to face a risk of being intentionally deprived of appropriate care for the physical and mental after-effects resulting from the torture he was subjected to by the authorities of that country. That will be the case, inter alia, if, in circumstances where, as in the main proceedings, a third country national is at risk of committing suicide because of the trauma resulting from the torture he was subjected to by the authorities of his country of origin, it is clear that those authorities, notwithstanding their obligation under Article 14 of the Convention against Torture, are not prepared to provide for his rehabilitation. There will also be such a risk if it is apparent that the authorities of that country have adopted a discriminatory policy as regards access to health care, thus making it more difficult for certain ethnic groups or certain groups of individuals, of which MP forms part, to obtain access to appropriate care for the physical and mental after-effects of the torture perpetrated by those authorities. ‘58. It follows from the foregoing that Articles 2(e) and 15(b) of Directive 2004/83, read in the light of Article 4 of the Charter, must be interpreted as meaning that a third country national who in the past has been tortured by the authorities of his country of origin and no longer faces a risk of being tortured if returned to that country, but whose physical and psychological health could, if so returned, seriously deteriorate, leading to a serious risk of him committing suicide on account of trauma resulting from the torture he was subjected to, is eligible for subsidiary protection if there is a real risk of him being intentionally deprived, in his country of origin, of appropriate care for the physical and mental after-effects of that torture, that being a matter for the national court to determine.’	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***Serin Alheto v Zamestnik-predsedatel na Darzhavna agentsia za bezhantsite*** C-585/16 EU:C:2018:584 25.07.2018	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 12(1) of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted Common policy on asylum and subsidiary protection — Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection — Directive 2011/95/EU — Article 12 — Exclusion from refugee status — Persons registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). **Para. 14:** '14. Article 12 of that directive, which is also contained in Chapter III, is entitled 'Exclusion' and provides as follows: '1. A third-country national or a stateless person is excluded from being a refugee if: (a) he or she falls within the scope of Article 1(D) of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, those persons shall *ipso facto* be entitled to the benefits of this Directive …'. **Para. 103:** '103. In that regard, it should be noted, first of all, that Directive 2013/32 distinguishes between the 'determining authority', which it defines in Article 2(f) as 'any quasi-judicial or administrative body in a Member State responsible for examining applications for international protection competent to take decisions at first instance in such cases' and the 'court or tribunal' referred to in Article 46. The procedure before a determining authority is governed by the provisions of Chapter III of that directive, entitled 'Procedures at first instance', while the procedure before a court or tribunal must comply with the rules laid down in Chapter V of that directive, entitled 'Appeals procedures' which is made up of Article 46.'	*Cordero Alonso*, C-81/05, 7 September 2006 *VTB-VAB and Galatea,* C-261/07 and C-299/07, 23 April 2009 *Abed El Karem El Kott and Others,* C-364/11, 19 December 2012 *Dominguez*, C-282/10, 24 January 2012 *Association de médiation sociale,* C-176/12, 15 January 2014 *Ambisig,* C-46/15, 7 July 2016 *Diakité*, C-285/12, 30 January 2014 *Zh. and O.*, C-554/13, 11 June 2015 *Jafari*, C-646/16, 26 July 2017 *Sacko*, C-348/16, 26 July 2017

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 107: '107. In the absence of any reference to the laws of the Member States, and having regard to the purpose of Directive 2013/32, set out in recital 4 thereof, those words must be interpreted and applied in a uniform manner. Moreover, as recital 13 of that directive states, the approximation of rules under that directive aims to create equivalent conditions for the application of Directive 2011/95 in the Member States and to limit the movements of applicants for international protection between Member States.' **Paras. 109-114:** '109. In that regard, apart from the fact that it pursues the overall purpose of establishing common procedural standards, Directive 2013/32 seeks in particular, as is apparent inter alia from recital 18, to ensure that applications for international protection are dealt with 'as soon as possible …, without prejudice to an adequate and complete examination being carried out'. '110. In that context, the words 'shall ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law' must, in order not to deprive them of their ordinary meaning, be interpreted as meaning that the Member States are required, by virtue of Article 46(3) of Directive 2013/32, to order their national law in such a way that the processing of the appeals referred to includes an examination, by the court or tribunal, of all the facts and points of law necessary in order to make an up-to-date assessment of the case at hand. '111. In that regard, the expression '*ex nunc*' points to the court or tribunal's obligation to make an assessment that takes into account, should the need arise, new evidence which has come to light after the adoption of the decision under appeal. '112. Such an assessment makes it possible to deal with the application for international protection exhaustively without there being any need to refer the case back to the determining authority. Thus, the court's power to take into consideration new evidence on which that authority has not taken a decision is consistent with the purpose of Directive 2013/32, as referred to in paragraph 109 of this judgment. '113. For its part, the adjective 'full' used in Article 46(3) of Directive 2013/32 confirms that the court or tribunal is required to examine both the evidence which the determining authority took into account or could have taken into account and that which has arisen following the adoption of the decision by that authority.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'114. Furthermore, since that provision must be interpreted in a manner consistent with Article 47 of the Charter, the requirement for a full and *ex nunc* examination implies that the court or tribunal seised of the appeal must interview the applicant, unless it considers that it is in a position to carry out the examination solely on the basis of the information in the case file, including, where applicable, the report or transcript of the personal interview before that authority (see, to that effect, judgment of 26 July 2017, *Sacko*, C-348/16, EU:C:2017:591, paragraphs 31 and 44). In the event that new evidence comes to light after the adoption of the decision under appeal, the court or tribunal is required, as follows from Article 47 of the Charter, to offer the applicant the opportunity to express his views when that evidence could affect him negatively.' **Para. 116:** '116. Finally, it must be stressed that it follows from recitals 16 and 22 of Article 4 and from the general scheme of Directive 2013/32 that the examination of the application for international protection by an administrative or quasi-judicial body with specific resources and specialised staff in this area is a vital stage of the common procedures established by that directive. Accordingly, the applicant's right recognised by Article 46(3) of that directive to obtain a full and *ex nunc* examination before a court or tribunal cannot diminish the obligation on the part of that applicant, which is governed by Articles 12 and 13 of that directive, to cooperate with that body.' **Para. 125:** '125. While an applicant's right to be heard with regard to the admissibility of his or her application before any decision on the matter is taken is ensured, in the context of the procedure before the determining authority, by the personal interview provided for in Article 34 of Directive 2013/32, that right derives, during the appeal procedure referred to in Article 46 of that directive, from Article 47 of the Charter and is exercised, if necessary, by means of a hearing of the applicant (see, to that effect, judgment of 26 July 2017, *Sacko*, C-348/16, EU:C:2017:591, paragraphs 37 to 44).' **Para. 130:** '130. In the light of the foregoing, the answer to the fourth question is that Article 46(3) of Directive 2013/32, read in conjunction with Article 47 of the Charter, must be interpreted as meaning that the requirement for a full and *ex nunc* examination of the facts and points of law may also concern the grounds of inadmissibility of the application for international protection referred to in Article 33(2) of that directive, where permitted under national law, and that, in the event that the court or tribunal hearing the appeal plans to examine a ground of inadmissibility which has not been examined by the determining authority, it must conduct a hearing of the applicant in order to allow that individual to express his or her point of view in person concerning the applicability of that ground to his or her particular circumstances.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 147: '147. However, Article 46(3) of Directive 2013/32 would be deprived of any practical effect if it were accepted that, after delivery of a judgment by which the court or tribunal of first instance conducted, in accordance with that provision, a full and *ex nunc*assessment of the international protection needs of the applicant by virtue of Directive 2011/95, that body could take a decision that ran counter to that assessment or could allow a considerable period of time to elapse, which could increase the risk that evidence requiring a new up-to-date assessment might arise.'	
CJEU	***Ahmedbekova*** C-652/16 EU:C:2018:801 04.10.2018	Judgment after a reference for a preliminary ruling concerns the interpretation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection — Directive 2011/95/EU — Articles 3, 4, 10 and 23 — Applications for international protection lodged separately by family members — Individual assessment — Taking into account threats in respect of a family member in carrying out the individual assessment of the application for international protection of another family member — More favourable standards capable of being retained or introduced by the Member States for the purpose of extending the refugee or subsidiary protection status of a beneficiary of international protection to family members — Assessment of the reasons for persecution — Involvement of an Azerbaijani national in bringing a complaint against her country before the European Court of Human Rights — Common procedural standards **Para. 94:** '94. Although it thus follows from Article 46(3) of Directive 2013/32 that the Member States are required to amend their national law in such a way that the processing of the appeals referred to includes an examination, by the court or tribunal, of all the facts and points of law necessary in order to make an up-to-date assessment of the case at hand (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 110), it does not follow, by contrast, that an applicant for international protection may, without it being subject to a further assessment by the determining authority, modify the ground for his application and, thereby, the configuration of the facts of the case by relying, in an appeal procedure, on a ground for international protection which, whilst relating to events or threats which allegedly took place before the adoption of that authority's decision, or even before the application was lodged, were not mentioned before that authority.'	*F,* C-473/16, 25 January 2018 *Y and Z*, [2012], C-71/11 and C-99/11, 5 September 2012 *Alheto,* C-585/16, 25 July 2018 *Mohamed M'Bodj* v *État belge*, C-542/13, 18 December 2018 *B and D*, C-57/09 and C-101/09, 9 November 2010 *X and Others*, C-199/12 to C-201/12, 7 November 2013

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Paras. 97-99: '97. That vital stage before the determining authority would be circumvented if the applicant were, without any procedural consequences, allowed to rely, for the purposes of having a court annul or replace the decision of refusal adopted by that authority, on a ground of international protection which, whilst relating to allegedly antedated events or threats, was not raised before that authority and could not therefore be examined by it. 98. Accordingly, where one of the grounds for international protection referred to in paragraph 95 above is invoked for the first time in an appeal procedure and relates to alleged events or threats antedating the adoption of that decision, or even the lodging of the application for international protection, that ground must be regarded as a 'further representation', within the meaning of Article 40(1) of Directive 2013/32. As follows from that provision, such a characterisation means that the court before which the appeal has been brought is required to consider that ground in the course of its examination of the decision against which the appeal has been brought, provided nonetheless that each of the 'competent authorities', which includes not only that court but also the determining authority, has the opportunity to assess, in that framework, that further representation. 99. In order to determine whether that court itself is able to assess that further representation in the course of the action, it is for the court to ascertain, in accordance with the rules of procedure laid down by national law, whether the ground for international protection relied on for the first time before it has not been included in a later phase of the appeal procedure and has been presented in a sufficiently specific manner for it to be duly considered.' **Paras. 102-103:** '102. If, which it is for the referring court alone to ascertain, Mrs Ahmedbekova added during the appeal procedure not a ground of international protection but further evidence in support of a reason which was relied on before, and rejected by, the determining authority, in such a case, it is for the court before which the action has been brought to ascertain whether the evidence relied on for the first time before it is significant and does not overlap with the evidence which the determining authority was able to take into account. If so, the considerations set out in paragraphs 97 to 100 above, apply-*mutatis mutandis*.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'103. In the light of the foregoing, the answer to the eighth question is that Article 46(3) of Directive 2013/32 read in conjunction with the reference to the appeal procedure contained in Article 40(1) of that directive, must be interpreted as meaning that a court before which an action has been brought against a decision refusing international protection is, in principle, required to examine, as 'further representations' and having asked the determining authority for an assessment of those representations, grounds for granting international protection or evidence which, whilst relating to events or threats which allegedly took place before the adoption of the decision of refusal, or even before the application for international protection was lodged, have been relied on for the first time during those proceedings. That court is not, however, required to do so if it finds that those grounds or evidence were relied on in a late stage of the appeal proceedings or are not presented in a sufficiently specific manner to be duly considered or, in respect of evidence, it finds that that evidence is not significant or insufficiently distinct from evidence which the determining authority was already able to take into account.'	
CJEU	***Ayubi v Bezirkshauptmannschaft Linz-Land*** C-713/17 EU:C:2018:929 21.11.2018	Judgment after a reference for a preliminary ruling concerns the interpretation of Article 29 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted Directive 2011/95/EU — Rules relating to the content of international protection — Refugee status — Social protection — Different treatment — Refuges with temporary right of residence **Para. 24:** '24. Second, conferring such an option on the Member States with regard to the benefits granted to refugees would be incompatible with the principle that persons entitled to subsidiary protection should be accorded the same treatment with respect to public relief and assistance as provided to nationals of that Member State laid down in Article 23 of the Geneva Convention, in the light of which Article 29 of Directive 2011/95 must be interpreted.'	*Alo and Osso*, C-443/14 and C-444/14, 1 March 2016 *HT*, C-373/13, 24 June 2015 *Dominguez*, C-282/10, 24 January 2012 *Sürül,* C-262/96, 4 May 1999 *Gavieiro Gavieiro and Igliesias Torres*, C-444/09 and C-456/09, 22 December 2010 *Napoli,* C-595/12, 6 March 2014 *H*, C-174/16, 7 September 2017

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 25: '25. It follows that the level of social security benefits paid to refugees by the Member State which granted that status, whether temporary or permanent, must be the same as that offered to nationals of that Member State.' **Para. 29:** '29. It follows from the foregoing that refugees who have a residence permit limited to three years must be entitled to the same level of social assistance as that provided to nationals of the Member State which granted them refugee status.'	
CJEU	***MA and Others v International Protection Appeal Tribunal and Others*** C-661/17 EU:C:2019:53 23.01.2019	Judgment after a reference for a preliminary ruling concerning the interpretation of Articles 6 and 17, Article 20(3) and Article 27(1) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person Asylum policy — Criteria and mechanisms for determining the Member State responsible for examining an application for international protection — Regulation (EU) No 604/2013 — Discretionary clauses — Assessment criteria **Para. 59:** '59. In the light of the extent of the discretion thus conferred on the Member States, it is for the Member State concerned to determine the circumstances in which it wishes to use the option conferred by the discretionary clause set out in Article 17(1) of the Dublin III Regulation and to agree itself to examine an application for international protection for which it is not responsible under the criteria defined by that regulation.' **Paras. 70-72:** '70. By its third question, the referring court asks, in essence, whether Article 6(1) of the Dublin III Regulation must be interpreted as meaning that it requires a Member State which is not responsible, under the criteria set out by that regulation, for examining an application for international protection to take into account the best interests of the child and to itself examine that application, under Article 17(1) of that regulation.	*Pohotovosť,* C-470/12, 27 February 2014 *Eurosaneamientos and Others,* C-532/15 and C-538/15, 8 December 2016 *RO*, C-327/18 PPU, 19 September 2018 *CK and Others* v *Republika Slovenija*; C-578/16 PPU, 16 February 2017 *Halaf*, C-528/11, 30 May 2013 *Fathi,* C-56/17, 4 October 2018 *Abdullahi*, C-394/12, 10 December 2013

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'71. Given that it is already apparent from paragraphs 58 and 59 of the present judgment that the exercise of the option afforded to Member States by the discretionary clause set out in Article 17(1) of the Dublin III Regulation is not subject to any particular condition and that, in principle, it is for each Member State to determine the circumstances in which it wishes to use that option and to agree that it will itself examine an application for international protection for which it is not responsible under the criteria defined by that regulation, it must be held that considerations relating to the best interests of the child can also not oblige a Member State to use that option and itself examine an application for which it is not responsible. '72. It follows that Article 6(1) of the Dublin III Regulation must be interpreted as meaning that it does not require a Member State which is not responsible, under the criteria set out by that regulation, for examining an application for international protection to take into account the best interests of the child and to itself examine that application, under Article 17(1) of that regulation.' **Para. 76:** '76. Furthermore, the objective of the rapid processing of applications for international protection and, in particular, the determination of the Member State responsible, underlying the procedure established by the Dublin III Regulation and referred to in recital 5 of that regulation, discourages multiple remedies.' **Para. 79:** '79. Consequently, Article 27(1) of the Dublin III Regulation must be interpreted as meaning that it does not require a remedy to be made available against the decision not to use the option set out in Article 17(1) of that regulation, without prejudice to the fact that that decision may be challenged at the time of an appeal against a transfer decision.' **Paras. 88-90:** '88. It must be noted that it is clear from the wording of Article 20(3) of the Dublin III Regulation that that is the case. Consequently, it is only where it is established that such an examination carried out in conjunction with that of the child's parents is not in the best interests of that child that it will be necessary to treat the child's situation separately from that of its parents. '89. That finding is consistent with recitals 14 to 16, and, inter alia, Article 6(3)(a) and (4), Article 8(1), and Article 11 of the Dublin III Regulation. It follows from those provisions that respect for family life and, more specifically, preserving the unity of the family group is, as a general rule, in the best interests of the child.	*X,* C-213/17, 5 July 2018 *Telefónica and Telefónica de España* v *Commission,* C-295/12 P, 10 July 2014 *NS* v *Secretary of State for the Home Department and ME and Others* v *Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform,* C-411/10 and C-493/10, 21 December 2011

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'90. In the light of all of the foregoing considerations, the answer to the fifth question is that Article 20(3) of the Dublin III Regulation must be interpreted as meaning that, in the absence of evidence to the contrary, that provision establishes a presumption that it is in the best interests of the child to treat that child's situation as indissociable from that of its parents.'	
CJEU	***E* v *Staatssecretaris van Veiligheid en Justitie*** C-635/17 EU:C:2019:192 13.03.2019	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 3(2)(c) and Article 11(2) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification Directive 2003/86/EC — Exclusions from the scope of the directive — Article 3(2)(c) — Exclusion of persons benefiting from subsidiary protection — Extension of the right to family reunification to those persons under national law — Jurisdiction of the Court — Article 11(2) — Lack of official documentary evidence of the family relationship — Explanations regarded as insufficiently plausible — Obligations on the authorities of the Member States to take additional steps — Limits **Paras. 57-59:** '57. In that regard, it is for the competent national authorities to make a balanced and reasonable assessment of all the interests in play, taking particular account of the interests of the children concerned (judgment of 6 December 2012, *O and Others*, C-356/11 and C-357/11, EU:C:2012:776, paragraph 81). '58. Regard must also be had to Article 17 of Directive 2003/86, which requires applications for family reunification to be examined on a case-by-case basis (judgments of 9 July 2015, *K and A*, C-153/14, EU:C:2015:453, paragraph 60, and of 21 April 2016, *Khachab*, C-558/14, EU:C:2016:285, paragraph 43), which must take due account of the nature and solidity of the person's family relationships and the duration of his residence in the Member State and of the existence of family, cultural and social ties with his country of origin (judgment of 27 June 2006, *Parliament* v *Council*, C-540/03, EU:C:2006:429, paragraph 64). '59. Consequently, it is for the competent national authorities, when implementing Directive 2003/86 and examining applications for family reunification, to make, inter alia, a case-by-case assessment which takes account of all the relevant aspects of the particular case and, where appropriate, pays particular attention to the interests of the children concerned and with a view to promoting family life. In particular, circumstances such as the age of the children concerned, their circumstances in the country of origin and the extent to which they are dependent on relatives are liable to influence the extent and intensity of the examination required (see, to that effect, judgment of 27 June 2006, *Parliament* v *Council*, C-540/03, EU:C:2006:429, paragraph 56). In any event, as stated in paragraph 6.1 of the Guidelines, no factor taken separately may automatically lead to a decision.'	*Nolan*, C-583/10, 18 October 2012 *K and B,* C-380/17, 7 November 2018 *C and A,* C-257/17, 7 November 2018 *O and Others*, C-356/11 and C-357/11, 6 December 2012 *Parliament* v *Council*, C-540/03, 27 June 2006 *Detiček,* C-403/09 PPU, 23 December 2009 *K and A,* C-153/14, 9 July 2015 *Khachab*, C-558/14, 21 April 2016 *K*, C-18/16, 14 September 2017

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***Abubacarr Jawo gegen Bundesrepublik Deutschland*** C-163/17 EU:C:2019:218 19.03.2019	Judgment after a reference for a preliminary ruling concerns the interpretation of Article 3(2) and Article 29(1) and (2) of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, and Article 4 of the Charter of Fundamental Rights of the European Union Area of freedom, security and justice — Dublin system — Regulation (EU) No 604/2013 — Transfer of the asylum seeker to the Member State responsible for examining the application for international protection — Concept of 'absconding' — Modalities of extending the time limit for transfer — Article 4 of the Charter of Fundamental Rights of the European Union — Substantial risk of inhuman or degrading treatment on completion of the asylum procedure — Living conditions of beneficiaries of international protection in that Member State. **Para. 78:** '78. Moreover, it is settled case-law that the provisions of the Dublin III Regulation must be interpreted and applied in a manner consistent with the fundamental rights guaranteed by the Charter, inter alia Article 4 thereof, which prohibits, without any possibility of derogation, inhuman or degrading treatment in all its forms and is, therefore, of fundamental importance, and is general and absolute in that it is closely linked to respect for human dignity, which is the subject of Article 1 of the Charter.' **Paras. 80-83:** '80. In the second place, it should be recalled that EU law is based on the fundamental premiss that each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the European Union is founded, as stated in Article 2 TEU. That premiss implies and justifies the existence of mutual trust between the Member States that those values will be recognised, and therefore that the EU law that implements them will be respected (judgment of 25 July 2018, *Minister for Justice and Equality (Deficiencies in the system of justice)*, C-216/18 PPU, EU:C:2018:586, paragraph 35 and the case-law cited), and that their national legal systems are capable of providing equivalent and effective protection of the fundamental rights recognised by the Charter, particularly Articles 1 and 4 thereof, which enshrine one of the fundamental values of the Union and its Member States.	*DOCERAM,* C-395/16, 8 March 2018 *Migrationsverket* v *Edgar Petrosian and Others*, C-19/08, 29 January 2009 *Shiri*, C-201/16, 25 October 2017 *NS and Others*, C-411/10 and C-493/10, 21 December 2011 *CK and Others*, C-578/16 PPU, 16 February 2017 *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, 5 April 2016 *Minister for Justice and Equality (Deficiencies in the system of justice),* C-216/18 PPU, 25 July 2018 ECtHR, *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'81. The principle of mutual trust between the Member States is, in EU law, of fundamental importance given that it allows an area without internal borders to be created and maintained. More specifically, the principle of mutual trust requires, particularly as regards the area of freedom, security and justice, each of those States, save in exceptional circumstances, to consider all the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law (see, to that effect, judgments of 5 April 2016, *Aranyosi and Căldăraru*, C-404/15 and C-659/15 PPU, EU:C:2016:198, paragraph 78, and of 25 July 2018, *Minister for Justice and Equality*. '82. Accordingly, in the context of the Common European Asylum System, and in particular the Dublin III Regulation, which is based on the principle of mutual trust and which aims, by streamlining applications for international protection, to accelerate their processing in the interest both of applicants and participating States, it must be presumed that the treatment of applicants for international protection in all Member States complies with the requirements of the Charter, the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, Vol. 189, p. 150, No 2545 (1954)), and the ECHR. '83. It is not however inconceivable that that system may, in practice, experience major operational problems in a given Member State, meaning that there is a substantial risk that applicants for international protection may, when transferred to that Member State, be treated in a manner incompatible with their fundamental rights.' **Paras. 86 -88:** '86. The second and third subparagraphs of Article 3(2) of the Dublin III Regulation, which codified that case-law, state that, in such a situation, the determining Member State becomes the Member State responsible for examining the application for international protection if it finds, following examination of the criteria set out in Chapter III of that regulation, that the transfer cannot be made to any Member State designated on the basis of those criteria or to the first Member State in which the application was lodged.	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'87. Although the second subparagraph of Article 3(2) of the Dublin III Regulation envisages only the situation underlying the judgment of 21 December 2011, *N. S. and Others* (C-411/10 and C-493/10, EU:C:2011:865), namely that in which the real risk of inhuman or degrading treatment, within the meaning of Article 4 of the Charter, stems from systemic flaws in the asylum procedure and the reception conditions of applicants for international protection in the Member State which, pursuant to that regulation, is designated as responsible for examining the application, it is nevertheless apparent from paragraphs 83 and 84 of the present judgment and from the general and absolute nature of the prohibition laid down in Article 4 of the Charter that the transfer of an applicant to that Member State is ruled out in any situation in which there are substantial grounds for believing that the applicant runs such a risk during his transfer or thereafter. '88. Accordingly, it is immaterial, for the purposes of applying Article 4 of the Charter, whether it is at the very moment of the transfer, during the asylum procedure or following it that the person concerned would be exposed, because of his transfer to the Member State that is responsible within the meaning of the Dublin III Regulation, to a substantial risk of suffering inhuman or degrading treatment.' **Paras. 90-92:** '90. In that regard, where the court or tribunal hearing an action challenging a transfer decision has available to it evidence provided by the person concerned for the purposes of establishing the existence of such a risk, that court or tribunal is obliged to assess, on the basis of information that is objective, reliable, specific and properly updated and having regard to the standard of protection of fundamental rights guaranteed by EU law, whether there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people. '91. As regards, in the third place, the question of what criteria should guide the competent national authorities in carrying out that assessment, it must be noted that, in order to fall within the scope of Article 4 of the Charter, which corresponds to Article 3 ECHR, and of which the meaning and scope are therefore, in accordance with Article 52(3) of the Charter, the same as those laid down by the ECHR, the deficiencies referred to in the preceding paragraph of the present judgment must attain a particularly high level of severity, which depends on all the circumstances of the case. '92. That particularly high level of severity is attained where the indifference of the authorities of a Member State would result in a person wholly dependent on State support finding himself, irrespective of his wishes and personal choices, in a situation of extreme material poverty that does not allow him to meet his most basic needs, such as, inter alia, food, personal hygiene and a place to live, and that undermines his physical or mental health or puts him in a state of degradation incompatible with human dignity.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 95: '95. Nonetheless, it cannot be entirely ruled out that an applicant for international protection may be able to demonstrate the existence of exceptional circumstances that are unique to him and mean that, in the event of transfer to the Member State normally responsible for processing his application for international protection, he would find himself, because of his particular vulnerability, irrespective of his wishes and personal choices, in a situation of extreme material poverty meeting the criteria set out in paragraphs 91 to 93 of the present judgment after having been granted international protection.' **Para. 98:** '98. In the light of all the foregoing considerations, the answer to the third question is as follows: – EU law must be interpreted as meaning that the question whether Article 4 of the Charter precludes the transfer, pursuant to Article 29 of the Dublin III Regulation, of an applicant for international protection to the Member State which, in accordance with that regulation, is normally responsible for examining his application for international protection, where, in the event of such protection being granted in that Member State, the applicant would be exposed to a substantial risk of suffering inhuman or degrading treatment within the meaning of Article 4 of the Charter, on account of the living conditions that he could be expected to encounter as a beneficiary of international protection in that Member State, falls within its scope. – Article 4 of the Charter must be interpreted as not precluding such a transfer of an applicant for international protection, unless the court hearing an action challenging the transfer decision finds, on the basis of information that is objective, reliable, specific and properly updated and having regard to the standard of protection of fundamental rights guaranteed by EU law, that that risk is real for that applicant, on account of the fact that, should he be transferred, he would find himself, irrespective of his wishes and personal choices, in a situation of extreme material poverty.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***Bashar Ibrahim and Others* v *Bundesrepublik Deutschland* and *Bundesrepublik Deutschland* v *Taus Magamadov*** C-297/17, C-318/17, C-319/17 and C-438/17 EU:C:2019:219 19.03.2019	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 33(2)(a) and of the first paragraph of Article 52 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection and of Articles 4 and 18 of the Charter of Fundamental Rights of the European Union Area of freedom, security and justice — Common procedures for granting and withdrawing international protection — Directive 2013/32/EU — Article 33(2)(a) — Rejection by the authorities of a Member State of an application for asylum as being inadmissible because of the prior granting of subsidiary protection in another Member State — Article 52 — Scope *ratione temporis* of that directive — Articles 4 and 18 of the Charter of Fundamental Rights of the European Union — Systemic flaws in the asylum procedure in that other Member State — Systematic rejection of applications for asylum — Substantial risk of suffering inhuman or degrading treatment — Living conditions of those granted subsidiary protection in that other State **Paras. 88-93:** '88. Accordingly, where a court or tribunal hearing an action brought against a decision rejecting a new application for international protection as being inadmissible has available to it evidence produced by the applicant in order to establish the existence of such a risk in the Member State that has previously granted subsidiary protection, that court or tribunal is obliged to assess, on the basis of information that is objective, reliable, specific and properly updated and having regard to the standard of protection of fundamental rights guaranteed by EU law, whether there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people (see, by analogy, judgment of today's date, *Jawo*, C-163/17, paragraph 90 and the case-law cited). '89. In that regard, it must be stated that, if the deficiencies mentioned in the preceding paragraph of the present judgment are to fall within the scope of Article 4 of the Charter, which corresponds to Article 3 of the ECHR, and the meaning and scope of which is therefore, under Article 52(3) of the Charter, the same as those laid down by the ECHR, those deficiencies must attain a particularly high level of severity, which depends on all the circumstances of the case (judgment of today's date, *Jawo*, C-163/17, paragraph 91 and the case-law cited). '90. That particularly high level of severity is attained where the indifference of the authorities of a Member State would result in a person wholly dependent on State support finding himself, irrespective of his wishes and his personal choices, in a situation of extreme material poverty that does not allow him to meet his most basic needs, such as, inter alia, food, personal hygiene and a place to live, and that undermines his physical or mental health or puts him in a state of degradation incompatible with human dignity (judgment of today's date, *Jawo*, C-163/17, paragraph 92 and the case-law cited).	*Alheto,* C-585/16, 25 July 2018 *Ahmed,* C-36/17, 5 April 2017 *Abubacarr Jawo* v *Bundesrepublik Deutschland* [GC], C-163/17, 19 March 2019

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'91. That threshold cannot therefore cover situations characterised even by a high degree of insecurity or a significant degradation of the living conditions of the person concerned, where they do not entail extreme material poverty placing that person in a situation of such gravity that it may be equated with inhuman or degrading treatment (judgment of today's date, *Jawo*, C-163/17, paragraph 93) '92. Given the concerns of the referring court on this point, it must be made clear that, having regard to the importance of the principle of mutual trust for the common European asylum system, infringements of the provisions of Chapter VII of the Qualification Directive which do not result in a breach of Article 4 of the Charter do not prevent the Member States from exercising the option granted by Article 33(2)(a) of the Procedures Directive. '93. As regards the fact, also mentioned by the referring court, that those granted subsidiary protection do not receive, in the Member State which granted such protection to the applicant, any subsistence allowance, or that such allowance as they receive is markedly inferior to that in other Member States, though they are not treated differently from nationals of that Member State, that can lead to the finding that that applicant is exposed in that Member State to a real risk of suffering treatment that is in breach of Article 4 of the Charter only if the consequence is that the applicant is, because of his or her particular vulnerability, irrespective of his or her wishes and personal choices, in a situation of extreme material poverty that meets the criteria described in paragraphs 89 to 91 of the present judgment.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC]	***SM* v *Entry Clearance Officer, UK Visa Section*** C-129/18 EU:C:2019:248 26.03.2019	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 2(2)(c) and Articles 27 and 35 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States Directive 2004/38/EC — Family members of a citizen of the Union — Article 2(2)(c) — 'Direct descendant' — Child in permanent legal guardianship under the Algerian kafala (provision of care) system — Article 3(2)(a) — Other family members — Article 7 and Article 24(2) of the Charter of Fundamental Rights of the European Union — Family life — Best interests of the child **Para. 67:** '67. Article 7 of the Charter must, moreover, be read in conjunction with the obligation to take into consideration the best interests of the child, which are recognised in Article 24(2) thereof.'	*Ziolkowski and Szeja,* C-424/10 and C-425/10, 21 December 2011 *Lassal,* C-162/09, 7 October 2010 *O and B,* C-456/12, 12 March 2014 *Coman and Others*, C-673/16, 5 June 2018 *Reyes,* C-423/12, 16 January 2014 *Ogieriakhi,* C-244/13, 10 July 2014 *Rahman and Others,* C-83/11, 5 September 2012 *Banger,* C-89/17, 12 July 2018 *McB.*, C-400/10 PPU, 5 October 2010 ECtHR, *Chbihi Loudoudi and Others* v *Belgium,* no 52265/10, 16 December 2014 *Detiček,* C-403/09 PPU, 23 December 2009

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU [GC}	***Staatssecretaris van Veiligheid en Justitie* v *H and R*** Joined cases C-582/17 and C-583717 EU:C:2019:280 02.04.2019	Judgment after a reference for a preliminary ruling concerning interpretation of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person Regulation (EU) No 604/2013 — Article 18(1)(b) to (d) — Article 23(1) — Article 24(1) — Take back procedure — Criteria for determining responsibility — New application lodged in another Member State — Article 20(5) — Ongoing determination process — Withdrawal of the application — Article 27 — Remedies **Para. 83:** '83. With this in mind, it should be observed that the criteria for determining responsibility set out in Articles 8 to 10 of the Regulation, read in the light of recitals 13 and 14 thereof, are intended to promote the best interests of the child and the family life of the persons concerned, which are moreover guaranteed in Articles 7 and 24 of the Charter of Fundamental Rights. In those circumstances, a Member State cannot, in accordance with the principle of sincere cooperation, properly make a take back request, in a situation covered by Article 20(5) of the regulation, when the person concerned has provided the competent authority with information clearly establishing that that Member State must be regarded as the Member State responsible for examining the application pursuant to those criteria for determining responsibility. In such a situation, it is, on the contrary, for that Member State to accept its own responsibility.'	*Chavez-Vilchez and Others,* C-133/15, 10 May 2017 *Rendón Marín,* C-165/14, 13 September 2016 *Ghezelbash,* C-63/15, 7 June 2016 *Karim*, C-155/15, 7 June 2016 *Mengesteab*, C-670/16, 26 July 2017 *Shiri,* C-201/16, 25 October 2017 *AS*, C-490/16, 26 July 2017 *Hasan*, C-360/16, 25 January 2018 *X and X,* C-47/17 and C-48/17, 13 November 2018 *Ghezelbash,* C-63/15, 7 June 2016 *Mirza,* C-695/15 PPU, 17 March 2016 *Khir Amayry,* C-60/16, 13 September 2017

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
CJEU	***Mohammed Bilali v Bundesamt für Fremdenwesen und Asyl*** C-720/17 EU:C:2019:448 23.05.2019	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 19 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted Area of freedom, security and justice — Asylum policy — Subsidiary protection — Directive 2011/95/EU — Article 19 — Revocation of subsidiary protection status — Error on the part of the administrative authorities with respect to the facts **Para. 44:** '44. In that regard, it should be noted, first, that the Court has already held that it would be contrary to the general scheme and objectives of Directive 2011/95 to grant refugee status and subsidiary protection status to third-country nationals in situations which have no connection with the rationale of international protection (see, to that effect, judgment of 18 December 2014, *M'Bodj*, C-542/13, EU:C:2014:2452, paragraph 44). The situation of an individual who has obtained subsidiary protection status on the basis of incorrect information without ever having met the conditions for obtaining that status has no connection with the rationale of international protection.' **Para. 51:** '51. Consequently, it follows from a combined reading of Articles 16 and 19(1) of Directive 2011/95, in the light of the general scheme and purpose of that directive, that, where the host Member State has new information which establishes that, contrary to its initial assessment of the situation of a third-country national or of a stateless person to whom it granted subsidiary protection, based on incorrect information, that person never faced a risk of serious harm, within the meaning of Article 15 of that directive, that Member State must conclude from this that the circumstances underlying the granting of subsidiary protection status have changed in such a way that retention of that status is no longer justified.' **Para. 58:** '58. Although there is nothing in that convention that expressly provides for loss of refugee status if it subsequently emerges that that status should never have been conferred, the UNHCR nevertheless considers that, in such a situation, the decision granting refugee status must, in principle, be annulled (Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, 1992, paragraph 117).'	*Idi,* C-101/18, 28 March 2019 *Ahmed,* C-369/17, 13 September 2018 *M and Others (Revocation of refugee status),* C-391/16, C-77/17 and C-8/17, 14 May 2019 *Ahmedbekova,* C-652/16, 4 October 2018 *Mohamed M'Bodj v État belge*, C-542/13, 18 December 2014 *HT*, C-373/13, 24 June 2015 *Salahadin Abdulla and Others*, joined cases C-175/08, C-176/08, C-178/08 and C-179/08, 2 March 2010 *Alo and Osso*, C-443/14 and C-444/14, 1 March 2016 *Halaf*, C-528/11, 30 May 2013

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 62: '62. It should also be added that when making the assessments which it is for the Member State concerned to carry out under the procedures referred to in paragraphs 60 and 61 of the present judgment, that Member State is obliged to observe, in particular, the fundamental right of the person concerned to respect for private and family life, which is guaranteed, within their respective scope of application, by Article 7 of the Charter of Fundamental Rights of the European Union and by Article 8 of the ECHR.'	*B and D*, C-57/09 and C-101/09, 9 November 2010
CJEU [GC]	***Zubar Haqbin v Federaal Agentschap voor de opvang van asielzoekers*** C-233/18 EU:C:2019:956 12.11.2019	Judgment after a reference for a preliminary ruling concerning the interpretation of Article 20 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection Applicants for international protection — Directive 2013/33/EU — Article 20(4) and (5) — Serious breach of the rules of the accommodation centres as well as seriously violent behaviour — Scope of the Member States' right to determine the sanctions applicable — Unaccompanied minor — Reduction or withdrawal of material reception conditions **Para. 34:** '34. In the specific situation of 'vulnerable persons' within the meaning of Article 21 of the directive, which include unaccompanied minors such as Mr Haqbin at the time when he was the subject of the sanction at issue in the main proceedings, the second subparagraph of Article 17(2) of the directive states that Member States must ensure that such a standard of living is 'met'.' **Para. 45:** '45. First, the host Member State must respect fundamental rights, as is apparent from recital 35 of Directive 2013/33. Consequently, Article 20 of that directive must be read and interpreted in the light, in particular, of respect for human dignity and the rights of the child, enshrined, respectively, in Articles 1 and 24 of the Charter.'	*CHEZ Razpredelenie Bulgaria,* C-83/14, 16 July 2015 *Abubacarr Jawo v Bundesrepublik Deutschland* [GC], C-163/17, 19 March 2019

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 46: '46. With regard specifically to the requirement to ensure a dignified standard of living, it is apparent from recital 35 of Directive 2013/33 that the directive seeks to ensure full respect for human dignity and to promote the application, inter alia, of Article 1 of the Charter of Fundamental Rights and has to be implemented accordingly. In that regard, respect for human dignity within the meaning of that article requires the person concerned not finding himself or herself in a situation of extreme material poverty that does not allow that person to meet his or her most basic needs such as a place to live, food, clothing and personal hygiene, and that undermines his or her physical or mental health or puts that person in a state of degradation incompatible with human dignity.' **Para. 53:** '53. Lastly, it is important to note that, where the applicant, as in the main proceedings, is an unaccompanied minor, that is to say a 'vulnerable person' within the meaning of Article 21 of Directive 2013/33, the authorities of the Member States, when imposing sanctions pursuant to Article 20(4) of the directive, must especially take into account, according to the second sentence of Article 20(5) thereof, of the particular situation of the minor and of the principle of proportionality.' **Para. 54:** '54. The provision of such support is justified since the adoption of such a sanction does not mean that the reception right has legally come to an end. For as long as the minor is authorised to remain on the territory of the host Member State for the purposes of examination of his application (*25*) and provided that he does not have sufficient own means to support his essential needs, (*26*) that State must ensure reception conditions that enable him to have access to health care and to live in dignity. (*27*) Although the EU legislature does not specify the measures which the host Member State is specifically required to adopt in order to ensure a dignified standard of living, those measures must cover the most essential rights at the time when the applicant is without sources of income, namely the possibility to be housed, fed and clothed.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 56: '56. In the light of all of the foregoing, the answer to the questions referred is that Article 20(4) and (5) of Directive 2013/33, read in the light of Article 1 of the Charter of Fundamental Rights, must be interpreted as meaning that a Member State cannot, among the sanctions that may be imposed on an applicant for serious breaches of the rules of the accommodation centres as well as seriously violent behaviour, provide for a sanction consisting in the withdrawal, even temporary, of material reception conditions, within the meaning of Article 2(f) and (g) of the directive, relating to housing, food or clothing, in so far as it would have the effect of depriving the applicant of the possibility of meeting his or her most basic needs. The imposition of other sanctions under Article 20(4) of the directive must, under all circumstances, comply with the conditions laid down in Article 20(5) thereof, including those concerning the principle of proportionality and respect for human dignity. In the case of an unaccompanied minor, those sanctions must, in the light, inter alia, of Article 24 of the Charter of Fundamental Rights, be determined by taking particular account of the best interests of the child.'	

Advocate General (AG) Opinion

CJEU (Opinion of Advocate General Sharpston)	***A, B and C* v *Staatssecretaris van Veiligheid en Justitie*** C-148/13 to C-150/13 EU:C:2014:2111 17.07.2014	Opinion after a reference for a preliminary ruling concerns a broad conceptual question as to whether EU law limits the actions of Member States when assessing requests for asylum made by an applicant who fears persecution in his country of origin on grounds of his sexual orientation Directive 2005/85/EC — Assessment of applications for international protection — Assessment of facts and circumstances — Credibility of an applicant's averred sexual orientation) **Paras. 60 – 61:** '60. Within the European Union, homosexuality is no longer considered to be a medical or psychological condition. (*65*) There is no recognised medical examination that can be applied in order to establish a person's sexual orientation. As regards the right to private life, interference with an individual's right to his sexual orientation can only be made where, inter alia, it is provided for by law and it complies with the principle of proportionality. '61. Since homosexuality is not a medical condition, any purported medical test applied to determine an applicant's sexual orientation could not, in my view, be considered to be consistent with Article 3 of the Charter. It would also fail the proportionality requirement (Article 52(1)) in relation to a violation of the right to privacy and family life because, by definition, such a test cannot achieve the objective of establishing an individual's sexual orientation. It follows that medical tests cannot be used for the purpose of establishing an applicant's credibility, as they infringe Articles 3 and 7 of the Charter.'	*Minister voor Immigratie en Asiel* v *X, Y, and Z* v *Minister voor Immigratie en Asiel*, joined cases C-199/12 to C-201/12, 7 November 2013 *Bundesrepublik Deutschland* v *Y and Z*, C-71/11 and C-99/11, 5 September 2012 *Salahadin Abdulla and Others*, C-175/08, C-176/08, C-178/08 and C-179/08, 2 March 2010 *Samba Diouf,* C-69/10, 28 July 2011 *M,* C-277/11, 22 November 2012 ECtHR, *Van Kück* v *Germany*, no 35968/97, 12 June 2003,

European Court of Human Rights (ECtHR)

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
ECtHR	***Airey* v *Ireland*** no 6289/73 09.10.1979	ECtHR judgment Article 8 ECHR – right to respect for private and family life – State failed to act Article 6(1) – right to fair hearing -the applicant was without an effective right of access to the High Court for purposes of separation proceedings **Para. 24:** '24. The Government contend that the application does enjoy access to the High Court since she is free to go before that court without the assistance of a lawyer. 'The Court does not regard this possibility, of itself, as conclusive of the matter. The Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective. This is particularly so of the right of access to the courts in view of the prominent place held in a democratic society by the right to a fair trial. It must therefore be ascertained whether Mrs. Airey's appearance before the High Court without the assistance of a lawyer would be effective, in the sense of whether she would be able to present her case properly and satisfactorily. 'Contradictory views on this question were expressed by the Government and the Commission during the oral hearings. It seems certain to the Court that the applicant would be at a disadvantage if her husband were represented by a lawyer and she were not. Quite apart from this eventuality, it is not realistic, in the Court's opinion, to suppose that, in litigation of this nature, the applicant could effectively conduct her own case, despite the assistance which, as was stressed by the Government, the judge affords to parties acting in person. 'In Ireland, a decree of judicial separation is not obtainable in a District Court, where the procedure is relatively simple, but only in the High Court. A specialist in Irish family law, Mr. Alan J. Shatter, regards the High Court as the least accessible court not only because "fees payable for representation before it are very high" but also by reason of the fact that "the procedure for instituting proceedings ... is complex particularly in the case of those proceedings which must be commenced by a petition", such as those for separation (Family Law in the Republic of Ireland, Dublin 1977, p. 21).	*Klass and Others*, no 5029/71, 6 September 1978 *De Wilde, Ooms and Versyp*, nos 2832/66; 2835/66; 2899/66, 18 June 1971 *König*, no 6232/73, 28 June 1978 *Golder*, no 4451/70, 21 February 1975 *Belgian linguistic case*, nos 1474/62; 1677/62; 1691/62; 1769/63; 1994/63; 2126/64, 23 July 1968 *Luedicke, Belkacem and Koç*, nos 6210/73; 6877/75; 7132/75, 28 November 1978 *Marckx*, no 6833/74, 13 June 1979

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'Furthermore, litigation of this kind, in addition to involving complicated points of law, necessitates proof of adultery, unnatural practices or, as in the present case, cruelty; to establish the facts, expert evidence may have to be tendered and witnesses may have to be found, called and examined. What is more, marital disputes often entail an emotional involvement that is scarcely compatible with the degree of objectivity required by advocacy in court. 'For these reasons, the Court considers it most improbable that a person in Mrs. Airey's position (see paragraph 8 above) can effectively present his or her own case. This view is corroborated by the Government's replies to the questions put by the Court, replies which reveal that in each of the 255 judicial separation proceedings initiated in Ireland in the period from January 1972 to December 1978, without exception, the petitioner was represented by a lawyer (see paragraph 11 above). 'The Court concludes from the foregoing that the possibility to appear in person before the High Court does not provide the applicant with an effective right of access and, hence, that it also does not constitute a domestic remedy whose use is demanded by Article 26 (art. 26).'	*Delcourt*, no2689/65, 17 January 1970 *De Wilde, Ooms and Versyp*, nos 2832/66; 2835/66; 2899/66, 10 March 1972 *National Union of Belgian Police*, no 4464/70, 27 October 1975
ECtHR	***D* v *United Kingdom*** no 30240/96 02.05.1997	ECtHR judgment Article 3 ECHR – removal to St Kitts – inhuman and degrading treatment – medical treatment **Paras. 51-54:** '51. The Court notes that the applicant is in the advanced stages of a terminal and incurable illness. At the date of the hearing, it was observed that there had been a marked decline in his condition and he had to be transferred to a hospital. His condition was giving rise to concern (see paragraph 21 above). The limited quality of life he now enjoys results from the availability of sophisticated treatment and medication in the United Kingdom and the care and kindness administered by a charitable organisation. He has been counselled on how to approach death and has formed bonds with his carers (see paragraph 19 above).	*Soering* v *United Kingdom*, no 14038/88, 7 July 1989, *Vilvarajah and Others* v *United Kingdom*, nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, 30 October 1991

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		'52. The abrupt withdrawal of these facilities will entail the most dramatic consequences for him. It is not disputed that his removal will hasten his death. There is a serious danger that the conditions of adversity which await him in St Kitts will further reduce his already limited life expectancy and subject him to acute mental and physical suffering. Any medical treatment which he might hope to receive there could not contend with the infections which he may possibly contract on account of his lack of shelter and of a proper diet as well as exposure to the health and sanitation problems which beset the population of St Kitts (see paragraph 32 above). While he may have a cousin in St Kitts (see paragraph 18 above), no evidence has been adduced to show whether this person would be willing or in a position to attend to the needs of a terminally ill man. There is no evidence of any other form of moral or social support. Nor has it been shown whether the applicant would be guaranteed a bed in either of the hospitals on the island which, according to the Government, care for AIDS patients (see paragraph 17 above). '53. In view of these exceptional circumstances and bearing in mind the critical stage now reached in the applicant's fatal illness, the implementation of the decision to remove him to St Kitts would amount to inhuman treatment by the respondent State in violation of Article 3 (art. 3). The Court also notes in this respect that the respondent State has assumed responsibility for treating the applicant's condition since August 1994. He has become reliant on the medical and palliative care which he is at present receiving and is no doubt psychologically prepared for death in an environment which is both familiar and compassionate. Although it cannot be said that the conditions which would confront him in the receiving country are themselves a breach of the standards of Article 3 (art. 3), his removal would expose him to a real risk of dying under most distressing circumstances and would thus amount to inhuman treatment. Without calling into question the good faith of the undertaking given to the Court by the Government (see paragraph 44 above), it is to be noted that the above considerations must be seen as wider in scope than the question whether or not the applicant is fit to travel back to St Kitts. '54. Against this background the Court emphasises that aliens who have served their prison sentences and are subject to expulsion cannot in principle claim any entitlement to remain in the territory of a Contracting State in order to continue to benefit from medical, social or other forms of assistance provided by the expelling State during their stay in prison. However, in the very exceptional circumstances of this case and given the compelling humanitarian considerations at stake, it must be concluded that the implementation of the decision to remove the applicant would be a violation of Article 3 (art. 3).'	*Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995 *Ahmed* v *Austria*, no 25964, 17 December 1996

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
ECtHR	***Mubilanzila Mayeka and Kaniki Mitunga v Belgium*** no 13178/03 12.10.2006	ECtHR judgment Article 3 ECHR – detention – deportation – inhuman treatment of a child – Article 8 ECHR – respect for family life – the detention of a five-year-old child in an adult facility with only telephone communication with her mother **Para. 50:** '50. The Court notes that the second applicant, who was only five years old, was held in the same conditionsas adults. She was detained in a centre that had initially been designed for adults, even though she was unaccompanied by her parents and no one had been assigned to look after her. No measures were taken to ensure that she received proper counselling and educational assistance from qualified personnel specially mandated for that purpose. That situation lasted for two months. It is further noted that the respondent State have acknowledged that the place of detention was not adapted to her needs and that there were no adequate structures in place at the time.'	*A* v *United Kingdom*, no 100/1997/884/1096, 23 September 1998 *Adam* v *Germany*, (dec), no 43359/98, 4 October 2001 *Aerts* v *Belgium,* no 61/1997/845/1051, 30 July 1998 *Amrollahi* v *Denmark*, no 56811/00, 11 July 2002 *Amuur* v *France*, no 19776/92, 25 June 1996 *Beldjoudi* v *France* no 12083/86, 26 March 1992 *Beyeler* v *Italy*, no 33202/96, 5 January 2000 *Botta* v *Italy*, no 153/1996/772/973, 24 February 1998 *Boultif* v *Switzerland*, no 54273/00, 2 August 2001 *Bozano* v *France,* no 9990/82, 18 December 1986

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Cakici v *Turkey* [GC], no 23657/94, 8 July 1999 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995, *Čonka* v *Belgium*, no 51564/99, 5 February 2002, *DG* v *Ireland,* no39474/98, 16 May 2002, *De Wilde, Ooms and Versyp* nos 2832/66; 2835/66; 2899/66, 18 June 1971, *Eriksson* v *Sweden,* no 11373/85, 22 June 1989, *Gnahoré* v *France*, no 40031/98, 19 September 2000 *Hamiyet Kaplan and Others* v *Turkey*, no 36749/97, 13 September 2005

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Hokkanen v *Finland*, no 19823/92, 23 September 1994 *Ignaccolo-Zenide* v *Romania*, no 31679/96, 25 January 2000 *Johansen* v *Norway,* no 17383/90, 7 August 1996 *KF* v *Germany*, no 144/1996/765/962, 27 November 1997 *Keegan* v *Ireland* no 16969/90, 26 May 1994 *Mokrani* v *France*, no 52206/99, 15 July 2003 *Moustaquim* v *Belgium*, no 12313/86, 18 February 1991 *Niemietz* v *Germany*, no 13710/88, 16 December 1992 *Nuutinen* v *Finland,* no 32842/96, 27 June 2000 *Olsson* v *Sweden (no 1)*, no 10465/83, 24 March 1988

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Osman v *United Kingdom*, no 87/1997/871/1083, 28 October 1998 *Raninen* v *Finland,* no 152/1996/771//972, 16 December 1997 *Selmouni* v *France*, GC, no 25803/94, 28 July 1999 Slivenko v Latvia *[GC],* no 48321/99, 9 October 2003 *Soering* v *United Kingdom*, no 14038/88, 7 July 1989 *Von Hannover* v *Germany,* no 59320/00, 24 June 2004 *Weeks* v *United Kingdom,* no 9787/82, 2 March 1987 *Winterwerp* v *the Netherlands,* no 6301/73, 24 October 1979 *Z and Others* v *United Kingdom,* GC, no 29329/95, 10 May 2001

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
ECtHR	***Salah Sheekh* v *the Netherlands*** no 1948/04 11.01.2007	ECtHR judgment Article 3 ECHR – effective remedy – Netherlands authorities refused to suspend expulsion pending a decision on his objection against the manner of that expulsion **Paras. 140-149:** '140. The Court considers it most unlikely that the applicant, who is a member of the Ashraf minority – one of the groups making up the Benadiri (or Reer Hamar) minority group – and who hails from the south of Somalia, would be able to obtain protection from a clan in the "relatively safe" areas. According to the Government's November 2004 country report, individuals who do not originate from Somaliland or Puntland and who are unable to claim clan protection there almost invariably end up in miserable settlements for the internally displaced, with no real chance of proper integration. They are said to have a marginal, isolated position in society which renders them vulnerable and more likely than most to be the victims of crime. Indeed, the three most vulnerable groups in Somalia are said to be IDPs, minorities and returnees from exile. If expelled to the "relatively safe" areas, the applicant would fall into all three categories. In this context it should further be noted that, again according to the Government, there are so few Benadiri in the "relatively safe" areas that no general statements can be made about their position there. However, the Court considers that it is not necessary to examine whether the conditions in which the applicant is likely to end up if expelled to Somaliland or Puntland are such as to expose him to a real risk of being subjected to treatment in violation of Article 3, since it is of the opinion that that provision stands in any event in the way of such an expulsion for the following reasons.	*Ahmed* v *Austria*, no 25964/94, 17 December 1996 *Chahal* v *United Kingdom*, (GC), no 22414/93, 15 November 1995 *Čonka* v *Belgium*, no 51564/99, 5 February 2002 *HLR* v *France*, no 24573/94, 29 April 1997 *Hilal* v *United Kingdom*, no 45276/99, 6 March 2001 *Mamatkulov and Askarov* v *Turkey* [GC], nos 46827/99 and 46951/99 *Selmouni* v *France* [GC], 28 July 1999, no 25803/94, 4 February 2005

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		141. In its position paper of January 2004 and its advisory of November 2005, UNHCR states its opposition to the forced return of rejected asylum seekers to areas of Somalia from which they do not originate, emphasising that there is no internal flight alternative available in Somalia. It is nevertheless to be noted that it does not appear to be UNHCR's position that the individuals concerned would have a well-founded fear of persecution within the meaning of Article 1 of the 1951 Convention in the areas it considers safe. Rather, the organisation's concerns are focused on the possible destabilising effects of an influx of involuntary returnees on the already overstretched absorption capacity of Somaliland and Puntland, as well as the dire situation in which returnees find themselves. While the Court by no means wishes to detract from the acute pertinence of socio-economic and humanitarian considerations to the issue of forced returns of rejected asylum seekers to a particular part of their country or origin, such considerations do not necessarily have a bearing, and certainly not a decisive one, on the question whether the persons concerned would face a real risk of ill-treatment within the meaning of Article 3 of the Convention in those areas. Moreover, Article 3 does not, as such, preclude Contracting 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. However, the Court has previously held that the indirect removal of an alien to an intermediary country does not affect the responsibility of the expelling Contracting State to ensure that he or she is not, as a result of its decision to expel, exposed to treatment contrary to Article 3 of the Convention. It sees no reason to hold differently where the expulsion is, as in the present case, to take place not to an intermediary country but to a particular region of the country of origin. The Court considers that as a precondition for 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 the expellee ending up in a part of the country of origin where he or she may be subjected to ill-treatment.	*TI* v *United Kingdom*, (dec), no 43844/98, 7 March 2000 *Vilvarajah and Others* v *United Kingdom*, nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, 30 October 1991

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		142. The Court observes that the authorities of Somaliland have issued a decree – which, admittedly, has not been enforced to date – ordering all displaced persons not originally from Somaliland to leave the country, and that the Puntland authorities are said to have grown wary of non-Puntlanders coming to their territory and have made it clear that they will only admit to the territory they control those who are of the same clan or who were previously resident in the area. More importantly, the authorities of both entities have informed the respondent Government of their opposition to the forced deportations of, in the case of Somaliland, non-Somalilanders and, in the case of Puntland, "refugees regardless of which part of Somalia they originally came from without seeking either the acceptance or prior approval" of the Puntland authorities. In addition, both the Somaliland and Puntland authorities have indicated that they do not accept the EU travel document. 143. While it appears that the stance of the Somaliland and Puntland authorities has led the United Kingdom Government to refrain from expelling rejected asylum seekers belonging to the Benadiri to those regions, the Netherlands Government have insisted that such expulsions are possible and have pointed out that in the event of an expellee being denied entry, he or she would be allowed to return to the Netherlands. Bearing in mind that, according to information provided by the respondent Government, Somalis are free to enter and leave the country as the State borders are subject to very few controls, the Court accepts that the Government may well succeed in removing the applicant to either Somaliland or Puntland (although in the light of a recent BBC report this is not certain). However, this by no means constitutes a guarantee that the applicant, once there, will be allowed or enabled to stay in the territory, and with no monitoring of deported rejected asylum seekers taking place, the Government have no way of verifying whether or not the applicant succeeds in gaining admittance. In view of the position taken by the Puntland, and particularly the Somaliland, authorities, it seems to the Court rather unlikely that the applicant would be allowed to settle there. Consequently, there is a real chance of his being removed, or of his having no alternative but to go to areas of the country which both the Government and UNHCR consider unsafe. 144. As regards the islands off the coast of southern Somalia, which are considered "relatively safe" by the Government, the Court notes that these are inhabited by members of the Darod/Marehan clan and of a minority different from the one to which the applicant belongs. It has not been suggested that the applicant would be able to obtain clan protection there. As with Somaliland and Puntland, there are similarly no guarantees that the applicant would be able to settle there, quite apart from the fact that the islands can be reached only via "relatively unsafe" territory.	

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		145. The question must therefore be examined whether, if the applicant were to end up in areas of Somalia other than Somaliland or Puntland, he would run a real risk of being exposed to treatment contrary to Article 3. In this context, the Court is aware that the Government do not consider areas in Somalia "relatively unsafe" because of any risk that individuals may run there of being subjected to treatment in breach of Article 3 of the Convention, but because of an overall situation which is such that, in the opinion of the Minister of Immigration and Integration, a return to those areas would constitute an exceptionally harsh measure. 146. The Court considers that the treatment to which the applicant claimed he had been subjected prior to his leaving Somalia can be classified as inhuman within the meaning of Article 3: members of a clan beat, kicked, robbed, intimidated and harassed him on many occasions and made him carry out forced labour. Members of the same clan also killed his father and raped his sister. The Court notes that the particular – and continuing – vulnerability to this kind of human rights abuses of members of minorities like the Ashraf has been well-documented. 147. While the Netherlands authorities were of the opinion that the problems experienced by the applicant were to be seen as a consequence of the generally unstable situation in which criminal gangs frequently, but arbitrarily, intimidated and threatened people, the Court is of the view that that is insufficient to remove the treatment meted out to the applicant from the scope of Article 3. As set out above, the existence of the obligation not to expel is not dependent on whether the risk of the treatment stems from factors which involve the responsibility, direct or indirect, of the authorities of the receiving country, and Article 3 may thus also apply in situations where the danger emanates from persons or groups of persons who are not public officials. What is relevant in this context is whether the applicant was able to obtain protection against and seek redress for the acts perpetrated against him. The Court considers that this was not the case. Moreover, having regard to the information available, the Court is far from persuaded that the situation has undergone such a substantial change for the better that it could be said that the risk of the applicant being subjected to this kind of treatment anew has been removed or that he would be able to obtain protection from the (local) authorities. There is no indication, therefore, that the applicant would find himself in a significantly different situation from the one he fled.	

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		148. The Court would further take issue with the national authorities' assessment that the treatment to which the applicant was subjected was meted out arbitrarily. It appears from the applicant's account that he and his family were targeted because they belonged to a minority and for that reason it was known that they had no means of protection; they were easy prey, as were the other three Ashraf families living in the same village. The Court would add that, in its opinion, the applicant cannot be required to establish the existence of further special distinguishing features concerning him personally in order to show that he was, and continues to be, personally at risk. In this context it is true that a mere possibility of ill-treatment is insufficient to give rise to a breach of Article 3. Such a situation arose in the case of *Vilvarajah and Others v. the United Kingdom*, where the Court found that the possibility of detention and ill-treatment existed in respect of young male Tamils returning to Sri Lanka. The Court then insisted that the applicants show that special distinguishing features existed in their cases that could or ought to have enabled the United Kingdom authorities to foresee that they would be treated in a manner incompatible with Article 3. However, in the present case, the Court considers, on the basis of the applicant's account and the information about the situation in the "relatively unsafe" areas of Somalia in so far as members of the Ashraf minority are concerned, that it is foreseeable that on his return the applicant would be exposed to treatment in breach of Article 3. It might render the protection offered by that provision illusory if, in addition to the fact of his belonging to the Ashraf – which the Government have not disputed –, the applicant were required to show the existence of further special distinguishing features. 149. The foregoing considerations are sufficient to enable the Court to conclude that the expulsion of the applicant to Somalia as envisaged by the respondent Government would be in violation of Article 3 of the Convention.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
ECtHR	***N* v *United Kingdom*** no 26565/05 27.05.2008	ECtHR judgment Article 3 ECHR – removal to Uganda – inhuman and degrading treatment – medical treatment **Paras. 42-45:** '42. In summary, the Court observes that since *D. v. the United Kingdom* it has consistently applied the following principles. Aliens who are subject to expulsion cannot in principle claim any entitlement to remain in the territory of a Contracting State in order to continue to benefit from medical, social or other forms of assistance and services provided by the expelling State. The fact that the applicant's circumstances, including his life expectancy, would be significantly reduced if he were to be removed from the Contracting State is not sufficient in itself to give rise to breach of Article 3. The decision to remove an alien who is suffering from a serious mental or physical illness to a country where the facilities for the treatment of that illness are inferior to those available in the Contracting State may raise an issue under Article 3, but only in a very exceptional case, where the humanitarian grounds against the removal are compelling. In the *D. v. the United Kingdom* case the very exceptional circumstances were that the applicant was critically ill and appeared to be close to death, could not be guaranteed any nursing or medical care in his country of origin and had no family there willing or able to care for him or provide him with even a basic level of food, shelter or social support. '43. The Court does not exclude that there may be other very exceptional cases where the humanitarian considerations are equally compelling. However, it considers that it should maintain the high threshold set in *D. v. the United Kingdom* and applied in its subsequent case-law, which it regards as correct in principle, given that in such cases the alleged future harm would emanate not from the intentional acts or omissions of public authorities or non-State bodies, but instead from a naturally occurring illness and the lack of sufficient resources to deal with it in the receiving country.	*Ahmed* v *Austria*, no 25964/94, 17 December 1996 *Airey* v *Ireland*, no 6289/73, 9 October 1979 *Amegnigan* v *the Netherlands* (dec), no 25629/04, 25 November 2004 *Arcila Henao* v *the Netherlands* (dec), no 13669/03, 24 June 2003 *BB* v *France,* no 47/1998/950/1165, 7 September 1998 *Bensaid* v *United Kingdom*, no 44599/98, 6 February 2001 *D* v *United Kingdom,* no 30240/96, 2 May 1997 *HLR* v *France*, no 24573/94, 29 April 1997 *Jalloh* v *Germany* [GC], no 54810/00, 11 July 2006

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		'44. Although many of the rights it contains have implications of a social or economic nature, the Convention is essentially directed at the protection of civil and political rights (see *Airey v. Ireland*, 9 October 1979, § 26, Series A no 32). Furthermore, inherent in the whole of the Convention is a search for a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see *Soering v. the United Kingdom*, 7 July 1989, § 89, Series A no 161). Advances in medical science, together with social and economic differences between countries, entail that the level of treatment available in the Contracting State and the country of origin may vary considerably. While it is necessary, given the fundamental importance of Article 3 in the Convention system, for the Court to retain a degree of flexibility to prevent expulsion in very exceptional cases, Article 3 does not place an obligation on the Contracting State to alleviate such disparities through the provision of free and unlimited health care to all aliens without a right to stay within its jurisdiction. A finding to the contrary would place too great a burden on the Contracting States. '45. Finally, the Court observes that, although the present application, in common with most of those referred to above, is concerned with the expulsion of a person with an HIV and Aids-related condition, the same principles must apply in relation to the expulsion of any person afflicted with any serious, naturally occurring physical or mental illness which may cause suffering, pain and reduced life expectancy and require specialised medical treatment which may not be so readily available in the applicant's country of origin or which may be available only at substantial cost.'	*Karara* v *Finland*, no 40900/98, 29 May 1998 *Keenan* v *United Kingdom*, no 27229/95, 3 April 2001 *Kudla* v *Poland* [GC], no 30210/96, 26 October 2000 *Ndangoya* v *Sweden* (dec), 22 June 2004, no 17868/03 *Pretty* v *United Kingdom*, no 2346/02, 29 April 2002 *Price* v *United Kingdom*, no 33394/96, 10 July 2001 *SCC* v *Sweden* (dec), no 46553/99, 15 February 2000 *Saadi* v *Italy* [GC], no 37201/06, 28 February 2008 *Soering* v *United Kingdom*, no 14038/88, 7 July 1989

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ECtHR	***MSS* v *Belgium and Greece*** no 30696/09 21.01.2011	ECtHR judgment Article 3 ECHR – conditions of detention – Article 13 ECHR – shortcomings in the asylum procedure. **Para. 219:** '219. The Court has held on numerous occasions that to fall within the scope of Article 3 the ill- treatment must attain a minimum level of severity. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment and its physical or mental effects and, in some instances, the sex, age and state of health of the victim.' **Para. 251:** '251. The Court attaches considerable importance to the applicant's status as an asylum-seeker and, as such, a member of a particularly underprivileged and vulnerable population group in need of special protection. It notes the existence of 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.' **Para. 254:** '254. It observes that the situation in which the applicant has found himself is particularly serious. He allegedly spent months living in a state of the most extreme poverty, unable to cater for his most basic needs: food, hygiene and a place to live. Added to that was the ever-present fear of being attacked and robbed and the total lack of any likelihood of his situation improving. It was to escape from that situation of insecurity and of material and psychological want that he tried several times to leave Greece.'	*AA* v *Greece*, no 12186/08, 22 July 2010 *Amuur* v *France*, no 19776/92, 25 June 1996 *Assanidze* v *Georgia* [GC], nos 71503/01, 8 April 2004 *Bati and Others* v *Turkey*, nos 33097/96 and 57834/00, 3 June 2004 *Bosphorus Hava Yollari Turizm* v *Ticaret Anonim Sirketi* v *Ireland* [GC], no 45036/98, 30 June 2005, *Broniowski* v *Poland* [GC], no 31443/96, 28 September 2005

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			Bryan v *United Kingdom*, no 19178/91, 22 November 1995 *Budina* v *Russia*, (dec), no 45603/05, 16 June 2009 *Cakici* v *Turkey* [GC], no 23657/94, 8 July 1999 *Chamaïev/Shamayev and Others* v *Georgia and Russia*, no 36378/02, 12 April 2005 *Čonka* v *Belgium*, no 51564/99, 5 February 2002 *De Wilde, Ooms and Versyp* nos 2832/66; 2835/66; 2899/66, 18 June 1971 *Doran* v *Ireland*, no 50389/99, 31 July 2003 *Gebremedhin [Gaberamadhien]* v *France*, no 25389/05, 26 April 2007 *HLR* v *France*, no 24573/94, 29 April 1997

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			Soering v *United Kingdom*, no 14038/88, 7 July 1989 *Stapleton* v *Ireland* (dec), no 56588/07, 4 May 2010 *TI* v *United Kingdom*, (dec), no 43844/87, 7 March 2000 *Tabesh* c *Grèce*, no 8256/07, 26 November 2009 *Thampibillai* v *the Netherlands*, no 61350/00, 17 February 2004 *Tyrer* v *United Kingdom*, no 5856/72, 25 April 1978 *Venema* v *the Netherlands*, no 35731/97, 29 January 2002 *Verein gegen Tierfabriken Schweiz (VgT)* v *Switzerland* (no 2) [GC], no 32772/02, 30 June 2009

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Vilvarajah and Others v *United Kingdom*, nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, 30 October 1991 *Y* v *Russia*, no 20113/07, 4 December 2008
ECtHR	***Sufi and Elmi* v *United Kingdom*** nos 8319/07 and 11449/07 28.06.2011	ECtHR judgment Article 3 ECHR – risk of torture and ill-treatment – removal to country of origin – reliance on country reports – relocation **Para. 266:** '266. In the United Kingdom an application for asylum or for subsidiary protection will fail if the decision-maker considers that it would be reasonable – and not unduly harsh – to expect the applicant to relocate (*Januzi, Hamid, Gaafar and Mohammed v Secretary of State for the Home Department* [2006] UKHL 5 and *AH (Sudan) v Secretary of State for the Home Department* [2007] UKHL 49). The Court recalls that Article 3 does not, as such, preclude Contracting 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 country of origin would expose him to a real risk of being subjected to treatment proscribed by that provision (*Salah Sheekh v. the Netherlands*, no. 1948/04, § 141, ECHR 2007-I (extracts), *Chahal v. the United Kingdom*, 15 November 1996, § 98, *Reports of Judgments and Decisions* 1996-V and *Hilal v. the United Kingdom*, no. 45276/99, §§ 67 – 68, ECHR 2001-II). However, the Court has held that reliance on an internal flight alternative does not affect the responsibility of the expelling Contracting 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 (*Salah Sheekh v. the Netherlands*, cited above, § 141 and *T.I. v. the United Kingdom* (dec.), no. 43844/98, ECHR 2000-III). Therefore, as a precondition of 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 ending up in a part of the country of origin where he may be subjected to ill-treatment.'	*A* v *United Kingdom*, no 100/1997/884/1096, 23 September 1998 *Abdulaziz, Cabales and Balkandali* v *United Kingdom,* nos 9214/80; 9473/81; 9474/81, 28 May 1985 *Al-Agha* v *Romania*, no 40933/02, 12 January 2010 *Boujlifa* v *France*, no 122/1996/741/940, 21 October 1997 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
		Paras. 282-283: '282. If the dire humanitarian conditions in Somalia were solely or even predominantly attributable to poverty or to the State's lack of resources to deal with a naturally occurring phenomenon, such as a drought, the test in *N. v. the United Kingdom* may well have been considered to be the appropriate one. However, it is clear that while drought has contributed to the humanitarian crisis, that crisis is predominantly due to the direct and indirect actions of the parties to the conflict. The reports indicate that all parties to the conflict have employed indiscriminate methods of warfare in densely populated urban areas with no regard to the safety of the civilian population. This fact alone has resulted in widespread displacement and the breakdown of social, political and economic infrastructures. Moreover, the situation has been greatly exacerbated by al-Shabaab's refusal to permit international aid agencies to operate in the areas under its control, despite the fact that between a third and a half of all Somalis are living in a situation of serious deprivation. '283. Consequently, the Court does not consider the approach adopted in *N. v. the United Kingdom* to be appropriate in the circumstances of the present case. Rather, it prefers the approach adopted in *M.S.S. v. Belgium and Greece*, which requires it to have regard to an applicant's ability to cater for his most basic needs, such as food, hygiene and shelter, his vulnerability to ill-treatment and the prospect of his situation improving within a reasonable time-frame.'	*D* v *United Kingdom*, no 30240/96, 2 May 1997 *Dougoz* v *Greece*, no 40907/98, 6 March 2001 *HLR* v *France*, no 24573/94, 29 April 1997 *Hilal* v *United Kingdom*, no 45276/99, 6 March 2001 *Jabari* v *Turkey*, no 40035/98, 11 July 2000 *Kleyn and Others* v *the Netherlands* [GC], nos 39343/98; 39651/98; 43147/98; 46664/99, 6 May 2003 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Mamatkulov and Askarov* v *Turkey* [GC], nos 46827/99 and 46951/99, 4 February 2005

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			McFeeley and others v *United Kingdom*, no 8317/78, 2 October 1984 *Milosevic* v *the Netherlands* (dec), no 77631/01, 19 March 2002 *MPP Golub* v *Ukraine* (dec), no 6778/05, 18 October 2005 *N* v *Finland*, no 38885/02, 26 July 2005 *NA* v *United Kingdom*, no 25904/07, 17 July 2008 *Peers* v *Greece*, no 28524/95, 19 April 2001 *Pellegrini* v *Italy* (dec), no 77363/01, 26 May 2005 *Riad and Idiab* v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008 *SD* v *Greece*, no 53541/07, 11 June 2009

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			Saadi v *Italy* [GC], no 37201/06, 28 February 2008 *Said* v *the Netherlands*, no 2345/02, 5 July 2005 *Salah Sheekh* v *the Netherlands*, no 1948/04, 11 January 2007 *Selvanayagam* v *United Kingdom* (dec), no 57981/00, 12 December 2002, *T* v *United Kingdom* [GC], no 24724/94, 16 December 1999 *TI* v *United Kingdom* (dec), no 43844/98, 7 March 2000 *Üner* v *the Netherlands* [GC], no 46410/99, 18 October 2006 *Vilvarajah and Others* v *United Kingdom,* nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87

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ECtHR	***SHH* v *United Kingdom*** no 60367/10 29.01.2013	ECtHR judgment Article 3 ECHR – expulsion to Afghanistan – real risk of ill treatment **Para. 78:** '78. The Court observes at the outset that, although the applicant applied for, and was refused, asylum in the United Kingdom, he has not complained before the Court that his removal to Afghanistan would put him at risk of deliberate ill-treatment from any party, either on account of his past activities with Hizb-i-Islami or for any other reason.' **Para. 83:** '83. However, the parties disputed whether any support would be available to the applicant in Afghanistan. The Government maintained that the applicant's claim not to have any contact with his sisters in Afghanistan had been implicitly rejected by the Immigration Judge and that he had failed to submit any evidence to support that claim. In any event, he had not provided any reason why he could not make contact with his sisters upon his return to Afghanistan. By contrast, the applicant did not accept that this part of his claim had been rejected by the Immigration Judge. He continued to claim, as he had done the domestic proceedings, that there was no one available to care for him in Afghanistan and that, although he had two sisters in the country, they were both married and living with their own families. In any event, he no longer had any contact with either of them.' **Paras. 85-86:** '85. In relation to the applicant's first ground that he would be at greater risk of violence in Afghanistan due to his disability, the Court notes that the applicant has relied significantly upon the brief comments made by the AIT in *GS* (set out at paragraphs 28-29 above). In that case, the AIT, when explaining that there may be categories of people who may be able to establish an enhanced risk of indiscriminate violence in Afghanistan, gave as possible examples both those who would be perceived to be "collaborators" and disabled persons. However, the Court does not agree that the AIT's comments alone can give substantive support to the applicant's claim. Indeed, the AIT clarified in the same paragraph of that determination that they were unable to give a list of risk categories or to state that any particular occupation or status would put a person into such a category in view of the "paucity of the evidence" before them. To the contrary, the AIT merely recorded that there "may be such categories" dependent upon the evidence available. The AIT emphasised that their comments should not be taken to indicate that the disabled were members of enhanced risk groups, without proof to that effect.	*N* v *United Kingdom* [GC], 27 May 2008, no 26565/05, 30 October 1991 UKUT, *GS (Article 15(c): indiscriminate violence) Afghanistan,* CG [2009] UKAIT 00044, 21 October 2009 UKUT, *HK and Others (minors – indiscriminate violence – forced recruitment by Taliban – contact with family members) Afghanistan CG* [2010] UKUT 378 (IAC), 23 November 2010 UKUT, *AA (unattended children) Afghanistan CG* [2012] UKUT 00016 *(IAC),* 1 February 2012 UKUT, *AK (Article 15(c)) Afghanistan CG* [2012] UKUT 00163 (IAC), 18 May 2012 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011,

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		'86. The Court considers it to be significant that the applicant has failed to adduce any additional substantive evidence to support his claim that disabled persons are *per se* at greater risk of violence, as opposed to other difficulties such as discrimination and poor humanitarian conditions, than the general Afghan population. The evidence from, *inter alia,* UNHCR, UNAMA, the UNCESCR, the AIHRC, and the United States of America State Department (see paragraphs 41-49 above) makes no reference to disabled persons being at greater risk of violence, ill-treatment or attacks in Afghanistan.' **Para.89:** '89. The Court finds that the principles of *N. v. the United Kingdom* should apply to the circumstances of the present case for the following reasons. First, the Court recalls that *N.* concerned the removal of an HIV-positive applicant to Uganda, where her lifespan was likely to be reduced on account of the fact that the treatment facilities there were inferior to those available in the United Kingdom. In reaching its conclusions, the Court noted that the alleged future harm would emanate not from the intentional acts or omission of public authorities or non-State bodies but from a naturally occurring illness and the lack of sufficient resources to deal with it in the receiving country. The Court also stated that Article 3 did not place an obligation on the Contracting State to alleviate disparities in the availability of medical treatment between the Contracting State and the country of origin through the provision of free and unlimited health care to all aliens without a right to stay within its jurisdiction (ibid,§ 44). The Court acknowledges that, in the present case, the applicant's disability cannot be considered to be a "naturally" occurring illness and does not require medical treatment. Nevertheless, it is considered to be significant that in both scenarios the future harm would emanate from a lack of sufficient resources to provide either medical treatment or welfare provision rather than the intentional acts or omissions of the authorities of the receiving State.'	*RC* v *Sweden,* no 41827/07, 9 March 2010 *Jabari* v *Turkey*, no 40035/98, 11 July 2000 *Saadi* v *Italy* [GC], no 37201/06, 28 February 2008 *Mamatkulov and Askarov* v *Turkey* [GC], nos 46827/99 and 46951/99, 4 February 2005 *Hilal* v *United Kingdom*, no 45276/99, 6 March 2001 *HLR* v *France*, no 24573/94, 29 April 1997

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		Para. 91: '91. Third, although in *Sufi and Elmi v. the United* Kingdom, cited above, the Court followed the approach set out in *M.S.S.,* this was because of the exceptional and extreme conditions prevailing in south and central Somalia. In particular, there was clear and extensive evidence before the Court that the humanitarian crisis in Somalia was predominately due to the direct and indirect actions of all parties to the conflict who had employed indiscriminate methods of warfare and had refused to permit international aid agencies to operate (paragraph 282 of the *Sufi and Elmi* judgment). On the current evidence available, the Court is not able to conclude that the situation in Afghanistan, albeit very serious as a result of ongoing conflict, is comparable to that of south and central Somalia. First, unlike Somalia, which has been without a functioning central Government since 1991, Afghanistan has a functioning central Government and functioning infrastructures remain in place. Second, Afghanistan, and in particular Kabul to where the applicant will be returned, remains under Government control, unlike the majority of south and central Somalia, which, since 2008, has been under the control of Islamic insurgents. Third, although UNHCR has observed that the humanitarian space in Afghanistan is declining in some areas as a result of the continuing instability (see paragraph 43 above), there remains a significant presence of international aid agencies in Afghanistan, unlike in Somalia where international aid agencies were refused permission to operate in multiple areas. Fourth, even though the difficulties and inadequacies in the provision for persons with disabilities in Afghanistan cannot be understated, it cannot be said that such problems are as a result of the deliberate actions or omissions of the Afghan authorities rather than attributable to a lack of resources. Indeed, the evidence suggests that the Afghan authorities are taking, albeit small, steps to improve provision for disabled persons by, for example, the National Disability Action Plan 2008-2011 (see paragraph 48 above), and the provision of financial support by the Ministry of Labour, Social Affairs, Martyrs, and the Disabled to 80,000 disabled persons in Afghanistan (see paragraph 49 above). The Court does not accept that the report of the Austrian Centre for Country of Origin and Asylum Research and Documentation (see above at paragraph 51) lends support to the applicant's claim because that report was published in 2007 and the later December 2010 UNHCR Guidelines make no similar recommendations in relation to the return of disabled persons to Afghanistan.'	*N* v *Finland*, no 38885/02, 26 July 2005 *Collins and Akasiebie* v *Sweden* (dec), no 23944/05, 8 March 2007 *Salah Sheekh* v *the Netherlands*, no 1948/04, 11 January 2007 *NA* v *United Kingdom*, no 25904/07, 17 July 2008 *Sufi and Elmi* v *United Kingdom*, nos 8319/07 and 11449/07, 28 June 2011 *Al-Skeini and Others* v *United Kingdom* [GC], no 55721/07, 7 July 2011 *Neulinger and Shuruk* v *Switzerland* [GC], no 41615/07, 6 July 2010

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ECtHR	***Aden Ahmed v Malta*** no 55352/12 23.07.2013	ECtHR judgment Article 3 ECHR – prohibition of torture – degrading treatment – Article 5 ECHR – right to liberty and security – lawful arrest or detention – review of lawfulness of detention – speediness of review **Para. 99:** '99. In view of all the above-mentioned circumstances taken as a whole which the applicant, as a detained immigrant, endured for a total of fourteen and a half months, and in the light of the applicant's specific situation, the Court is of the opinion that the cumulative effect of the conditions complained of diminished the applicant's human dignity and aroused in her feelings of anguish and inferiority capable of humiliating and debasing her and possibly breaking her physical or moral resistance. In sum, the Court considers that the conditions of the applicant's detention in Hermes Block amounted to degrading treatment within the meaning of Article 3 of the Convention.'	*AA* v *Greece*, no 12186/08, 22 July 2010 *AK* v *Austria*, no 20832/92, 1 December 1993 *Akdivar and Others* v *Turkey*, no 21893/93, 16 September 1996 *Aksoy* v *Turkey*, no 21987/93, 18 December 1996 Alver v Estonia, no 64812/01, 8 November 2005 *Amie and Others* v *Bulgaria*, no 58149/08, 12 February 2013 *Amuur* v *France*, no 19776/92, 25 June 1996 *Ananyev and Others* v *Russia*, nos 42525/07 and 60800/08, 10 January 2012 *Belevitskiy* v *Russia*, no 72967/01, 1 March 2007 *Benediktov* v *Russia*, no 106/02, 10 May 2007

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			Bozkir and Others v *Turkey*, no 24589/04, 26 February 2013 *Bulut and Yavuz* v *Turkey* (dec), no 73065/01, 28 May 2002 *Cardot* v *France*, no 11069/84, 19 March 1991 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995 *Ciorap* v *Moldova (no 2)*, no 7481/06, 20 July 2010 *Dougoz* v *Greece*, no 40907/98, 6 March 2001 *E* v *Norway*, no 11701/85, 29 August 1990 *Frasik* v *Poland*, no 22933/02, 5 January 2010 *GO* v *Russia*, no 39249/03, 18 October 2011

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			Gera de Petri Testaferrata Bonici Ghaxaq v *Malta*, no 26771/07, 5 April 2011 *Gubin* v *Russia*, no 8217/04, 17 June 2010 *Handyside* v *United Kingdom,* no 5493/72, 7 December 1976 *Hazar and Others* v *Turkey* (dec), nos 62566/00; 62567/00; 62568/00 et al., 10 January 2002 *Iordache* v *Romania*, no 6817/02, 14 October 2008 *Johnston and Others* v *Ireland*, no 9697/82, 18 December 1986 *Kadem* v *Malta*, no 55263/00, 9 January 2003 *Karalevicius* v *Lithuania*, no 53254/99, 7 April 2005 *Keenan* v *United Kingdom*, no 27229/95, 3 April 2001

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			Khudoyorov v *Russia*, no 6847/02, 8 November 2005 *Kudla* v *Poland* [GC], no 30210/96, 26 October 2000 *Louled Massoud* v *Malta*, no 24340/08, 27 July 2010 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Mamatkulov and Askarov* v *Turkey* [GC], nos 46827/99 and 46951/99, 4 February 2005 *McFarlane* v *Ireland* [GC], no 31333/06, 10 September 2010 *Musial* v *Poland* [GC], no 24557/94, 25 March 1999 *Paul and Audrey Edwards* v *United Kingdom*, no 46477/99, 14 March 2002 *Peers* v *Greece,* no 28524/95, 19 April 2001

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			Popov v *France*, nos 39472/07 and 39474/07, 19 January 2012 *Rahmani and Dineva* v *Bulgaria*, no 20116/08, 10 May 2012 *Raza* v *Bulgaria*, no 31465/08, 11 February 2010 *Rehbock* v *Slovenia*, no 29462/95, 28 November 2000 *Riad and Idiab* v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008 *Roman Karasev* v *Russia*, no 30251/03, 25 November 2010 *SD* v *Greece*, no 53541/07, 11 June 2009 *STS* v *the Netherlands*, no 277/05, 7 June 2011 *Saadi* v *United Kingdom* [GC], no 13229/03, 29 January 2008 *Sabeur Ben Ali* v *Malta*, no 35892/97, 29 June 2000

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			Stephens v *Malta (no 1)*, no 11956/07, 21 April 2009 *Stephens* v *Malta (no 2)*, no 33740/06, 21 April 2009 *Tabesh* c *Grèce*, no 8256/07, 26 November 2009 *Torreggiani and Others* v *Italy*, nos 43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 and 37818/10, 8 January 2013 *Van Oosterwijck* v *Belgium,* no 7654/76, 6 November 1980 *Vernillo* v *France*, no 11889/85, 20 February 1991 *Visloguzov* v *Ukraine,* no 32362/02, 20 May 2010 *Walker* v *United Kingdom* (dec), no 34979/97, 25 January 2000

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			X v *Sweden*, no 10230/82, 11 May 1983 *X* v *United Kingdom*, no 9403/8, 5 May 1982 *Z and Others* v *United Kingdom* [GC], no 29392/95, 10 May 2001 *Zarb* v *Malta*, no 16631/04, 4 July 2006

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ECtHR [GC]	***Tarakhel* v *Switzerland*** no 29217/12 04.11.2014	ECtHR judgment Article 3 ECHR - inhuman and degrading treatment – systematic deficiencies in reception arrangements in the absence of individual guarantees concerning care. **Para. 91:** '91. Switzerland must therefore be considered to bear responsibility under Article 3 of the Convention in the present case.' **Para. 99:** '99. With more specific reference to minors, the Court has established that it is important to bear in mind that the child's extreme vulnerability is the decisive factor and takes precedence over considerations relating to the status of illegal immigrant (see *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, no 13178/03, § 55, ECHR 2006-XI, and *Popov v. France*, nos. 39472/07 and 39474/07, § 91, 19 January 2012). Children have specific needs that are related in particular to their age and lack of independence, but also to their asylum-seeker status. The Court has also observed that the Convention on the Rights of the Child encourages States to take the appropriate measures to ensure that a child who is seeking to obtain refugee status enjoys protection and humanitarian assistance, whether the child is alone or accompanied by his or her parents (see to this effect *Popov*, cited above, § 91).' **Para. 119:** '119. This requirement of "special protection" of asylum seekers is particularly important when the persons concerned are children, in view of their specific needs and their extreme vulnerability. This applies even when, as in the present case, the children seeking asylum are accompanied by their parents (see *Popov*, cited above, § 91). Accordingly, the reception conditions for children seeking asylum must be adapted to their age, to ensure that those conditions do not "create ... for them a situation of stress and anxiety, with particularly traumatic consequences" (see, *mutatis mutandis*, *Popov*, cited above, § 102). Otherwise, the conditions in question would attain the threshold of severity required to come within the scope of the prohibition under Article 3 of the Convention.'	*Aksu* v *Turkey* [GC], nos 4149/04 and 41029/04, 15 March 2012 *Beldjoudi* v *France*, no 12083/86, 26 March 1992 *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi* v *Ireland* [GC], no 45036/98, 30 June 2005 *Budina* v *Russia*, (dec), no 45603/05, 16 June 2009 *Chapman* v *United Kingdom* [GC], no 27238/95, 18 January 2001 *Guerra and Others* v *Italy*, no 116/1996/735/932, 19 February 1998 *HLR* v *France*, no 24573/94, 29 April 1997

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		Paras. 120-122: '120. In the present case, as the Court has already observed (see paragraph 115 above), in view of the current situation as regards the reception system in Italy, and although that situation is not comparable to the situation in Greece which the Court examined in *M.S.S.*, the possibility that a significant number of asylum seekers removed to that country may be left without accommodation or accommodated in overcrowded facilities without any privacy, or even in insalubrious or violent conditions, is not unfounded. It is therefore incumbent on the Swiss authorities to obtain assurances from their Italian counterparts that on their arrival in Italy the applicants will be received in facilities and in conditions adapted to the age of the children, and that the family will be kept together. '121. The Court notes that, according to the Italian Government, families with children are regarded as a particularly vulnerable category and are normally taken charge of within the SPRAR network. This system apparently guarantees them accommodation, food, health care, Italian classes, referral to social services, legal advice, vocational training, apprenticeships and help in finding their own accommodation. However, in their written and oral observations the Italian Government did not provide any further details on the specific conditions in which the authorities would take charge of the applicants. It is true that at the hearing of 12 February 2014 the Swiss Government stated that the FMO had been informed by the Italian authorities that, if the applicants were returned to Italy, they would be accommodated in Bologna in one of the facilities funded by the ERF. Nevertheless, in the absence of detailed and reliable information concerning the specific facility, the physical reception conditions and the preservation of the family unit, the Court considers that the Swiss authorities do not possess sufficient assurances that, if returned to Italy, the applicants would be taken charge of in a manner adapted to the age of the children. '122. It follows that, were the applicants to be returned to Italy without the Swiss authorities having first obtained individual guarantees from the Italian authorities that the applicants would be taken charge of in a manner adapted to the age of the children and that the family would be kept together, there would be a violation of Article 3 of the Convention.'	*Halil Yüksel Akıncı* v *Turkey*, no 39125/04, 11 December 2012 *Hirsi Jamaa and Others* v *Italy* [GC], no 27765/09, 23 February 2012 *Jabari* v *Turkey*, no 40035/98, 11 July 2000 *Kudla* v *Poland* [GC], no 30210/96, 26 October 2000 *M and Others* v *Bulgaria*, no 41416/08, 26 July 2011 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Michaud* v *France*, no 12323/11, 6 December 2012 *Mohammed Hussein and Others* v *the Netherlands and Italy* (dec), no 27725/10, 2 April 2013

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			Mubilanzila Mayeka and Kaniki Mitunga v *Belgium*, no 13178/03, 12 October 2006 *Müslim* v *Turkey*, no 53566/99, 26 April 2005 *Nizamov and Others* v *Russia*, nos 22636/13, 24034/13, 24334/13, 24328/13, 7 May 2014 *Popov* v *France*, nos 39472/07 and 39474/07, 19 January 2012 *Saadi* v *Italy* [GC], no 37201/06, 28 February 2008 *Salah Sheekh* v *the Netherlands*, no 1948/04, 11 January 2007 *Soering* v *United Kingdom*, no 14038/88, 7 July 1989 *Vilvarajah and Others* v *United Kingdom*, nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, 30 October 1991

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ECtHR	***Mohamad c Grèce*** no 70586/11 (in French with *English* summary) 11.12. 2014	ECtHR judgment Article 3 ECHR – inhuman and degrading treatment – detention - unaccompanied minor – effective access to procedures *Unofficial translation* **Para. 84:** '84. However, despite the fact that the authorities were under an obligation under the relevant domestic legislation to place the applicant in such a structure, no steps were taken in that direction. The Government does not provide any explanation as to why the authorities persisted, as from 3 January 2011 when the applicant's medical examination took place, in detaining him at the border post instead of seeking alternative placement solutions. The Government does not provide any evidence of any attempt to make any form of contact to this effect with the competent bodies during the entire period from 3 January to 9 March 2011, when the authorities at the border post of Soufli informed the public prosecutor of the applicant's majority and the end of the proceedings under Article 19 of Decree No. 220/2007'. **Para. 86:** '86. In view of the fact that the applicant had not been placed in a reception structure suitable for minors, in accordance with the applicable legislation, as well as the impossibility of deporting him during his minority and the lack of steps taken by the authorities to do so after he had reached the age of majority, the Court concludes that the applicant's detention was not 'lawful' within the meaning of Article 5 § 1 f) of the Convention and that there was a violation of that provision'.	*FH* v *Greece*, no 78456/11, 31 July 2014 *Barjamaj* v *Greece*, no 36657/11, 2 May 2013 *Rahimi* v *Greece*, no 8687/08, 5 April 2011 *R.U.* v *Greece*, no 2237/08, 7 June 2011 *CD and Others* v *Greece*, nos 33441/10, 33468/10 and 33476/10, 19 December 2013 *BM* v *Greece*, no 53608/11, 19 December 2013 *McGlinchey and Others* v *United Kingdom*, no 50390/99, 29 April 2003 *AF* v *Greece*, no 53709/11, 13 June 2013 *Housein* v *Greece*, no 71825/11, 24 October 2013 *Mahmundi and Others* v *Greece*, no 14902/10, 31 July 2012

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			Riad and Idiab v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008 *Peers* v *Greece,* no 28524/95, 19 April 2001 *Kudla* v *Poland* [GC], no 30210/96, 26 October 2000 *Tabesh* c *Grèce*, no 8256/07, 26 November 2009 *SD* v *Greece*, no 53541/07, 11 June 2009 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995

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ECtHR	***Aarabi* c *Grèce*** no 39766/09 (in French with *English* summary) 02.04. 2015	ECtHR judgment Article 3 ECHR – detention – accommodation centre – effective access to procedures – unaccompanied minor – best interests of the child *Unofficial translation* **Paras. 44-45:** '44. The Court also notes two other elements which support the view that the competent authorities were not lacking in good faith in dealing with the question of the applicant's age in the present case. Firstly, on the above-mentioned arrest report, in addition to the applicant's name and date of birth, appear the names of three other persons who had declared to the authorities that they were minors and had been registered as such. The Court thus sees no particular reason why the applicant would not have been registered as a minor if he had himself declared that fact to the competent authorities. It should be recalled in this connection that at the time of his arrest the applicant was almost eighteen years old. Consequently, since he had not himself raised his minority to the domestic authorities, it would not have been obvious for them to consider this possibility on their own initiative. Furthermore, the Court notes that on 28 July 2009 the Office of the United Nations High Commissioner for Refugees informed the domestic authorities of the applicant's real age. The Aliens Police Directorate was diligent and on 30 July 2009 it referred the matter to the competent public prosecutor in order to transfer the applicant to accommodation for minors. '45. The Court considers that the conduct of the competent authorities described above supports the idea that they acted in good faith in this regard. Consequently, the Court cannot impute to them the fact that the applicant was not registered as a minor at the time of his arrest. For the same reason, the Court will examine the applicant's complaints about his conditions of detention as complaints raised by an adult person at the time of the events, namely up to 30 July 2009, the date from which the national authorities treated him as a minor.'	*Kalachnikov* v *Russia*, no 47095/99, 15 July 2002 *Efremidze* v *Greece*, no 33225/08, 21 June 2011 *Tabesh* c *Grèce*, no 8256/07, 26 November 2009 *Kudla* v *Poland* [GC], no 30210/96, 26 October 2000 *Peers* v *Greece*, no 28524/95, 19 April 2001 *Riad and Idiab* v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008

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			AA v *Greece*, no 12186/08, 22 July 2010 *Ananyev and Others* v *Russia*, nos 42525/07 and 60800/08, 10 January 2012 *AF* c *Grèce*, no 53709/11, 13 June 2013 *Siasios et al.* v *Greece*, no 30303/07, 4 June 2009 *Vafiadis* v *Greece*, no 24981/07, 7 July 2009 *Shuvaev* v *Greece*, no 8249/07, 29 October 2009 *Horshill* v *Greece*, no 70427/11, 1 August 2013 *Lica* v *Greece*, no 74279/10, 17 July 2012 *BM* v *Greece*, no 53608/11, 19 December 2013 *Bygylashvili* v *Greece*, no 58164/10, 25 September 2012

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ECtHR	***Abdi Mahamud* v *Malta*** no 56796/13 03.05.2016	ECtHR judgment Article 3 ECHR – prohibition of torture - detention - degrading treatment – Article 5 ECHR – review of lawfulness of detention – speediness of review – medical reports **Para. 89:** '89. In view of the applicant's vulnerability as a result of her health, all the above-mentioned circumstances, namely the fact that the applicant had no access to outdoor exercise for anything between eight and twelve weeks, the poor environment for outdoor exercise in the remaining period, the lack of specific measures to counter act the cold, the lack of female staff, the little privacy offered in the centre, and the fact these conditions persisted for over sixteen months, lead the Court to conclude that the cumulative effect of the conditions complained of, diminished the applicant's human dignity and aroused in her feelings of anguish and inferiority capable of humiliating and debasing her and possibly breaking her physical or moral resistance. In sum, the Court considers that the conditions of the applicant's detention in Hermes Block amounted to degrading treatment within the meaning of Article 3 of the Convention.'	Valašinas v Lithuania, no 44558/98, 24 October 2001 *Torreggiani and Others* v *Italy*, nos 43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 and 37818/10, 8 January 2013 *Dougoz* v *Greece,* no 40907/98, 6 March 2001 *Riad and Idiab* v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Louled Massoud* v *Malta*, no 24340/08, 27 July 2010 *Saadi* v *United Kingdom* [GC], no 13229/03, 29 January 2008

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			Yarashonen v *Turkey*, no 72710/11, 24 June 2014 *Tabesh* c *Grèce*, no 8256/07, 26 November 2009 *Stephens* v *Malta (no 2),* no 33740/06, 21 April 2009 *Sizarev* v *Ukraine,* no 17116/04, 17 January 2013 *Aden Ahmed* v *Malta*, no 55352/12, 23 July 2013 *SD* v *Greece*, no 53541/07, 11 June 2009 *Suso Musa* v *Malta*, no 42337/12, 23 July 2013 *Abdi Ahmed and others* v *Malta*, no 43985/13, 16 September 2014 *Mikalauskas* v *Malta,* no 4458/10, 23 July 2013

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			Neshkov and Others v *Bulgaria*, nos 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13, 27 January 2015 *Nurmagomedov* v *Russia,* no 30138/02, 7 June 2007 *Selcuk and Akser* v *Turkey*, nos 23184/94 and 23185/94, 24 April 1998 *Pretty* v *United Kingdom*, no 2346/0, 29 April 2002

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ECtHR (GC)	***JK and Others* v *Sweden*** no 59166/12 23.08.2016	ECtHR judgment Article 3 ECHR – risk of torture or to inhuman or degrading treatment – risk on return to Iraq **Para. 72:** '72. The Government further contended that there was no reason to believe that the first applicant and his family would find themselves in a particularly vulnerable situation upon returning to Baghdad. The Government agreed with the Chamber that there was insufficient evidence to conclude that, owing to their personal circumstances, the applicants would face a real risk of being subjected to treatment contrary to Article 3 of the Convention if returned to Iraq.' **Para. 79:** '79. The general principles concerning Article 3 in expulsion cases have been set out in *Saadi v. Italy* ([GC] no. 37201/06, §§ 124-133, ECHR 2008) and, most recently, in *F.G. v. Sweden* ([GC], no. 43611/11, ECHR 2016). The relevant paragraphs of the latter judgment read as follows: "111. The Court reiterates that Contracting States have the right, as a matter of well-established international law and subject to their treaty obligations, including the Convention, to control the entry, residence and expulsion of aliens (see, for example, *Hirsi Jamaa and Others v. Italy* [GC], no. 27765/09, § 113, ECHR 2012; *Üner v. the Netherlands* [GC], no. 46410/99, § 54, ECHR 2006-XII; *Abdulaziz, Cabales and Balkandali v. the United Kingdom,* 28 May 1985, § 67, Series A no. 94; and *Boujlifa v. France*, 21 October 1997, § 42, *Reports of Judgments and Decisions* 1997-VI). However, the expulsion of an alien 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, if deported, would face a real risk of being subjected to treatment contrary to Article 3 in the destination country. In these circumstances, Article 3 implies an obligation not to deport the person in question to that country (see, among other authorities, *Saadi v. Italy* [GC], no. 37201/06, §§ 124-125, ECHR 2008). 112. The assessment of whether there are substantial grounds for believing that the applicant faces such a real risk inevitably requires the Court to examine the conditions in the destination country in the light of the standards of Article 3 of the Convention (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, § 67, ECHR 2005-I). These standards entail that the ill-treatment the applicant alleges he will face if returned must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this level is relative, depending on all the circumstances of the case (see *Hilal v. the United Kingdom*, no. 45276/99, § 60, ECHR 2001-II).'	*Bahaddar* v *the Netherlands*, no 145/1996/764/965, 19 February 1998 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995 *Collins and Akasiebie* v *Sweden* (dec), no 23944/05, 8 March 2007 *DNW* v *Sweden*, no 29946/10, 6 December 2012 *FG* v *Sweden* [GC], no 43611/11, 23 March 2016 *FH* v *Sweden*, no 32621/06, 20 January 2009 *HLR* v *France*, no 24573/94, 29 April 1997 *Hilal* v *United Kingdom*, no 45276/99, 6 March 2001 *Hirsi Jamaa and Others* v *Italy* [GC], no 27765/09, 23 February 2012

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		Para. 83: '83. In the Court's case-law the principle of *ex nunc* evaluation of the circumstances has been established in a number of cases. This principle has most recently been set out in *F.G. v. Sweden* (cited above): "115. 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 (see *Chahal*, cited above, § 86). 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 (see, for example, *Maslov v. Austria* [GC], no. 1638/03, §§ 87-95, ECHR 2008 and *Sufi and Elmi v. the United Kingdom*, cited above, § 215). This situation typically arises when, as in the present case, 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. The 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 (see, for example, *Salah Sheekh v. the Netherlands*, no. 1948/04, § 136, 11 January 2007; and *Vilvarajah and Others v. the United Kingdom*, cited above, §§ 107 and 108)."' **Para. 93:** '93. Owing to the special situation in which asylum-seekers often find themselves, it is frequently 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 (see *F.G. v. Sweden*, cited above, § 113; *Collins and Akaziebie v. Sweden* (dec.), no. 23944/05, 8 March 2007; and *S.H.H. v. the United Kingdom*, no. 60367/10, § 71, 29 January 2013). 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 (see *Said*, cited above, § 53, and, *mutatis mutandis*, *N. v. Finland*, no. 38885/02, §§ 154-155, 26 July 2005).'	*Labita* c *Italy* [GC], no 26772/95, 6 April 2000 *MA* v *Cyprus*, no 41872/10, 23 July 2013 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Müslim* v *Turkey*, no 53566/99, 26 April 2005 *N* v *Finland*, no 38885/02, 26 July 2005 *NA* v *United Kingdom*, no 25904/07, 17 July 2008 *Nizamov and Others* v *Russia,* nos 22636/13, 24034/13, 24334/13, 24328/13, 7 May 2014 *RC* v *Sweden,* no 41827/07, 9 March 2010 *RJ* v *France*, no 10466/11, 19 September 2013

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			SH v *United Kingdom*, no 19956/06, 15 June 2010 *SHH* v *United Kingdom*, no 60367/10, 29 January 2013 *Saadi* v *Italy* [GC], no 37201/06, 28 February 2008 *Said* v *the Netherlands*, no 2345/02, 5 July 2005 *Salah Sheekh* v *the Netherlands*, no 1948/04, 11 January 2007 *Sufi and Elmi* v *United Kingdom*, nos 8319/07 and 11449/07, 28 June 2011 *TI* v *United Kingdom*, (dec), no 43844/98, 7 March 2000 *Venkadajalasarma* v *the Netherlands*, no 58510/00, 17 February 2004

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ECtHR [GC}	***VM and Others v Belgium*** no 60125/11 17.11.2016	ECtHR judgment Article 3 ECHR - inhuman or degrading treatment – subjected to living conditions that resulted in daughter's death **Para. 41:** '41. Accordingly, the case should be struck out of the list.' **Dissenting opinion of Judge Ranzoni, joined by judges López Guerra, Sicilianos and Lemmens, Para. 5: '**Firstly, the Grand Chamber should have taken advantage of the opportunity provided by the present case to define or adjust the concept of "vulnerability". In its case-law the Court has had regard to the vulnerability of the applicants both in assessing whether the threshold of severity justifying the application of Article 3 had been attained, a greater degree of vulnerability justifying a lower threshold of tolerance, and in determining the scope of the positive obligations on the State, extreme vulnerability requiring a greater duty of protection (see *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 251, ECHR 2011, and *Tarakhel v. Switzerland* [GC], no. 29217/12, § 119, ECHR 2014 (extracts)).'	*Ali* v *Switzerland,* no 69/1997/853/1060, 5 August 1998 *Diallo* v *Czech Republic*, no 20493/07, 23 June 2011 *Ibrahim Hayd* v *the Netherlands* (dec), no 30880/10, 29 November 2011 *K and T* v *Finland* [GC], no 25702/94, 12 July 2001 *Kadzoev* v *Bulgaria* (dec), no 56437/07, 1 October 2013 *MH and Others* v *Cyprus* (dec), no 41744/10, 14 January 2014 *MIs* v *Cyprus* (dec), no 41805/10, 10 February 2015 *Ramzy* v *the Netherlands* (striking out), no 25424/05, 20 July 2010 *Sharifi and Others* v *Italy and Greece*, no 16643/09, 21 October 2014

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ECtHR	***Elmi and Abubaker v Malta*** nos 25794/13 and 28151/13 22.11.2016	ECtHR judgment Article 3 ECHR – Prohibition of torture - degrading treatment – detention – asylum seeking children – best interests of the child - Article 5 ECHR – review of lawfulness of detention – arbitrary detention due to severe delays **Paras. 111-115:** '111. These concerns assume a new dimension in view of the fact that the applicants were minors at the time of their detention (as confirmed by the domestic procedures). While it is true that the applicants were not young children, they still fell within the international definition of minors, in respect of which detention should be a last resort and which should be limited to the shortest time possible. As mentioned above, under the Court's case-law reception conditions for children seeking asylum must be adapted to their age. However no measures were taken to ensure that the applicants as minors received proper counselling and educational assistance from qualified personnel specially mandated for that purpose (see *Mubilanzila Mayeka and Kaniki Mitunga,* cited above, § 50). Nor were any entertainment facilities provided for persons of their age. Furthermore, the Court cannot ignore the applicants' submissions to the effect that there was a tense and violent atmosphere, as also documented by reports (see paragraph 86 above). The lack of any support mechanism for the applicants, as minors, as well as the lack of information concerning their situation, must have exacerbated their fears. '112. The Court reiterates that a State's obligations concerning the protection of migrant minors may be different depending on whether they are accompanied or not (see *Rahimi v. Greece*, no. 8687/08, § 63, 5 April 2011). However, the Court has found violations in both ambits. It found a violation of Article 3 in *Popov* (cited above, § 103) concerning accompanied minors in view of the children's young age (five months and three years), the length of their detention (over a period of fifteen days) and the conditions of their confinement in a detention centre. It also found a violation of Article 3 in the *Muskhadzhiyeva and Others* (cited above, § 63) concerning four young children who were held, accompanied by their mother, for one month pending their removal – the Court having taken into consideration their young age (seven months to seven years), the duration of the detention and their health status (see also *Kanagaratnam v. Belgium*, no. 15297/09, § 69, 13 December 2011). The Court has also previously found, in *Rahimi* (cited above, §§ 85-86) in respect of an unaccompanied minor (aged fifteen) in such facilities, that the conditions of his detention were so poor that they undermined the very essence of human dignity and that they could be regarded in themselves, without taking into consideration the length of the detention (a few days), as degrading treatment in breach of Article 3 of the Convention (see also *Mubilanzila Mayeka and Kaniki Mitunga*, cited above, §§ 50-59, in connection with a five-year-old unaccompanied minor).	*Aden Ahmed* v *Malta*, no 55352/12, 23 July 2013 *Mahamed Jama* v *Malta*, no 10290/13, 26 November 2015 *Moxamed Ismaaciil and Abdirahman Warsame* v *Malta*, nos 52160/13 and 52165/13, 12 January 2016 *Mubilanzila Mayeka and Kaniki Mitunga* v *Belgium*, no 13178/03, 12 October 2006 *Sizarev* v *Ukraine,* no 17116/04, 17 January 2013 *Selcuk and Akser* v *Turkey,* nos 23184/94 and 23185/94, 24 April 1998 *Pretty* v *United Kingdom*, no 2346/02, 29 April 2002 *Dougoz* v *Greece,* no 40907/98, 6 March 2001

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		'113. The Court observes that in the applicants' case the aforementioned conditions persisted for a period of around eight months, during which no specific arrangements were made for the applicants as migrants awaiting the outcome of their age-assessment procedure (whose status as minors was later confirmed). The Court reiterates that the applicants, as asylum-seekers, were particularly vulnerable because of everything they had been through during their migration and the traumatic experiences they were likely to have endured previously (see *M.S.S.,* cited above, § 232). Moreover, in the present case the applicants, who were sixteen and seventeen years of age respectively, were even more vulnerable than any other adult asylum seeker detained at the time because of their age (see, *a contrario*, *Mahamed Jama*, cited above, § 100). '114. It follows, in the present case, that since the applicants were minors who were detained for a period of around eight months, the cumulative effect of the conditions complained of amounted to degrading treatment within the meaning of the Convention. '115. There has accordingly been a violation of Article 3 of the Convention.'	*SD* v *Greece*, no 53541/07, 11 June 2009 *AA* v *Greece,* no 12186/08, 22 July 2010 *Riad and Idiab* v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008 *Alver* v *Estonia,* no 64812/01, 8 November 2005 *Karalevicius* v *Lithuania*, no 53254/99, 7 April 2005 *Yarashonen* v *Turkey*, no. 72710/11, 24 June 2014 *Ananyev and Others* v *Russia,* nos 42525/07 and 60800/08, 10 January 2012 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Mubilanzila Mayeka and Kaniki Mitunga* v *Belgium*, no 13178/03, 12 October 2006

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			Popov v *France*, nos 39472/07 and 39474/07, 19 January 2012 *Tarakhel* v *Switzerland* [GC], no 29217/12, 4 November 2014 *Suso Musa* v *Malta*, no 42337/12, 23 July 2013 *Rahimi* v *Greece*, no 8687/08, 5 April 2011 *Kanagaratnam* v *Belgium*, no 15297/09, 13 December 2011 *Stephens* v *Malta (no 1)*, no 11956/07, 21 April 2009 *Louled Massoud* v *Malta*, no 24340/08, 27 July 2010 *Saadi* v *United Kingdom* [GC], no 13229/03, 29 January 2008 *Blokhin* v *Russia* [GC], no 47152/06, 23 March 2016

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ECtHR [GC]	***Paposhvili* v *Belgium*** no 41738/10 13.12.2016	ECtHR judgment Article 3 ECHR - risk of torture or to inhuman or degrading treatment - Article 8 – right to respect for family life – removal to Georgia – health of applicant **Para. 178:** '178. In the case of *N. v. the United Kingdom*, which concerned the removal of a Ugandan national who was suffering from Aids to her country of origin, the Court, in examining whether the circumstances of the case attained the level of severity required by Article 3 of the Convention, observed that neither the decision to remove an alien who was suffering from a serious illness to a country where the facilities for the treatment of that illness were inferior to those available in the Contracting State, nor the fact that the individual's circumstances, including his or her life expectancy, would be significantly reduced, constituted in themselves "exceptional" circumstances sufficient to give rise to a breach of Article 3 (see *N. v. the United Kingdom*). In the Court's view, it was important to avoid upsetting the fair balance inherent in the whole of the Convention between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. A finding to the contrary would place too great a burden on States by obliging them to alleviate the disparities between their health-care system and the level of treatment available in the third country concerned through the provision of free and unlimited health care to all aliens without a right to stay within their jurisdiction. Rather, regard should be had to the fact that the applicant's condition was not critical and was stable as a result of the antiretroviral treatment she had received in the United Kingdom, that she was fit to travel and that her condition was not expected to deteriorate as long as she continued to take the treatment she needed. The Court also deemed it necessary to take account of the fact that the rapidity of the deterioration which the applicant would suffer in the receiving country, and the extent to which she would be able to obtain access to medical treatment, support and care there, including help from relatives, necessarily involved a certain degree of speculation, particularly in view of the constantly evolving situation with regard to the treatment of Aids worldwide (ibid., § 50). The Court concluded that the implementation of the decision to remove the applicant would not give rise to a violation of Article 3 of the Convention. Nevertheless, it specified that, in addition to situations of the kind addressed in *D. v. the United Kingdom* in which death was imminent, there might be other very exceptional cases where the humanitarian considerations weighing against removal were equally compelling (see *D. v. the United Kingdom*). An examination of the case-law subsequent to *N. v. the United Kingdom* has not revealed any such examples.'	*AS* v *Switzerland*, no 39350/13, 30 June 2015 *Airey* v *Ireland,* no 6289/73, 9 October 1979 *Aswat* v *United Kingdom*, no 17299/12, 16 April 2013 *Bouyid* v *Belgium* [GC], no 23380/09, 28 September 2015 *D* v *United Kingdom,* no 30240/96, 2 May 1997 *EO* v *Italy* (dec), no 34724/10, 10 May 2012 *El-Masri* v *the former Yugoslav Republic of Macedonia* [GC], no 39630/09, 13 December 2012 *FG* v *Sweden* [GC], no 43611/11, 23 March 2016

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		Paras. 183-193: '183. The Court considers that the "other very exceptional cases" within the meaning of the judgment in *N. v. the United Kingdom* which may raise an issue under Article 3 should be understood to refer 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. The Court points out that these situations correspond to a high threshold for the application of Article 3 of the Convention in cases concerning the removal of aliens suffering from serious illness. '184. As to whether the above conditions are satisfied in a given situation, the Court observes that in cases involving the expulsion of aliens, the Court does not itself examine the applications for international protection or verify how States control the entry, residence and expulsion of aliens. 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, who are thus required to examine the applicants' fears and to assess the risks they would face if removed to the receiving country, from the standpoint of Article 3. The machinery of complaint to the Court is subsidiary to national systems safeguarding human rights. This subsidiary character is articulated in Article 13 and Article 35 § 1 of the Convention (see *M.S.S. v. Belgium and Greece*, cited above, §§ 286-87, and *F.G. v. Sweden*). '185. Accordingly, in cases of this kind, the authorities' obligation under Article 3 to protect the integrity of the persons concerned is fulfilled primarily through appropriate procedures allowing such examination to be carried out (see, *mutatis mutandis*, *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 182, ECHR 2012; *Tarakhel*; and *F.G. v. Sweden*). '186. In the context of these procedures, 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 (see *Saadi*, and *F.G. v. Sweden*). In this connection it should be observed that a certain degree of speculation is inherent in the preventive purpose of Article 3 and that it is not a matter of requiring the persons concerned to provide clear proof of their claim that they would be exposed to proscribed treatment (see, in particular, *Trabelsi v. Belgium*, no. 140/10, § 130, ECHR 2014 (extracts)).	*Hirsi Jamaa and Others* v *Italy* [GC], no 27765/09, 23 February 2012 *Karagoz* v *France* (dec), no 47531/99, 15 November 2011 *Karner* v *Austria*, no 40016/98, 24 July 2003 *Khachatryan* v *Belgium* (dec), no 72597/10, 7 April 2015 *Kochieva and Others* v *Sweden* (dec), no 75203/12, 30 April 2013 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Malhous* v *Czech Republic* (dec) [GC], no 33071/96, 12 July 2001 *Mamatkulov and Askarov* v *Turkey* [GC], nos 46827/99 and 46951/99, 4 February 2005

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		'187. Where such evidence is adduced, it is for the authorities of the returning State, in the context of domestic procedures, to dispel any doubts raised by it (see *Saadi*, cited above, § 129, and *F.G. v. Sweden*, cited above, § 120). The risk alleged must be subjected to close scrutiny (see *Saadi,* cited above, § 128; *Sufi and Elmi v. the United Kingdom*, nos. 8319/07 and 11449/07, § 214, 28 June 2011; *Hirsi Jamaa and Others*; and *Tarakhel*,) in the course of which the authorities in the returning State must consider 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 (see *Vilvarajah and Others*; *El-Masri*; and *Tarakhel*). The assessment of the risk as defined above (see paragraphs 183-84) must therefore 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. '188. As the Court has observed above, what is in issue here is the negative obligation not to expose persons to a risk of ill-treatment proscribed by Article 3. It follows that the impact of removal on the person concerned must be assessed by comparing his or her state of health prior to removal and how it would evolve after transfer to the receiving State. '189. As regards the factors to be taken into consideration, the authorities in 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. The benchmark is not the level of care existing in the returning State; it is not a question of ascertaining whether the care in the receiving State would be equivalent or inferior to that provided by the health-care system in the returning State. Nor is it possible to derive from Article 3 a right to receive specific treatment in the receiving State which is not available to the rest of the population. '190. The authorities must also consider the extent to which the individual in question will actually have access to this care and these facilities in the receiving State. The Court observes in that regard that it has previously questioned the accessibility of care (see *Aswat*, and *Tatar*) and referred to the need to consider the cost of medication and treatment, the existence of a social and family network, and the distance to be travelled in order to have access to the required care (see *Karagoz v. France* (dec.), no. 47531/99, 15 November 2001; *N. v. the United Kingdom*, and the references cited therein; and *E.O. v. Italy* (dec.)).	*Maslov* v *Austria* [GC], no 1638/03, 23 June 2008 *Murray* v *the Netherlands* [GC], no 10511/10, 26 April 2016 *N* v *United Kingdom* [GC], no 26565/05, 27 May 2008 *Pretty* v *United Kingdom*, no 2346/02, 29 April 2002 *SHH* v *United Kingdom*, no 60367/10, 29 January 2013 *Saadi* v *Italy* [GC], no 37201/06, 28 February 2008 *Sufi and Elmi* v *United Kingdom*, nos 8319/07 and 11449/07, 28 June 2011

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		'191. Where, after the relevant information has been examined, serious doubts persist regarding the impact of removal on the persons concerned – 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 (on the subject of individual assurances, see *Tarakhel*). '192. The Court emphasises that, in cases concerning the removal of seriously ill persons, the event which triggers the inhuman and degrading treatment, and which engages the responsibility of the returning State under Article 3, is not the lack of medical infrastructure in the receiving State. Likewise, the issue is not one of any obligation for the returning State to alleviate the disparities between its health-care system and the level of treatment existing in the receiving State through the provision of free and unlimited health care to all aliens without a right to stay within its jurisdiction. The responsibility that is engaged under the Convention in cases of this type is that of the returning State, on account of an act – in this instance, expulsion – which would result in an individual being exposed to a risk of treatment prohibited by Article 3. '193. Lastly, the fact that the third country concerned is a Contracting Party to the Convention is not decisive. While the Court agrees with the Government that the possibility for the applicant to initiate proceedings on his return to Georgia was, in principle, the most natural remedy under the Convention system, it observes that the authorities in the returning State are not exempted on that account from their duty of prevention under Article 3 of the Convention (see, among other authorities, *M.S.S. v. Belgium and Greece*, and *Tarakh*el).'	*Tarakhel* v *Switzerland* [GC], no 29217/12, 4 November 2014 *Tatar* v *Switzerland*, no 65692/12, 14 April 2015 *Trabelsi* v *Belgium*, no 140/10, 4 September 2014 *VS and Others* v *France* (dec), no 35226/11, 25 November 2014 *Vilvarajah and Others* v *United Kingdom*, nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, 30 October 1991 *Yoh-Ekale Mwanje* v *Belgium*, no 10486/10, 20 December 2011

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ECtHR	***SF and Others* v *Bulgaria*** no 8138/16 07.12.2017	ECtHR judgment Article 3 ECHR – inhuman or degrading treatment – detention – child specific considerations – effective remedy **Paras. 84-93:** '84. In this case, the period under consideration was, according to the Government's calculations, about thirty-two hours. According to the applicants' calculations, it was about forty-one hours (see paragraphs 11 and 29 above). Whichever of the two versions is taken as correct, it is clear that this amount of time was considerably shorter than the periods at issue in the cases mentioned in the previous paragraphs. However, the conditions in the border police's detention facility in Vidin, as described by the applicants (without being contradicted by the Government), and as revealed by the video submitted by them, were considerably worse than those in all those cases. The cell in which the applicants were kept, though relatively well ventilated and lit, was extremely run-down, with paint peeling off the walls and ceiling, dirty and worn out bunk beds, mattresses and bed linen, and litter and damp cardboard on the floor (see paragraph 15 above). It can hardly be said that those were suitable conditions in which to keep a sixteen-year old, an eleven-year old, and especially a one-and-a-half-year old, even for such a short period of time. '85. To this should be added the limited possibilities for accessing the toilet, which – as asserted by the applicants and as revealed by the video which they submitted (see paragraphs 15, 20, 24and 27 above) – forced them to urinate onto the floor of the cell in which they were kept. Since the Government did not dispute that assertion or submit any evidence to disprove it, it must be regarded as proven. '86. The Court has many times held, in relation to prisons and pre-trial detention facilities, that subjecting a detainee to the humiliation of having to relieve himself or herself in a bucket in the presence of other inmates can have no justification, except in specific situations where allowing visits to the sanitary facilities would pose a concrete and serious safety risk (see the cases cited in *Harakchiev and Tolumov v. Bulgaria*, nos. 15018/11 and 61199/12, § 211, ECHR 2014 (extracts)).That must be seen as equally, if not more, applicable to detained minor migrants.	*AB and Others* v *France*, no 11593/12, 12 July 2016 *AF* v *Greece*, no 53709/11, 13 June 2013 *AM and Others* v *France*, no 24587/12, 12 July 2016 *AS* v *Switzerland*, no 39350/13, 30 June 2015 *Abdi Mahamud* v *Malta*, no 56796/13, 3 May 2016 *Abdullahi Elmi and Aweys Abubakar* v *Malta*, nos 25794/13 and 28151/13, 22 November 2016 *Al Nashiri* v *Poland*, no 28761/11, 24 July 2014

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		'87. The final element to be taken into account is the authorities' alleged failure to provide the applicants with food and drink for more than twenty-four hours after taking them into custody (see paragraphs 20, 25 and 26 above, and see, also as regards the adequate provision of food to people in detention, *Kadiķis v. Latvia (no. 2)*, no. 62393/00, § 55, 4 May 2006; *Stepuleac v. Moldova*, no. 8207/06, § 55, 6 November 2007; and *Korneykova and Korneykov v. Ukraine*, no. 56660/12, § 141, 24 March 2016). The applicants' allegations in that respect must likewise be seen as proven, given that the Government only stated that they had been provided with quantities of food amounting to the prescribed daily rations, without commenting on the specific allegations about the serious delay in the provision of food and the manner in which it had in fact been provided (see paragraph 26 above). '88. Nor did the Government dispute the allegation that the second applicant had only been given access to the baby bottle and the milk of the toddler (the fifth applicant) about nineteen hours after they had been taken into custody (see paragraph 23 above). The small shoulder bag which can be seen in the video submitted by the applicants (see paragraph 15 above) does not appear to contain such items. In any event, a facility in which a one-and-a-half-year-old child is kept in custody, even for a brief period of time, must be suitably equipped for that purpose, which does not appear to have been the case with the border police's detention facility in Vidin. '89. The combination of the above-mentioned factors must have affected considerably the third, fourth and fifth applicants, both physically and psychologically, and must have had particularly nefarious effects on the fifth applicant in view of his very young age. Those effects were hardly offset by the few hours that he spent in the hospital in Vidin in the afternoon and evening of 18August 2015 (see paragraph 25 above). '90. By keeping those three applicants in such conditions, even for a brief period of time, the Bulgarian authorities subjected them to inhuman and degrading treatment. '91. It is true that in recent years the High Contracting States that sit on the European Union's external borders had difficulties in coping with the massive influx of migrants (see *M.S.S. v. Belgium and Greece*, cited above, § 223). But a perusal of the relevant statistics shows that although the numbers are not negligible, in recent years Bulgaria has by no means been the worst affected country (see paragraphs 8 and 39-41 above). Indeed, the number of third-country nationals found illegally present on its territory in the course of 2015 was about twenty times lower than in Greece and about forty-four times lower than in Hungary (ibid.). It cannot therefore be said that at the relevant time Bulgaria was facing an emergency of such proportions that it was practically impossible for its to ensure minimally decent conditions in the short-term holding facilities in which they decided to place minor migrants immediately after their interception and arrest (contrast, *mutatis mutandis*, *Khlaifia and Others*, cited above, §§ 178-83).	*Alimov* v *Turkey*, no 14344/13, 6 September 2016 *Ananyev and Others* v *Russia*, nos 42525/07 and 60800/08, 10 January 2012 *Atanasov and Apostolov* v *Bulgaria* (dec), nos 65540/16 and 22368/17, 27 June 2017 *Choban* v *Bulgaria* (dec), no 48737/99, 23 June 2005 *Davydov and Others* v *Ukraine*, nos 17674/02 and 39081/02, 1 July 2010 *De los Santos and de la Cruz* v *Greece*, nos 2134/12 and 2161/12, 26 June 2014 *Demopoulos and Others* v *Turkey* (dec) [GC], nos 46113/99; 3843/02; 13751/02; 13466/03; 10200/04; 14163/04; 19993/04; 21819/04, 1 March 2010

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		'92. In any event, in view of the absolute character of Article 3 of the Convention, an increasing influx of migrants cannot absolve a High Contracting State of its obligations under that provision, which requires that people deprived of their liberty be guaranteed conditions compatible with respect for their human dignity. A situation of extreme difficulty confronting the authorities is, however, one of the factors in the assessment whether or not there has been a breach of that Article in relation to the conditions in which such people are kept in custody (ibid., §§ 184-85). '93. In view of the above considerations, the Court concludes that there has been a breach of Article 3 of the Convention with respect to the third, fourth and fifth applicants.'	*Djalti* v *Bulgaria*, no 31206/05, 12 March 2013 *Erkenov* v *Turkey*, no 18152/11, 6 September 2016 *Foti and Others* v *Italy*, nos 7604/76; 7719/76; 7781/77, 11 May 1978 *Giuliani and Gaggio* v *Italy* [GC], no 23458/02, 24 March 2011 *Gross* v *Switzerland* [GC], no 67810/10, 30 September 2014 *Harakchiev and Tolumov* v *Bulgaria*, nos 15018/11 and 61199/12, 8 July 2014 *Housein* v *Greece*, no 71825/11, 24 October 2013 *Husayn (Abu Zubaydah)* v *Poland*, no 7511/13, 24 July 2014 *Ireland* v *United Kingdom*, no 5310/71, 18 January 1978

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			Janowiec and Others v *Russia* [GC], nos 55508/07 and 29520/09, 21 October 2013 *Kadiķis* v *Latvia (no 2)*, no 62393/00, 4 May 2006 *Kanagaratnam* v *Belgium*, no 15297/09, 13 December 2011 *Khlaifia and Others* v *Italy*, [GC], no 16483/12, 15 December 2016 *Korneykova and Korneykov* v *Ukraine*, no 56660/12, 24 March 2016 *Loizdou* v *Turkey (preliminary objections)*, no 15318/89, 23 March 1995 *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Mahamed Jama* v *Malta*, no 10290/13, 26 November 2015

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			Mahmundi and Others v *Greece*, no 14902/10, 31 July 2012 *McFeeley and others* v *United Kingdom*, no 8317/78, 2 October 1984 *Miroļubovs and Others* v *Latvia*, no 798/05, 15 September 2009 *Mohamad* v *Greece*, no 70586/11, 11 December 2014 *Moxamed Ismaaciil and Abdirahman Warsame* v *Malta,* nos 52160/13 and 52165/13, 12 January 2016 *Muskhadzhiyeva and Others* v *Belgium*, no 41442/07, 19 January 2010 *Nachova and Others* v *Bulgaria* [GC], nos 43577/98 and 43579/98, 6 July 2005

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			Neshkov and Others v *Bulgaria*, nos 36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13, 27 January 2015 *Popov* v *France*, nos 39472/07 and 39474/07, 19 January 2012 *Posevini* v *Bulgaria*, no 63638/14, 19 January 2017 *RC and VC* v *France*, no 76491/14, 12 July 2016 *RK and Others* v *France*, no 68264/14, 12 July 2016 *RM and Others* v *France*, no 33201/11, 12 July 2016 *Rahimi* v *Greece*, no 8687/08, 5 April 2011 *SAS* v *France* [GC], no 43835/11, 1 July 2014 *Sargsyan* v *Azerbaijan* [GC], no 40167/06, 16 June 2015

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			Scozzari and Giunta v *Italy* [GC], nos 39221/98 and 41963/98, 13 July 2000 *Stepuleac* v *Moldova*, no 8207/06, 6 November 2007 *Tarakhel* v *Switzerland* [GC], no 29217/12, 4 November 2014 *Tehrani and Others* v *Turkey*, nos 32940/08; 41626/08; 436616/08, 13 April 2010

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
ECtHR	***Thimothawes* v *Belgium*** no 39061/11 (in French with *English* summary) 04.04.2018	ECtHR judgment Article 5 ECHR – detention – asylum-seeker – *refoulement* – mental health of the applicant *Unofficial translation* **Para. 79:** '79. Moreover, the Court considers that, in order to find a violation of Article 5 § 1, the applicant should have established that he was in a particular situation which could *prima facie* lead to the conclusion that his detention was not justified (see, conversely, Yoh-Ekale Mwanje, cited above, § 124). However, the applicant's mental health alone was not, in the present case, such as to lead to such a conclusion: the applicant received special care in the two closed centres where he stayed and the reports drawn up by the psychological support services did not indicate any contra-indication to detention (see paragraphs 34-35, above).'	*A and Others* v *United Kingdom* [GC], no 3455/05, 19 February 2009 *AB and Others* v *France*, no 11593/12, 12 July 2016 *Abdullahi Elmi and Aweys Abubakar* v *Malta,* nos 25794/13 and 28151/13, 22 November 2016 *Anheuser-Busch Inc* v *Portugal* [GC], no 73049/01, 11 January 2007 *Assanidze* v *Georgia* [GC], no 71503/01, 8 April 2004 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995 *Čonka* v *Belgium*, no 51564/99, 5 February 2002 *Creangă* v *Romania* [GC], no 29226/03, 23 February 2012

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			Del Río Prada v *Spain* [GC], no 42750/09, 21 October 2013 *Hassan* v *The United Kingdom* [GC], no 29750/09, 19 September 2014 *Housein* v *Greece,* no 71825/11, 24 October 2013 *Jeunesse* v *The Netherlands* [GC], no 12738/10, 3 October 2014 *Kanagaratnam* v *Belgium,* no 15297/09, 13 December 2011 *Khlaifia and Others* v *Italy,* [GC], no 16483/12, 15 December 2016 *Kholmurodov* v *Russia*, no 58923/14, 1 March 2016 *Labita* c *Italy* [GC], no 26772/95, 6 April 2000

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Medvedyev and Others v *France* [GC], no 3394/03, 29 March 2010 *Mooren* v *Germany* [GC], no 11364/03, 9 July 2009 *Mozer* v *The Rupublic of Moldova and Russia* [GC], no 11138/10, 23 February 2016 *Mubilanzila Mayeka and Kaniki Mitunga* v *Belgium*, no 13178/03, 12 October 2006 *Muskhadzhiyeva and Others* v *Belgium,* no 41442/07, 19 January 2010 *Nabil and Others* v *Hungary*, no 62116/12, 22 September 2015 *Ntumba Kabongo* v *Belgium* (dec), no 52467/99, 2 June 2005 *Paradiso and Campanelli* v *Italy* [GC], no 25358/12, 24 January 2017

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			Popov v *France*, nos 39472/07 and 39474/07, 19 January 2012 *Rahimi* v *Greece*, no 8687/08, 5 April 2011 *Rohlena* v *The Czech Republic* [GC], no 59552/08, 27 January 2015 *Rusu* v *Austria*, no 34082/02, 2 October 2008 *Saadi* v *United Kingdom* [GC], no 13229/03, 29 January 2008 *Suso Musa* v *Malta*, no 42337/12, 23 July 2013 *Takush* v *Greece*, no 2853/09, 17 January 2012 *Ullens de Schooten and Rezabek* v *Belgium*, nos 3989/07 et 38353/07, 20 September 2011

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Waite and Kennedy v *Germany* [GC], no 26083/94, 18 February 1999 *Yoh-Ekale Mwanje* v *Belgium*, no 10486/10, 20 December 2011
ECtHR	***HA et autres* c *Grèce*** no 19951/16 (in French with *English* summary) 28.02.2019	ECtHR judgment Article 3 ECHR - inhuman and degrading treatment - conditions of the applicants' detention in the police stations *Unofficial translation* **Paras. 111-115:** '111. On 13 April 2016, the prosecutor at the Kilkis Magistrates' Court ordered a preliminary investigation. '112. In the course of that investigation, conducted by the police officers of the Kilkis police station, the officers who were on duty at that station on 8 and 9 April 2016, the police officer who had accompanied the two applicants to the Kilkis hospital and the police officer who had taken the applicant listed in Appendix 7 to the Thessaloniki hospital made reports. The police officer who had accompanied the two applicants to the Kilkis hospital stated that "the applicants did not have the attitude of sick or beaten-up people and showed at all times that they were well". In addition, four foreign nationals who had been detained at the same time as the two applicants at the Kilkis police station also gave statements: they stated that the behaviour of the police officers towards the applicants had been correct, that they had not used any violence against the applicants, that they had repeatedly asked the applicants whether they wished to go to hospital and that, at one point, when the applicants had reportedly been calm, they had begun to protest and requested their transfer to hospital, a request which would have been granted. '113. On the basis of these facts, the Kilkis police station sent a report to the public prosecutor at the Kilkis Magistrates' Court stating that, throughout the two applicants' stay at the police station, the police officers' conduct towards the applicants had been appropriate and respectful of human rights and of the rules and laws governing the operation of the Greek police.	

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		'114. On 24 October 2016 the public prosecutor at the Kilkis Magistrates' Court proposed to close the case. He pointed out that the above-mentioned reports showed that the police officers had not engaged in violent behaviour, that the applicants themselves had been the cause of the unrest at Kilkis police station, that they had been transferred to hospital, that they could communicate with third parties (representatives of non-governmental organisations) and that none of their allegations had been confirmed by any evidence. He stated that, whenever the applicants had requested it, they had been transferred to Kilkis Hospital, where they had been found to be in good health, and that only the applicant listed in the annex under number 7 had shown some symptoms of dizziness and suffocation with a cardiological cause. '115. On 25 January 2017 the public prosecutor at the Thessaloniki Court of Appeal approved the decision of the public prosecutor in Kilkis and closed the case.'	

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
ECtHR (Grand Chamber)	***Ilias and Ahmed v Hungary*** no 47287/15 21.11.2019	ECtHR judgment Article 3 ECHR - inhuman and degrading treatment – removal to Serbia **Para. 192:** '192. The Grand Chamber endorses the Chamber's view that while it is true that asylum-seekers may be considered vulnerable because of everything they might have been through during their migration and the traumatic experiences they were likely to have endured previously (see *M.S.S. v. Belgium and Greece*), there is no indication that the applicants in the present case were more vulnerable than any other adult asylum-seeker confined to the Röszke transit zone in September 2015. In particular, their allegations about hardship and ill-treatment endured in Pakistan, Afghanistan, Iran, Dubai and Turkey concern a period of time which ended in 2010 or 2011 for the first applicant and in 2013 for the second applicant. Also, the Court does not consider that the psychiatrist's opinion (see paragraph 30 above) submitted by the applicants is decisive: having regard to its context and content, and taking into consideration that the applicants stayed at the Röszke transit zone for the relatively short period of 23 days, the psychiatrist's observations cannot lead to the conclusion that the otherwise acceptable conditions at the Röszke transit zone were particularly ill-suited in the applicants' individual circumstances to such an extent as to amount to ill-treatment contrary to Article 3.'	*Abdulaziz, Cabales and Balkandali* v *United Kingdom,* nos 9214/80; 9473/81; 9474/81 *Abuyeva and Others* v *Russia*, 2 December 2010, no 27065/05, 28 May 1985 *Al Dulimi and Montana Management Inc.* v *Switzerland* [GC], no 5809/08, 21 June 2016 *Allan* v *United Kingdom* (dec), no 48539/99, 28 August 2001 *Amuur* v *France*, no 19776/92, 25 June 1996 *Avotiņš* v *Latvia* [GC], no 17502/07, 23 May 2016

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			Azinas v *Cyprus* [GC], no 56679/00, 28 April 2004 *Babajanov* v *Turkey*, no 49867/08, 10 May 2016 *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi* v *Ireland* [GC], no 45036/98, 30 June 2005 *Budrevich* v *Czech Republic*, no 65303/10, 17 October 2013 *Buzadji* v *Moldova* [GC], no 23755/07, 5 July 2016 *Chahal* v *United Kingdom*, (GC) no 22414/93, 15 November 1995 *DH and Others* v *Czech Republic* [GC], no 57325/00, 13 November 2007 *De Tommaso* v *Italy* [GC], no 43395/09, 23 February 2017

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			De Wilde, Ooms and Versyp, nos 2832/66; 2835/66; 2899/66, 10 March 1972 *FG* v *Sweden* [GC], no 43611/11, 23 March 2016 *Fábián* v *Hungary* [GC], no 78117/13, 5 September 2017 *Gahramanov* v *Azerbaijan* (dec), no 26291/06, 15 October 2013 *Gillberg* v *Sweden* [GC], no 41723/06, 3 April 2012 *Göç* v *Turkey* [GC], no 36590/97, 11 July 2002 *Guerra and Others* v *Italy*, no 116/1996/735/932, 19 February 1998 *Guzzardi* v *Italy*, no 7367/76, 6 November 1980 *HLR* v *France*, no 24573/94, 29 April 1997

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Herrmann v *Germany* [GC], no 9300/07, 26 June 2012 *Hilal* v *United Kingdom*, no 45276/99, 6 March 2001 *Hirsi Jamaa and Others* v *Italy* [GC], no 27765/09, 23 February 2012 *II* v *Bulgaria*, no 44082/98, 9 June 2005 *J and Others* v *Greece*, no 22696/16, 25 January 2018 *K and T* v *Finland* [GC], no 25702/94, 12 July 2001 *KRS* v *United Kingdom* (dec), no 32733/08, 2 December 2008 *Kasparov* v *Russia*, no 53659/07, 11 October 2016 *Khlaifia and Others* v *Italy* [GC], no 16483/12, 15 December 2016

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			Kovačić and Others v *Slovenia* [GC], nos 44574/98; 45133/98; 48316/99, 3 October 2008 *Kurić and Others* v *Slovenia* [GC], no 26828/06, 12 March 2014 *Kurt* v *Turkey*, no 15/1997/799/1002, 25 May 1998, *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 *Mahdid and Haddar* v *Austria* (dec), no 74762/01, 8 December 2005 *Mamatkulov and Askarov* v *Turkey* [GC], nos 46827/99 and 46951/99, 4 February 2005 *Mogoş* v *Romania* (dec), no 20420/02, 6 May 2004

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			Mohammadi v *Austria*, no 71932/12, 3 July 2014 *Mohammed Hussein and Others* v *the Netherlands and Italy* (dec), no 27725/10, 2 April 2013 *Murray* v *the Netherlands* [GC], no 10511/10, 26 April 2016 *Nada* v *Switzerland* [GC], no 10593/08, 12 September 2012 *Nolan and K* v *Russia*, no 2512/04, 12 February 2009 *Osypenko* v *Ukraine*, no 4634/04, 9 November 2010 *Paposhvili* v *Belgium*, no 41738/10, 13 December 2016 *Perna* v *Italy* [GC], no 48898/99, 6 May 2003 *Pisano* v *Italy* (striking out) [GC], no 36732/97, 24 October 2002

Court	Case name/ reference/date	Relevance/keywords/key relevant paragraphs	Cases cited
			Radomilja and Others v *Croatia* [GC], nos 37685/10 and 22768/12, 20 March 2018 *Riad and Idiab* v *Belgium*, nos 29787/03 and 29810/03, 24 January 2008 *Sabri Güneş* v *Turkey* [GC], no 27396/06, 29 June 2012 *Salah Sheekh* v *the Netherlands*, no 1948/04, 11 January 2007 *Shamsa* v *Poland*, nos 45355/99 and 45357/99, 27 November 2003 *Sharifi* v *Austria*, no 60104/08, 15 December 2013 *Sisojeva and Others* v *Latvia* [GC], no 60654/00, 15 January 2007

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			Soering v *United Kingdom,* no 14038/88, 7 July 1989 *TI* v *United Kingdom*, (dec), no 43844/98, 7 March 2000 *Tarakhel* v *Switzerland* [GC], no 29217/12, 4 November 2014 *Üner* v *the Netherlands* [GC], no 46410/99, 18 October 2006 *Venskutė* v *Lithuania*, no 10645/08, 11 December 2012 *Vijayanathan and Pusparajah* v *France*, no 17825/91, 27 August 1992 *Vilvarajah and Others* v *United Kingdom,* nos 13163/87; 13164/87; 13165/87; 13447/87; 13448/87, 30 October 1991 *Zubac* v *Croatia* [GC], no 40160/12, 5 April 2018

United Nations human rights monitoring committees

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
Committee Against Torture	***Gbadjavi* v *Switzerland*** CAT/C/48/D/396/2009 01.07.2012	Decision of the Committee against Torture under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Risk of complainant's deportation to Togo - Deportation of a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture **Para. 7.8:** '7.8. As to the medical certificates and reports submitted in support of the complainant's asylum application, the three medical certificates of 25 July 2007, 7 March 2008 and 29 April 2009 confirm the precarious mental health of the complainant, which is connected to his past experiences. As to the medical report of 18 May 2009 issued by the psychiatric services of Solothurn, the Committee notes that it mentions terrorism or torture as a possible cause of the post-traumatic stress disorder that the complainant was diagnosed as having. The Committee is of the view that such elements should have caught the attention of the State party and constituted sufficient grounds for investigating the alleged risks more thoroughly. The Federal Administrative Court simply rejected them because they were not likely to call into question the assessment of the facts made in previous rulings. By proceeding in thus without considering those elements, even though they were submitted at a late stage in the proceedings, the Swiss authorities failed in their obligation to ensure that the complainant would not be at risk of being subjected to torture if he were returned to Togo.'	*SPA* v *Canada,* no 282/2005, 7 November 2006 *TI* v *Canada,* no 333/2007, 15 November 2010 *AMA* v *Switzerland,* no 344/2008, 12 November 2010 *AR* v *Netherlands,* no 203/2002, 21 November 2003 *AA et al* v *Switzerland,* no 285/2006, 10 November 2008 *RT-N* v *Switzerland*, no 350/2008, 3 June 2011 Human Rights Committee, *Togo,* (CCPR/C/TGO/CO/4), 18 April 2011 Committee against Torture, *Togo*, (CAT/C/TGO/CO/1), 28 July 2006

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
Committee Against Torture	***KH v Denmark*** CAT/C/49/D 464/2011 23.11.2012	Decision of the Committee against Torture under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Expulsion of the complainant to Afghanistan – risk of torture upon return to the country of origin **Para. 2.4:** '2.4. The complainant arrived in Denmark on 25 July 2010, without valid travel documents, and applied for asylum the next day. Since he was illiterate he could not complete the asylum application form by himself. He claimed that he was fleeing from the Taliban and the Afghan authorities. He had been detained by the Taliban and then arrested by the authorities and wrongly accused of a terrorist bombing attack; while in detention he had been ill-treated and tortured in such a way that some of his ribs had been broken. He added that torture was widespread in Afghanistan, and that the authorities were unable to protect the population from the Taliban's violence. He feared for his life since he had been arrested by the authorities in connection with an explosion in Jalalabad, he had been forced by the Taliban to cooperate with them, and he had escaped from prison after paying a bribe. If re-arrested, he would be subjected to torture and killed. He feared the same if the Taliban were to find him, since they still believed that he was a spy for the Government. The complainant was not aware of the whereabouts of his family and could not provide a nationality certificate issued by his country of origin.' **Para. 5.4:** '5.4. The Danish authorities based their assessment about the credibility of his claim on the divergent statements he gave at the beginning of the asylum proceedings. However, this problem often occurs in the first interview of asylum seekers, since they fear to tell the truth and feel insecure. Nevertheless, the complainant informed the immigration authorities about the circumstances in which he was tortured and even submitted medical evidence in support of his claim. He reiterates that his statements' inconsistencies were caused by inadequate interpretation, which in his case was particularly important since he is illiterate and could not read and confirm whether translations reflected in an accurate manner what he wished to communicate to the authorities. His counsel could not check the accuracy of the translation since he is not a Pashto speaker. Therefore, there was no way to verify whether these translations, noted in the decisions of the Immigration Service and the Refugee Appeals Board, were correct and accurate.'	*Amini* v *Denmark*, no 339/2008, 15 November 2010 *ERK and YK* v *Sweden,* nos 270/2005 and 271/2005, 30 April 2007 *SPA* v *Canada,* no 282/2005, 7 November 2006 *FFZ* v *Denmark,* no 180/2001, 30 April 2002 *SC* v *Denmark,* no 143/1999, 10 May 2000 *RD* v *Sweden,* no 220/2002, 2 May 2005 *SSS* v *Canada,* no 245/2004, 16 November 2005 *MRA* v *Sweden*, no 286/2006, 17 November 2006 *Elmi* v *Australia*, no 120/1998, 14 May 2009

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
		Para. 8.6: '8.6. The Committee notes that the complainant contests the State party's assessment as to the risk he would face if returned to Afghanistan. He claims that he would be at risk of persecution by the Taliban and the Afghan authorities. The Committee notes that the complainant claims that the State party has not explained why the uncontested claim concerning the violence he was subjected to by the Taliban is not relevant under asylum law, and that the authorities failed to assess whether the Afghan authorities would be able to protect him against possible reprisals from the Taliban. As to his claim about the violence inflicted by the Afghan authorities, the Committee also notes that the complainant claims that the State party based its assessment about the credibility of his claim on the divergent statements he gave within the asylum proceedings, that his statement's inconsistency stemmed from inadequate language interpretation, and that he was unable to check it since he is illiterate. He further argues that although he requested the Refugee Appeals Board for a specialized medical examination in order to verify whether he has signs of torture, and showed the Board alleged signs of torture on his hands and one leg or foot, the Board rejected his request for asylum without ordering this examination.' **Para. 8.8:** '8.8. The Committee observes that in the interviews before the Danish Immigration Service and the Refugee Appeals Board, the complainant, who is illiterate, provided inconsistent statements as to his place of origin, the circumstances in which he was detained by the Afghan police, and his escape from prison; that the interviews were held with the assistance of an interpreter to and from Pashto; and that the complainant tried to clarify his statements following questions during the Board hearing. The Committee also notes that on 10 January 2011 and during the Board hearing of 17 January 2011, the complainant requested a specialized medical examination and argued that he lacked financial means to pay for an examination himself. The Committee further observes that the complainant's allegation that he showed to the Board sequelae of the violence inflicted by the Afghan authorities on his hands and one leg or foot was not contested by the State party. The Committee considers that although it is for the complainant to establish a prima facie case to request for asylum, it does not exempt the State party from making substantial efforts to determine whether there are grounds for believing that the complainant would be in danger of being subjected to torture if returned. In the circumstances, the Committee considers that the complainant provided the State party's authorities with sufficient material supporting his claims of having been subjected to torture, including two medical memoranda, to seek further investigation on the claims through, inter alia, a specialized medical examination. Therefore, the Committee concludes that by rejecting the complainant's asylum request without seeking further investigation on his claims or ordering a medical examination, the State party has failed to determine whether there are substantial grounds for believing that the complainant would be in danger of being subjected to torture if returned. Accordingly, the Committee concludes that, in the circumstances, the deportation of the complainant to his country of origin would constitute a violation of article 3 of the Convention.'	

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
Human Rights Committee	***Raziyeh Rezaifar v Denmark*** CCPR/ C/119/D/2512/2014 10.03.2017	Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication no 2512/2014 Deportation to Italy - Torture, cruel, inhuman or degrading treatment or punishment **Para. 8.9:** '8.9. The Committee recalls that States parties should give sufficient weight to the real and personal risk a person might face if deported and considers that it was incumbent upon the State party to undertake an individualized assessment of the risk that the author and her two children (both of whom were minor during the asylum proceedings) would face in Italy, rather than rely on general reports and on the assumption that, as the author had benefited from subsidiary protection in the past, she would, in principle, be entitled to the same level of subsidiary protection today. The Committee considers that the State party failed to take into due consideration the special vulnerability of the author and her children. Notwithstanding her formal entitlement to subsidiary protection in Italy, the author, who has been severely mistreated by her spouse, faced great precarity, and was not able to provide for herself and her children, including for their medical needs, in the absence of any assistance from the Italian authorities. The State party has also failed to seek effective assurances from the Italian authorities that the author and her two children, who are in a particularly vulnerable situation analogous to that encountered by the author in *Jasin v Denmark* (which also involved the planned deportation of an unhealthy single mother with minor children, who had already experienced extreme hardship and destitution in Italy), would be received in conditions compatible with their status as asylum seekers entitled to temporary protection and the guarantees under article 7 of the Covenant. In particular, the State party failed to request Italy to undertake (a) to renew the author's residence permit, and to issue permits to her children ; and (b) to receive the author and her children in conditions adapted to the children's age and the family's vulnerable status, which would enable them to remain in Italy.'	ECtHR, *MSS* v *Belgium and Greece*, [GC] no 30696/09, 21 January 2011 ECtHR, *Mohammed Hussein and Others* v *the Netherlands and Italy* (dec), no 27725/10, 2 April 2013 ECtHR, *Tarakhel* v *Switzerland* [GC], no 29217/12, 4 November 2014 *Ms Obah Hussein Ahmed* v *Denmark,* no 2379/2014, 7 July 2016 *RAA and ZM* v *Denmark,* no 2608/2015, 28 October 2016

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
			X v *Denmark*, no 2007/2010, 26 March 2014 *ARJ* v *Australia*, no 692/1996, 28 July 1997 *X* v *Sweden*, no 1833/2008, 1 November 2011 *Lin* v *Australia,* no 1957/2010, 21 March 2013 *Errol Simms* v *Jamaica*, no 541/1993, 3 April 1995 *Warda Osman Jasin* v *Denmark,* no 2360/2014, 22 July 2015 *Abdilafir Abubakar Ali et al* v *Denmark,* no 2409/2014, 29 March 2016 *Pillai* v *Canada,* no 1763/2008, 25 March 2011 *Obah Hussein Ahmed* v *Denmark*, no 2379/2014, 7 July 2016

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
Committee on the Rights of the Child	***NBF v Spain*** CRC/C/79/D/11/2017 27.09.2018	Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication no 11/2017. Determination of the age of an alleged unaccompanied minor - Non-exhaustion of domestic remedies; abuse of the right of submission; lack of substantiation of the complaint **Para. 12.6:** '12.6. The State party has cited the case of *M.E.B. v. Spain* as a precedent for relying on X-ray evidence based on the Greulich and Pyle atlas. The Committee notes, however, that there is ample information in the file to suggest that this method lacks precision and has a wide margin of error, and is therefore not suitable for use as the sole method for determining the chronological age of a young person who claims to be a minor.'	ECtHR, *Ahmade v Greece*, no 50520/09, 25 September 2012 *MEB v Spain*, no 9/2017, 2 June 2017 *RL v Spain*, no 18/2017, 25 January 2018
Committee Against Torture	***Adam Harun v Switzerland*** CAT/C/65/D/758/2016 06.12.2018	Decision adopted by the Committee under article 22 of the Convention, concerning communication no 758/2016 Deportation to Italy - Failure to sufficiently substantiate claims; inadmissibility *ratione materiae* - Risk of torture; right to redress; cruel, inhuman or degrading treatment or punishment **Para. 9.11:** '9.11. The Committee also notes that the State party, without having analysed the complainant's experience in Italy to date, simply stated that Italy had already agreed to readmit him on three separate occasions and considered that, if need be, the complainant could file a complaint against the receiving State in the event of violation of his rights. In addition, the Committee notes that at no time did the State party take account of the fact that Italy had failed to deliver on the assurances that it had given to Norway when the complainant returned to the country in 2012 and that it had not taken any measures to guarantee him access to rehabilitation services that are tailored to his needs, which would allow him to exercise his right to rehabilitation as a victim of torture. In light of the foregoing, the Committee considers that the State party has not examined in an individualized and sufficiently thorough manner the complainant's personal experience as a victim of torture and the foreseeable consequences of his forced return to Italy. The Committee is therefore of the view that the deportation of the complainant to Italy would constitute a violation of article 3 of the Convention.'	ECtHR, *Tarakhel v Switzerland* [GC], no 29217/12, 4 November 2014 ECtHR, *N v United Kingdom* [GC], no 26565/05, 27 May 2008 ECtHR, *D v United Kingdom,* no 30240/96, 2 May 1997 ECtHR, *MSS v Belgium and Greece*, [GC] no 30696/09, 21 January 2011 ECtHR, *Mohammed Hussein and Others v the Netherlands and Italy* (dec), no 27725/10, 2 April 2013

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
			ECtHR, *AS v Switzerland*, no 39350/13, 30 June 2015 ECtHR, *Naït-Liman v Switzerland,* no 51357/07, 21 June 2016 ECtHR, *Paposhvili v Belgium,* no 41738/10, 13 December 2016 ECtHR, *Saadi v Italy* [GC], no 37201/06, 28 February 2008 ECtHR, *Ramzy v the Netherlands*, no 25424/05, 20 July 2010 CJEU, *CK and Others v Republika Slovenija*; C-578/16 PPU, 16 February 2017 Human Rights Committee, *Warda Osman Jasin v Denmark,* no 2360/2014, 22 July 2015

Committee	Case name/ reference/ date	Relevance/keywords/key relevant paragraphs	Cases cited
			MMK v *Sweden*, 221/2002, 3 May 2005 *YGH et al* v *Australia*, no 434/2010, 14 November 2013 *JB* v *Switzerland*, no 721/2015, 17 November 2017 *AN* v *Switzerland*, no 742/2016, 3 August 2018

Case law websites for European institutions and Member States

Below is a list of the main websites with case-law on asylum and migration law for European institutions and EU Member States:

- Court of Justice of the European Union: http://curia.europa.eu/juris/recherche.jsf?language=en
- European Court of Human Rights: https://hudoc.echr.coe.int/eng#
- EASO, Information and Documentation System on Case Law: https://caselaw.easo.europa.eu/Pages/default.aspx
- UNHCR Refworld: https://www.refworld.org/cgi-bin/texis/vtx/rwmain with advanced search at: https://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&advsearch=y&process=n
- Jurisprudence of the UN human rights bodies: https://juris.ohchr.org/search/Documents
- European Council on Refugees and Exiles: European Database of Asylum Law: https://www.asylumlawdatabase.eu/en
- The European Commission maintains a list of links to national case-law sites at: https://beta.e-justice.europa.eu/13/EN/national_case_law

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