Ensuring a human rights-compliant end to refugeehood through integration, naturalisation or voluntary repatriation

Thematic paper

Council of Europe Division on Migration and Refugees

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Council of Europe

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ABBREVIATIONS

AIDA	Asylum Information Database
CEAS	Common European Asylum System
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CFR	Charter of Fundamental Rights of the European Union
CRC	Convention on the Rights of the Child
CJEU	Court of Justice of the European Union
CSR51	Convention relating to Status of Refugees (or Refugee Convention, CSR51, or 1951 Convention)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRE	European Council on Refugees and Exiles
EU	European Union
EUAA	European Union Agency for Asylum
EU FRA	European Union Agency for Fundamental Rights
ICCPR	International Covenant on Civil and Political Rights
IOM	International Organization for Migration
CSO	Civil Society Organisation
TPD	Temporary Protection Directive
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees

1. INTRODUCTION

1.1 Aims of the Thematic Paper

Refugeehood is meant to be temporary, coming to an end when refugees acquire a new nationality or are able to re-establish links with their home country, and return safely and voluntarily.

For many refugees, returning home remains the preferred solution to their displacement.[1] Refugees may return when conflict ends or with a change of government. In such circumstances, there are a number of ways in which refugees themselves, the international community, and new regimes can work together to build stability and security.[2] As UN High Commissioner for Refugees, Filippo Grandi, recently remarked of the fall of the Bashar al-Assad regime in Syria:

> This is a rare opportunity to resolve one of the largest displacement crises in the world. The international community, private sector, and Syrians in the diaspora must come together and intensify their efforts to support recovery and ensure that the voluntary return of those displaced by conflict is sustainable and dignified and they are not forced to flee again.[3]

However, without those sustained collective efforts, returns may be dangerous for refugees and destabilising for the countries concerned. When returns take place under conditions of grave insecurity, they may be both unsafe and unsustainable. UNHCR reports that in 2024, 92% of the 1.6 million refugee returns were to just four countries: Afghanistan, Syria, South Sudan and Ukraine.[4] When the human rights situation is unclear, changing, or contested, such movement prompts questions about the voluntariness of return. Return is not voluntary when it is coerced, or under threat of coercion. UNHCR maintains that it is 'essential' that returns remain voluntary and has expressed concerns that they are occurring in 'adverse conditions' to countries which are insecure and fragile.[5]

Legally, refugees may lose their status (and become 'former refugees') only in very limited and strictly defined circumstances, generally when they take action themselves to bring their refugeehood to an end. The only non-voluntary scenario in which refugeehood ends is tightly circumscribed by the 1951 Convention relating to the Status of Refugees (the Refugee Convention, 1951 Convention, or CSR51).[6] The ceased circumstances clauses, Article 1C(5) and (6), only apply when the situation in the country of origin has changed fundamentally and durably, so there is no longer a need for international protection (see 2.2(c) below). Even then, the end of refugee protection does not render the person concerned automatically deportable. Deportation is only permissible if return would not expose the person to a real risk of

1 UNHCR, 'Global Trends: Forced Displacement in 2024' (UNHCR, 12 June 2025) <https://www.unhcr.org/uk/global-trends> accessed 5 September 2025, 10.
2 See further, Megan Bradley, James Milner and Blair Peruniak (eds), Refugees' Roles in Resolving Displacement and Building Peace: Beyond Beneficiaries (Georgetown University Press 2019).
3 'A million Syrians have returned home, but more support needed so millions more can follow' (UNHCR, 24 September 2025) <https://www.unhcr.org/news/press-releases/million-syrians-have-returned-home-more-support-needed-so-millions-more-can> accessed 27 October 2025.
4 UNHCR 'Global Trends: Forced Displacement in 2024' 10.
5 Ibid.
6 Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

persecution or a serious human rights violation, in accordance with the binding principle of *non-refoulement* (introduced below).

However, in practice, voluntary or forced return is often discussed long before conditions in countries of origin meet these legal standards. This thematic paper identifies laws and policies that treat refugees as deportable, even though they are still in law refugees, and their safe return is unlikely. The Refugee Convention is not only about status, it also creates a framework for solutions, so that refugees can restart their lives. If refugees do not find solutions, in particular when a new nationality 'remains out of reach... the status of refugee often becomes an intergenerational carrier of civic and social exclusion.'[7]

Consonant with its mission to promote and protect human rights across Europe, the Council of Europe and its institutions have maintained a focus on asylum and migration law and policy, creating an important *acquis*. The *Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe* (2021-2025)[8] makes a number of proposals to ensure protection, secure access to rights, foster participation, and enhance co-operation between migration and asylum authorities. As part of this plan, the authors were commissioned to prepare the present thematic paper examining the sustainable and human rights compliant return of 'former refugees' (a term they explore below) and make recommendations to states on refugees' rights, integration, and naturalisation.

1.2 Sources and Methodology

For this thematic paper, the authors have conducted a desk-based review of academic, policy and CSO literature; a doctrinal analysis of relevant international and European Union (EU) legal standards; and, a concise review of selected domestic law and state practice. The doctrinal study includes key sources pertinent to the interpretation of international refugee, human rights, and EU law. These include UNHCR documents providing authoritative interpretations of the Refugee Convention;[9] legal scholarship on cessation and refugee naturalisation;[10] and, the jurisprudence of the European Court of Human Rights (ECtHR) and Court of Justice of the EU (CJEU). The authors have also included a 'spotlight on Syrian

7 Cathryn Costello, 'On Refugeehood and Citizenship' in Rainer Bauböck and others (eds), The Oxford Handbook of Citizenship (OUP 2017) 718.

8 Council of Europe, 'Council of Europe Action Plan on Protecting Vulnerable Persons in Migration and Asylum ' (Council of Europe, August 2021) <https://edoc.coe.int/en/refugees/10241-council-of-europe-action-plan-on-protecting-vulnerable-persons-in-the-context-of-migration-and-asylum-in-europe-2021-2025.html > accessed 5 September 2025.

9 Key sources include: Executive Committee of the High Commissioner's Programme, Cessation of Status No. 69 (XLIII) UNGA Doc 12A (A/47/12/Add.1) (9 October 1992); Standing Committee Executive Committee of the High Commissioner's Programme, Note on Cessation Clauses (UNHCR, EC/47/SC/CRP30, 30 May 1997); UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (HCR/GIP/03/03, 10 February 2003).

10 Key legal scholarship on cessation includes: Susan Kneebone and Maria O'Sullivan, 'Article 1 C: (Definition of the Term 'Refugee'/Définition du Terme 'Réfugié')' in Andreas Zimmermann, Terje Einarsen and Franziska M Herrmann (eds), The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (2nd edn, OUP 2024); Maria O'Sullivan, Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status (Routledge 2019); Georgia Cole, 'Cessation' in Cathryn Costello, Michelle Foster and Jane McAdam (eds), The Oxford Hanbook of International Refugee Law (2021); Joan Fitzpatrick, 'The End of Protection: Legal Standards for Cessation of Refugee Status and Withdrawal of Temporary Protection' (1999) 13 Georgetown Immigration Law Journal 343; Joan Fitzpatrick and Rafael Bonoan, 'Cessation of Refugee Protection' in Erika Feller, Volker Türk and Frances Nicholson (eds), Refugee Protection in International Law: UNHCR's Global Consultations on International Protection (CUP 2003).

refugees' as many of the most urgent human rights issues are illustrated in this case study. From this foundation, the authors have analysed the laws and policies of a number of states, and evaluated their compatibility with international refugee, human rights, and EU law.

1.3 Legal Framework and Terminology

International law envisages a secure status for those who flee and are in need of international protection – refugee status. As the title indicates, the provision of a status with rights that increase over time is the core object and purpose of the Refugee Convention.[11]

The Refugee Convention applies to those who, owing to a 'well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion', are 'outside the country of [their] nationality [or habitual residence if stateless]' and unable or, owing to such fear, [are] unwilling to avail [themselves] of the protection of that country (Article 1A(2) CSR51). Article 1B provides for an optional, European geographical limitation to the Article 1A(2) refugee definition. Article 1C covers the circumstances in which refugee protection ceases.

The 1967 Protocol relating to the Status of Refugees[12] removed the 1951 dateline and optional, geographic limitation to Article 1(A)2, while preserving the position of states who maintained Europe-limiting Article 1B(1) declarations.[13] In the Council of Europe, where all member states are parties to the CSR51, only Türkiye maintains such a limitation.

In general, the Refugee Convention envisages that the choice of the refugee is vital in determining when refugeehood ends. On cessation, one way in which refugeehood may end is if the refugee voluntarily re-establishes their relationship with the home state. Voluntariness is an essential requirement, both to return and re-availment (accepting, once again, the protection of the country of origin, Article 1C(1)-(3)). States of refuge also have an overarching obligation to facilitate the integration and naturalisation of refugees (Article 34 CSR51). In this context, the choice of the refugee, to acquire the new nationality of their host state and enjoy its protection, will also bring refugeehood to an end (Article 1C(4)).

Exceptionally, and only if circumstances change fundamentally and durably, states may bring refugee status to an end without the refugee's consent (cessation, under Article 1(5) and 1(6) CSR51). Where this is the case, 'former refugees', like other non-nationals, *may* be deportable, if and only if conditions in the home country pose no real risk to their human rights. International human rights law, in particular the European Convention on Human Rights (ECHR)[14], also protects security of residence and ties developed over time in the country of refuge (Article 8(1) ECHR), subject of course to limitations due to, among others, national security or public safety (Article 8(2) ECHR). This protection operates alongside the prohibition on collective expulsions (Article 4, Protocol No 4 ECHR).

Article 1D CSR51 operates as a contingent inclusion clause for 'Palestine' refugees under the mandate of the United Nations Relief and Works Agency for Palestine Refugees (UNRWA). They are excluded from protection, but re-included if UNRWA protection fails. This inclusion

11 It is the Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (emphasis added).
12 Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.
13 Ibid, Article I.3.
14 Convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 1950, entered into force 3 September 1953) ETS 5 (European Convention on Human Rights, as amended) (ECHR).

is of increasing importance as Israel's conduct has given rise to a 'real and imminent risk' that irreparable prejudice will be caused to the 'right of Palestinians in the Gaza Strip to be protected from acts of genocide and related prohibited acts…'.[15] Other protection issues include serious human rights abuses inherent in the illegal Israeli occupation[16] and the failure to permit humanitarian assistance.[17]

National security concerns are provided for under the Refugee Convention. Article 1F CSR51 excludes from the Convention's protections those who have committed certain crimes or acts outside the country of refuge. A separate provision, Article 33(2), limits the Convention's protection from *refoulement* to those who are a danger to the security of a country or its community.

In this thematic paper, the authors use the term 'refugee' in its broad sense, to capture the predicament of non-nationals who are unable to return to their country-of-origin because they fear particular forms of serious harm. They refer to those whose situation is covered by Article 1A(2) and who are re-included by the second paragraph of 1D as 'Convention refugees'. Refugeehood does not depend on mode of arrival. Some refugees are invited to host states through humanitarian admission or resettlement programmes, while others may flee and seek asylum themselves. Whatever the means of arrival, refugees are entitled to the same rights and benefits and have the same responsibilities in international law.

'Refugee status' is the recognition by a state of a person as a refugee in accordance with the Convention's definition, usually through the granting of a particular permission to remain. A person may be a refugee in international law, but not have refugee status in domestic law, for example, because they have not (yet) been recognised or because the status that they did have has been revoked. Refugeehood and its end are, therefore, conceptually and legally distinct from the granting or revocation of refugee status in domestic law and practice.[18]

'Former refugees' are those people who no longer have an international protection need. This will be the case only when the conditions of Article 1C of the Refugee Convention, both substantive and procedural, are met. These conditions ensure the Refugee Convention's primary aim, to protect refugees by first, ensuring that states accord them a secure status and second, that they cooperate to ensure that this leads to either a new nationality or refugees' safe reconnection with their home state. On the former, while naturalisation is not obligatory under the Refugee Convention, it is to be facilitated (Article 34). While there are evidently tensions between the different means of bringing refugeehood to an end, states do not have *carte blanche* to choose one means or the other.

Where an individual is not a Convention refugee, or if they are not recognised as such, they may be entitled to or accorded a complementary protection status. Complementary protection statuses, like 'subsidiary protection' or 'temporary protection', have different legal bases (EU law, national law) and bestow different packages of rights (including to family reunion and long-term residence). We discuss these further, and the circumstances in which they may be brought to an end, in chapters 3 and 4.

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15 International Court of Justice (ICJ), Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel) Order of 26 January 2024 [61], [66], [74].

16 Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem ICJ Advisory Opinion of 19 July 2024.

17 The Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory, ICJ Advisory Opinion of 22 October 2025.

18 C-391/16 M (Revocation of Refugee Status) [2019] ECLI:EU:C:2019:403 [92].

The Refugee Convention and relevant EU and national law must be read and implemented as part of, or in line with, international human rights law, the latter including a broader set of prohibitions on *refoulement.*[19] The principle of *non-refoulement* prohibits the return of a person (on an individual or group basis) in any manner whatsoever to a situation where their life or freedom would be threatened, or where they would be at risk of a serious human rights violation, notably torture, inhuman, or degrading treatment or punishment.[20]

States have the ability to control the entry and residence of non-nationals, subject to the international legal obligations they have chosen to assume, on *non-refoulement* and non-discrimination, for example.[21] The right to a private and family life, under Article 8(1) ECHR, is also engaged in cases of long residence or where a refugee or former refugee has established family and/or other connections in a Council of Europe member state. Of course, Article 8(2) ECHR permits justifications for interferences with private and family life under limited conditions related to, for example, national security or public safety. Its protective ambit extends, in some cases, to requiring states to ensure security of residence and status.

The authors refer to the practice of forcibly coercing someone to leave a state's territory as deportation or expulsion. Deportation may, in some circumstances, amount to an international crime.[22] When undertaken against groups, it may violate the prohibition of 'collective expulsion' under Article 4, Protocol 4 ECHR. A number of practices labelled 'assisted voluntary return' are, in fact, disguised deportations.[23] When people who are detained are told that returning to their home country or moving to a third country is the only way to avoid continued detention, their decision to do either cannot truly be considered voluntary. 'Return', when it is the only way to leave detention, even when a deportation order has been issued, is better regarded as a form of deportation. In *Akkad v Turkey* (2022), the ECtHR found violations of Articles 3, 5 and 13 ECHR, in the following scenario which the national authorities had characterised as 'voluntary return': there had been no communication of the legal decision, access to advice (legal or otherwise), or opportunity to contest the legality of the removal.[24]

1.4 International Protection: A Contemporary Snapshot

UNHCR estimates that, at the end of 2024, an estimated 123.2 million people worldwide were forcibly displaced due to persecution, conflict, and human rights violations.[25] The majority of

19 See further, Başak Çalı, Cathryn Costello and Stewart Cunningham, 'Hard Protection through Soft Courts? Non-Refoulement before the United Nations Treaty Bodies' (2020) 21 German Law Journal 355.

20 Drawing on UNHCR, Executive Committee Conclusion No 82 (XLVIII) Safeguarding Asylum (17 October 1997) and Cathryn Costello and Michelle Foster, 'Non-refoulement as Custom and Jus Cogens? Putting the Prohibition to the Test' in Maarten den Heijer and Harmen van der Wilt (eds), Netherlands Yearbook of International Law 2015: Jus Cogens: Quo Vadis? (T.M.C. Asser Press 2016) 305-6.

21 See further, Abdulaziz, Cabales and Balkandali v UK App nos 9214/80; 9473/81; 9474/81 (ECtHR, 28 May 1985) [67]; Biao v Denmark App no 38590/10 (ECtHR GC, 24 May 2016).

22 Vincent Chetail, 'Is There Any Blood on My Hands? Deportation as a Crime of International Law' (2016) 29 Leiden Journal of International Law 917.

23 Jean-Pierre Gauci, 'IOM and 'Assisted Voluntary Return': Responsibility for Disguised Deportations?' in Megan Bradley, Cathryn Costello and Angela Sherwood (eds), IOM Unbound?: Obligations and Accountability of the International Organization for Migration in an Era of Expansion (CUP 2023) and in particular the discussion of NA v Finland App no 25244/18 (ECtHR, 14 November 2019).

24 Akkad v Turkey App no 1557/19 (ECtHR, 21 June 2022).

25 UNHCR 'Global Trends: Forced Displacement in 2024' 6. Of these 8.4 million were asylum seekers and 73.5 internally displaced persons (IDPs).

these displaced people remain in or close to their countries of origin, within regions that are predominantly made up of low- and middle-income countries. Countries and contexts where displacement is significant or has increased include Afghanistan, the Democratic Republic of Congo, the Central Sahel, Gaza, Haiti, Myanmar, Sudan, and Ukraine. Comparatively few flee to the Global North. The war in Sudan, for example, is responsible for one of the world's largest protection crises. 14.3 million Sudanese people were displaced at the end of 2024, 'almost all within the country or in neighbouring countries.'[26] In other contexts, those facing risks to their life and freedom are unable to flee. At the time of writing, 90% of the population in Gaza has been displaced and a famine has been declared,[27] and yet for most, flight remains impossible.[28]

Council of Europe member states play an important role in the global refugee regime, both in hosting refugees, and in supporting the global search for solutions. They host 13.2 million refugees, including more than 6.2 million people from Ukraine.[29] Within the region, Türkiye hosts 3.2 million displaced Syrians and nearly 222,000 persons of concern from other countries.[30] Within the EU, over 900,000 first time applications for protection were made in 2024.[31] The main EU 'destination' countries were Germany, Spain, Italy, and France.[32] UNHCR reports that, in 2024, 775,900 people were granted refugee status on an individual basis.[33] One-third of these people were granted status in three European countries: Germany (140,600), France (67,500), and Spain (51,300).[34]

As noted above, international protection also includes complementary protection statuses, whether granted under EU and/or national law. In 2024, 954,600 asylum-seekers were given some form of temporary protection.[35] Broadly speaking, the two main groups protected in this way were those displaced from Ukraine (836,100), and Syrians (110,900) in Türkiye.[36]

1.5 Turning to Temporariness

In 2015, large numbers of protection-seekers moved through Council of Europe member states, a significant proportion travelling the short distance from Türkiye to Greece irregularly by boat. Many were refugees from the civil war in Syria, fleeing directly from there, and from poor conditions in neighbouring countries.[37] This mass movement gave rise to significant

26 Ibid 8.
27 Ibid 9; Integrated Food Security Phase Classification (IPC), Famine Review Committee: Gaza Strip (IPC, August 2025).
28 See James C Hathaway, 'Trapped in Gaza' (VerfBlog, 25 October 2025) <https://verfassungsblog.de/trapped-in-gaza/> accessed 7 November 2025.
29 UNHCR, 'Where we work: Europe' <https://www.unhcr.org/where-we-work/regions/europe> accessed 9 September 2025.
30 UNHCR Türkiye, 'Refugees and Asylum Seekers in Türkiye' (UNHCR) <https://www.unhcr.org/tr/en/kime-yardim-ediyoruz/refugees-and-asylum-seekers-tuerkiye> accessed 9 September 2025.
31 Eurostat, 'Asylum applications - annual statistics' (Eurostat, 14 March 2025) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Asylum_applications_-_annual_statistics> accessed 9 September 2025.
32 Ibid.
33 UNHCR 'Global Trends: Forced Displacement in 2024' 47.
34 Ibid 48.
35 Ibid 48.
36 Ibid 48.
37 On the former, see UN High Commissioner for Refugees (UNHCR), International Protection Considerations with regard to people fleeing the Syrian Arab Republic, Update VI, March 2021, HCR/PC/SYR/2021/06 (2021).

challenges to and indeed, failures of, protection.[38] Nonetheless, most of those who arrived in 2015-2016 were recognised as in need of international protection and accorded some status – be it Convention refugee status or subsidiary protection.

A decade later, many of the refugees who arrived in 2015, particularly those in Germany, have naturalised. Such an approach is in accordance with the Refugee Convention's structure of entitlement and obligation to facilitate naturalisation under Article 34. However, in other Council of Europe member states, refugees have faced very different legal conditions, including insecure status and even the risk of deportation. Scholars have identified greater insecurity of residence, a 'temporary turn',[39] writing about Denmark[40] and Norway.[41] In a study for ECRE, Maria O'Sullivan has identified similar practices in other European states.[42]

Also, significant has been the EU's response to those fleeing Russian military aggression against Ukraine in 2022, the activation of its Temporary Protection Directive (TPD).[43] Here, the status provided for in EU law is short, and has been extended several times. The TPD acknowledges that some of those with that status may also be Convention refugees or subsidiary protection beneficiaries, so enables them to claim asylum. Nonetheless, Ukrainians who reside with temporary protection status may not be aware of that possibility or indeed, be discouraged from applying.[44] The precariousness of their status affects both their rights and sense of place in their countries of refuge.

1.6 Spotlight on Syrian refugees

This thematic paper explores different national laws and practices across Europe. These differences have profound implications for the treatment of refugees and their integration

38 See, for example, JA and others v Italy App no 21329/18 (ECtHR, 30 March 2023); MA and others v Greece App no 15192/20 (ECtHR, 3 October 2024) on the treatment of protection-seekers in 'hotspots'.

39 Marie Sandberg, Jessica Schultz and Katrine Syppli Kohl, 'The Temporary Turn in Asylum: a New Agenda for Researching the Politics of Deterrence in Practice' (2025) 51 Journal of Ethnic and Migration Studies 1997.

40 Jens Vedsted-Hansen, Refugees as future returnees? Anatomy of the 'paradigm shift' towards temporary protection in Denmark (Bergen: Chr Michelsen Institute CMI Report 2022:6, 2022); Nikolas Feith Tan, 'The End of Protection: The Danish 'Paradigm Shift' and the Law of Cessation' (2021) 90 Nordic Journal of International Law 60; Marie Juul Petersen, Sidsel Larsen and Nikolas Feith Tan, ''You Can Never Feel Safe': Danish Revocation Practice and the Production of Radical Uncertainty' (2025) 51 Journal of Ethnic and Migration Studies 2089; Sarah Scott Ford, 'Brokering in uncharted terrain: the revocation of protection in Norwegian and Danish asylum cases' (2025) 51 Journal of Ethnic and Migration Studies 2033.

41 See Jessica Schultz, 'Revocation Nation: the Rule of Law and Precarious Legal Status in Norway' (2025) 51 Journal of Ethnic and Migration Studies 2052.

42 Maria O'Sullivan, Legal Note on the Cessation of International Protection and Review of Protection Statuses in Euope (ECRE, 2021).

43 Council Directive 2001/55/EC of 20 July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof [2001] OJ L 212/12; Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection [2022] OJ L 71/2.

44 "Or you can apply for asylum. However, we do not recommend this option, because it comes with some disadvantages: your right to take up employment would be subject to restrictions, and you would have to live in an initial reception centre." Advice given to those from Ukraine in Germany, 'Registration, Residence Permit and Asylum' (Federal Office for Migration and Refugees,) <https://www.germany4ukraine.de/EN/einreise-aufenthalt-und-rueckkehr/ukraine-aufenthaltserlaubnis/seite_node.html> accessed 1 November 2025.

prospects. To illustrate, consider two (fictional) refugees, Ayman and Baha, who travelled to Europe from Damascus, Syria in 2015, both fleeing conscription into the army of Bashar al-Assad and the violence targeted against regime opponents. Ayman sought protection in Denmark, Baha fell sick on the journey, and was unable to travel beyond Germany. Ayman and Baha's applications for international protection were successful and they were both granted subsidiary protection in Denmark and Germany respectively. At the time, Ayman was unaware that this status would be less secure than Convention refugeehood. In contrast, in Berlin, Baha was advised to appeal the decision. His 'upgrade appeal' was successful and he was recognised as a Convention refugee. There were thousands of such appeals, most successful.

In 2020, the Danish authorities notified Ayman that his protection needs were being reviewed. They subsequently informed him that his status had come to an end, as they viewed Damascus as sufficiently safe for him to return. Ayman lost his right to work and reside in Denmark, although the Danish authorities could not deport anyone to Syria. Ayman fears for his life if he returns, in spite of regime change there. Ayman was summoned to live in the Sjælsmark departure centre, a former military barracks. Many people abscond from the centre.[45] One friend fled to the Netherlands, where the courts have precluded return to Denmark due to the insecurity of status there.[46]

In Berlin, Baha started to work quickly, applied for German nationality in 2023, and was successful. He is now an EU citizen, and can travel and work freely across the EU.

The Assad regime fell on 8 December 2024. The Syrian transitional government has been led by President Ahmed al-Sharaa since March 2025. Since the fall of the former government, Israel and Türkiye have continued to carry out military operations in Syria. The Syrian economy remains highly unstable, with the majority of the population remaining dependent on international aid.[47] No reforms have as yet taken place to the infrastructure of Syria's so-called 'torture state', in which it is estimated that approximately 170,000 people were victims of enforced disappearances.

At present, there is overwhelming evidence that returns to Syria are unsafe.[48] The new regime appears to have developed practices that penalise many of those who fled, and the restitution of property in particular is politicised.[49] The UN Working Group on Enforced and Involuntary Disappearances is currently investigating several cases involving deportees and 'former refugees' in Syria.[50] Overall, therefore, the conditions for cessation under Article 1C(4) and (5)

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45 Annika Lindberg 'The 'Mysterious' Configuration of Open Immigration Removal Centres: A New Politics of Abandonment?' (Border Criminologies, 22 May 2017) <https://blogs.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2017/05/mysterious> accessed 9 December 2025.

46 See 'The Netherlands: Council of State halted Dublin transfers of Syrian asylum applicants to Denmark' (ELENA, 6 July 2022) <https://elenaforum.org/the-netherlands-council-of-state-halted-dublin-transfers-of-syrian-asylum-applicants-to-denmark/> accessed 27 October 2025.

47 'Syrian Arab Republic' (OCHA) <https://www.unocha.org/syrian-arab-republic> accessed 28 October 2025.

48 EU Agency for Asylum, 'Interim Country Guidance: Syria' (EUAA, 20 June 2025) <https://euaa.europa.eu/publications/interim-country-guidance-syria> accessed 17 November 2025; Saleh Aljadeeah and others, 'Refugees and Asylum seekers in Europe need a Rights-Based Approach to the Issue of Return: Insights from the Case of the Syrian Displacement' (2025) 10 BMJ Global Health 1.

49 Samer Abboud, ''The Decision to Return to Syria Is Not in My Hands': Syria's Repatriation Regime as Illiberal Statebuilding' (2024) 37 Journal of Refugee Studies 181.

50 Document prepared by UN OHCHR staff, shared in correspondence in September 2025 and on file with the authors. Examples include 'cases of former soldiers and members of the Republic guard who

of the CSR51 are not met. However, notwithstanding the evident volatility and lack of security, serious concerns exist about the fact that a number of European states have called for or sought to encourage refugees to return to Syria.

2. INTERNATIONAL LAW

2.1 Interpreting the Refugee Convention (CSR51)

International treaties are to be interpreted in 'good faith', giving terms their 'ordinary meaning' understood in light of the treaty's object and purpose.[51] The Refugee Convention's central object and purpose is the provision of a secure status with rights increasing over time as its title, preamble, and overarching structure of entitlement demonstrate.

The Convention's preamble opens by affirming the enjoyment of fundamental rights 'without discrimination', proceeding to assure refugees 'the widest possible exercise of these fundamental rights and freedoms.' Two key structural features of CSR51 reflect this object and purpose of security of status.

First, the granting of refugee status is declaratory, not constitutive. As the UNHCR Handbook explains:

> A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee.[52]

Convention refugees are refugees by virtue of their factual predicament. States parties to the Convention have obligations to these refugees, even if they do not undertake formal status determination, or offer alternative statuses. A person may be a Convention refugee in international law even if a state leaves them with their status undetermined. Relatedly, if large numbers of people flee and are offered temporary protection, the relevant state must still treat the refugees in this group as refugees.

left Syria following the fall of the Bashar Al-Assad regime to Iraq' (14 such cases reported) and 'one case in 2025 of a Syrian national transferred from Austria through Türkiye and disappeared upon arrival in Damascus.' The latter case is discussed in Chapter 4.

51 Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, arts 26 and 31.

52 UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees (first published in 1979, HCR/1P/4/ENG/REV4 February 2019) [28].

That the granting of refugee status is declaratory has been accepted by the Council of Europe;[53] the Inter-American Court of Human Rights;[54] and national apex courts, in and out of Europe.[55] EU law also provides that '[t]he recognition of refugee status is a declaratory act'.[56] In practice, the constitutive nature of refugeehood generates obligations for states to undertake status determination and to respect the Convention's provisions on rights and security of residence. It is vital that states and international bodies recognise and give effect to this element of refugee law and protection.

Second, under the Refugee Convention rights progressively accrue to refugees, as their connections with and relationship to the host state develops. This structure of entitlement provides that:

> more sophisticated rights may be lawfully delayed, ideally allowing time for burden- and responsibility-sharing mechanisms to attenuate the hardship for overtaxed receiving countries, even as the refugee's assimilation demands deeper enfranchisement over time.[57]

In other words, that refugees acquire rights on an incremental basis protects their security of residence while enabling states to co-operate on solutions.

2.2 The End of Refugeehood: Cessation and Solutions

Within the structure of the Refugee Convention, as outlined above, cessation has a very particular and limited place. As UNHCR explains:

> The grounds identified in the 1951 Convention are exhaustive; that is, no additional grounds would justify a conclusion that international protection is no longer required.

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53 Council of Europe Committee of Ministers, RecommendationR (84) 1 on the Protection of Persons Satisfying the Criteria in the Geneva Convention Who Are Not Formally Recognised as Refugees (1984); Hirsi Jamaa and others v Italy App no 27765/09 (ECtHR GC, 23 Feb 2012), separate Concurring Opinion of Judge Pinto de Albuquerque: 'A person does not become a refugee because of recognition, but is recognised because he or she is a refugee. As the determination of refugee status is merely declaratory, the principle of non-refoulement applies to those who have not yet had their status declared (asylum-seekers) and even to those who have not expressed their wish to be protected.'

54 Pacheco Tineo Family v Bolivia, Preliminary objections, merits, reparations and costs, Inter-American Court of Human Rights Series C No 272 (25 November 2013), [147]: 'Given the declarative nature of the determination of refugee status…the States parties to the 1951 Convention…must recognize this status, based on the respective fair and competent proceedings.'

55 See for example, In re B (FC) (Appellant) (2002), R v Special Adjudicator (Respondent) ex parte Hoxha (FC) (Appellant) [2005] UKHL 19, [2005] 1 WLR [60]; Németh v Canada 2010 SCC 56 [2010] 3 SCR 281 [50]; Kenya National Commission on Kenya National Commission on Human Rights & another v Attorney General & 3 others [2017] eKLR [17].

56 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [2011] OJ L 337/9 (the Qualification Directive), Recital 21; Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 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, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council [2024] OJ L 2024/1347 22.5.2024 (Qualification Regulation), Recital 22.

57 James C Hathaway, 'The Architecture of the UN Refugee Convention and Protocol' in Cathryn Costello, Michelle Foster and Jane McAdam (eds), Oxford Handbook of International Refugee Law (OUP 2021) 182.

> Operation of the cessation clauses should, in addition, be distinguished from other decisions that terminate refugee status. Cessation differs from cancellation of refugee status. Cancellation is based on a determination that an individual should not have been recognised as a refugee in the first place. This is, for instance, so where it is established that there was a misrepresentation of material facts essential to the outcome of the determination process or that one of the exclusion clauses would have been applicable had all the relevant facts been known. Cessation also differs from revocation, which may take place if a refugee subsequently engages in conduct coming within the scope of Article 1F(a) or 1F(c).[58]

As a consequence, the Refugee Convention's cessation clauses contain substantive and evidential protections. They are to be interpreted restrictively, due to the significant consequences of cessation for refugees and for states. As has been judicially recognised, this is necessary so the

> refugee has the assurance of a secure future in the host country and a legitimate expectation that he will not henceforth be stripped of this save for demonstrably good and sufficient reason.[59]

As Guy S Goodwin-Gill and Jane McAdam explain, cessation or changes in circumstances, have meaning only in a specific context. First, where the person concerned seeks to show that they have a well-founded fear of persecution, or second, where the state seeks to show that someone who has been recognised as a refugee is a refugee no longer.[60] In the first instance, the burden is on the individual and the standard of proof remains that of showing that any change leaves 'open' the 'serious risk or possibility of persecution'.[61] In the second, the burden is on the state, the standard of proof for ending refugee status being the balance of probabilities.[62]

Like all other provisions of the Refugee Convention, cessation must be interpreted in light of the Convention's object and purpose, both to ensure protection for refugees and solutions to bring refugeehood to an appropriate end. UNHCR reminds states that

> cessation practices should be developed in a manner consistent with the goal of durable solutions. Cessation should therefore not result in persons residing in a host State with an uncertain status. It should not result either in persons being compelled to return to a volatile situation, as this would undermine the likelihood of a durable solution and could also cause additional or renewed instability in an otherwise improving situation, thus risking future refugee flows. Acknowledging these considerations ensures refugees do not face involuntary return to situations that might again produce flight and a need for refugee status. It supports the principle that conditions within the country of origin must have changed in a profound and enduring manner before cessation can be applied.[63]

The distinction between international protection on the one hand, and 'permanent solutions', namely voluntary repatriation or refugees' 'assimilation within new national communities' on

58 UNHCR Guidelines on Cessation [4].
59 In re B (FC) (Appellant) (2002), R v Special Adjudicator (Respondent) ex parte Hoxha (FC) (Appellant) v Special Adjudicator [65] (per Lord Hope of Craighead).
60 Guy S. Goodwin-Gill and Jane McAdam, The Refugee in International Law (4th edn, OUP 2021) 171-2.
61 Ibid 172.
62 Ibid 172.
63 UNHCR Guidelines on Cessation [6].

the other, may be found in UNHCR's Statute.[64] While the Refugee Convention does not regulate solutions exhaustively, as will be seen in the paragraphs that follow, it does provide a framework for them.

Although the term 'assimilation' now tends to be associated with a denial of refugees' identity or a lack of respect for it, its meaning in the Statute and Refugee Convention reflects usage during the relevant drafting periods.[65] In Article 34, the term refers to the structure of entitlement introduced above, whereby a refugee is 'assimilated' by being granted a progressively wider range of rights and entitlements, these becoming broadly commensurate with those enjoyed by citizens.[66] The Convention's 'default pathway' is, therefore, what is now referred to as 'local integration', strengthening connection progressing to naturalisation. Other solutions include finding a new permanent home in another country, either independently or by resettlement. Often overlooked is that the Convention obliges states to enable refugees to seek admission to other countries, even if they cannot settle in the state of refuge.[67] This reflects the general ethos of the Convention, that refugees should be able to exercise autonomy.

In the paragraphs that follow, the authors explain how the Convention provides for refugeehood to end. The authors start with the obligation to naturalise, using this as a foundation for a consideration of the cessation clauses. The possibility of expelling refugees, or denying them protection from *refoulement*, is also briefly discussed.

a) *Article 34 CSR51 – The Obligation to Facilitate Refugee 'assimilation and naturalization'*

Article 34 CSR51 provides:

> The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Latvia is the only European state with a reservation to Article 34 CSR51. Both Italy and Greece withdrew their initial reservations decades ago (in 1964, and 1978) respectively, and Malta withdrew its in 2004.

It is also noted that under Article 6 of the European Convention on Nationality,[68] states parties are bound to facilitate in their internal law the acquisition of their nationality by, among others, recognised refugees lawfully and habitually residing on their territory.

64 Statute of the Office of the United Nations High Comissioner for Refugees (adopted as an Annex to UNGA res 428 (V) of 14 December 1950), Article 1.
65 UNHCR, Global Consultations on International Protection/Third Track: Local Integration (EC/GC/02/6, 25 April 2002) at fn 3.
66 Ibid.
67 Refugee Convention, Article 31 on 'refugees unlawfully in the country' obliges states to protect these refugees from penalisation (Article 31(1)) and Article 31(2) provides that 'The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.'
68 European Convention on Nationality (adopted 6 November 1997, entered into force 1 March 2000) CETS No 166.

UNHCR has affirmed that 'becoming a citizen of the receiving society is an important practical and symbolic milestone in the integration process…'.[69] The language used in Article 34 is, therefore, relatively strong. States are obliged ('shall') to 'facilitate' assimilation and naturalisation 'as far as possible'. Article 34 sets a demanding standard ('as far as possible'), requiring more of states than that, for example, they enable naturalisation, 'as far as practicable' or simply 'exercise due diligence'. Facilitation entails taking positive action to make naturalisation easier for refugees. Article 34 offers two means by which this should be achieved (note that these are illustrative, not exhaustive): making 'every effort' to expedite the process and reduce costs.

Refugees should be able to access naturalisation, either on the same basis as other non-nationals or on one that is more favourable. UNHCR suggests that while residency requirements of between two and eight years are common, there is a 'general consensus that…. it is in the best interests of refugees and receiving countries to enable them to seek citizenship as early as possible....'[70] UNHCR has also highlighted the potentially negative impact of some language and good character requirements, emphasising the importance of flexible arrangements including, for example, for older refugees who may face difficulties acquiring a new language.[71]

The use of temporary protection visas and time-limited residence permits for refugees may both prevent assimilation and preclude naturalisation. Such statuses certainly do not 'facilitate' either, as Article 34 requires. This obligation and the broader object and purpose of the Convention in relation to security of status call into question both the legality of regular reviews and precarious permissions to remain. While there is no express requirement that refugees be provided with permanent residence, the authors support the view that states should grant one that is secure.[72] This position is supported by UNHCR who affirms that '…a refugee's status should not in principle be subject to frequent review to the detriment of his sense of security.'[73] Rights of residence are also protected by Article 8 ECHR and under the International Covenant on Civil and Political Rights (discussed below).

A ban on refugee naturalisation would be in breach of Article 34 CSR51 and of Article 6 of the European Convention on Nationality, as would be the introduction of stricter policies on naturalisation for refugees than for other non-nationals. Good faith and the 'as far as possible' standard together require states to demonstrate the necessity of any restriction or barrier that is imposed. New barriers, in particular, will be subject to strict scrutiny. The obligation to 'facilitate as far as possible' means that states must demonstrate why and how, a certain degree of access that was previously 'possible' is no longer so, or indeed, why the previous standard may not be maintained or even liberalised.

Developments in international law have a bearing on the interpretation of Article 34, in particular the duty not to discriminate in matters of nationality on the grounds of race or against women (again, discussed below).[74] Targeting particular nationalities or groups of nationalities

69 UNHCR, 'Integration Handbook' (9 March 2024) <https://www.unhcr.org/handbooks/ih/support-services/legal-status> accessed 28 October 2025. Note, this is specifically in relation to resettled refugees but, the authors believe, of broader application.
70 Ibid.
71 Ibid. See also, Council of Europe, Recommendation CM/Rec(2022)10 of the Committee of Ministers to member States on multilevel policies and governance for intercultural integration (CM/Rec(2022)10, 6 April 2022).
72 Drawing on Kneebone and O'Sullivan (n 10) 583.
73 Drawing on UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees [135].
74 On the former, see Michelle Foster and Timnah Rachel Baker, 'Racial Discrimination in Nationality Laws: A Doctrinal Blind-Spot of International Law?' (2021) 11 Columbia Journal of Race and Law 83.

for differential treatment may violate this obligation in cases where nationality stands for 'national origin' (a facet of 'race'), or where the practice discriminates indirectly on racial grounds.

b) Cessation under Article 1C(1)-(4) CSR51– Voluntary Acts of the Refugee

Refugeehood may end through the voluntary act of a refugee in four defined scenarios. These involve the refugee reconnecting with country or origin, reacquiring a lost nationality, acquiring a new nationality, or returning home voluntarily. In addition to sharing the voluntariness requirement, these scenarios also all turn on the existence of effective state protection.

Article 1C(1)-(4) provides:

> This Convention shall cease to apply to any person falling under the terms of section A if:
> (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
> (2) Having lost his nationality, he has voluntarily reacquired it; or
> (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
> (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

With one exception, all states parties to the 1951 Convention, have ratified Article 1C without reservation or declaration.[75]

Article 1C(1) – 'He has voluntarily re-availed himself of the protection of the country of his nationality'

Three overarching requirements apply here: first, the actions of the refugee must be voluntary; second, the refugee must intend to re-avail themselves of protection of the country of nationality; and third, there must be actual enjoyment of this protection.[76]

'Protection' in this context generally means the normalisation of relations between person and state. One way in which this may be evidenced is by acquiring and using a national passport. However, obtaining a passport is not, in and of itself, enough. There must always be a contextual assessment of whether 'protection' has intentionally been sought and given.[77] In many circumstances, passports may be issued without affording a right to enter the state, or may be used for travel to third states. Refugees may also be compelled to reacquire the passport of their country of origin because of the challenges of travelling on a refugee travel document. If, however, a refugee acquires and uses the passport of their home state with the intention of enjoying its protection, re-availment may be established.[78]

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75 The exception is Türkiye where it clarifies that 're-availment' and 'reacquisition' 'does not depend only on the request of the person concerned but also on the consent of the State in question.' 'States Parties, Including Reservations and Declarations, to the 1951 Refugee Convention' (UNHCR) <https://www.unhcr.org/uk/media/states-parties-including-reservations-and-declarations-1951-refugee-convention> accessed 28 October 2025.

76 Drawing on UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees [119].

77 James Hathaway and Michelle Foster, The Law of Refugee Status (2nd edn, CUP 2014) 470.

78 Fitzpatrick and Bonoan (n 10) 525

Article 1C(2) – 'Having lost his nationality, he has voluntarily reacquired it'

Once again, voluntariness and intent are essential. Nationality must be 'expressly or impliedly accepted' before cessation on this basis is appropriate.[79] Accordingly, where a refugee has the option of re-acquiring a lost nationality, whether the loss was due to state disintegration or punitive deprivation of citizenship, and the refugee declines to do so, cessation does not follow. This reflects the Convention's concern with enabling refugees to exercise autonomy, usually leaving it up to refugees to decide if and when their refugeehood may be brought to an end.

Article 1C(3) – 'He has acquired a new nationality, and enjoys the protection of the country of his new nationality'

This clause applies either where a refugee has acquired the nationality of the country of refuge (typically if they naturalise) or the nationality of a third country. Article 1C(3) must, therefore, be read alongside Article 34 and is, as explained above, the 'default' means of ending refugeehood.

While Article 1C(2) refers to 'voluntarily', there is no such express reference in Article 1C(3). Some commentators argue that only nationality acquired voluntarily by naturalisation should fall within Article 1C(3), leaving aside nationality imposed by operation of law, for example, where a nationality of a successor state is conferred or by marriage. On the latter, imposing a new nationality on marriage often entails sex discrimination.[80] Relying on Article 1C(3) in such circumstances would, therefore, compound the wrong of discriminatory treatment.[81] Overall, this provision must be read in light of the surrounding legal context, in particular the human right to a nationality, which includes the right to change nationality, and not to have one's nationality deprived arbitrarily.

Nationality alone is not sufficient to trigger Article 1C(3). There must also be 'enjoyment of the protection'. This involves effectiveness, that the refugee is able to exercise all the relevant rights and benefits of the new nationality, this being in combination with a willingness and ability to do so.[82]

Article 1C(4) – 'He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution.'

Finally, and once again, any re-establishment must be voluntary. In this context, voluntariness may be undermined, for example, by the provision of material inducements. Similarly, if a refugee returns on the instructions of the authorities of the country of refuge, or in order to avert illegalities in relation to their status or stay, their return should not be considered to be voluntary.[83] The use of the word re-establishment denotes presence, residence, and a commitment to maintain these. Prolonged stay with engagement with state authorities for rights and services do generally amount to re-establishment. In contrast, short visits to, for example, provide eldercare or to check on property do not.

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79 UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees [128].
80 Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13. Article 9 protects the right to acquire, change or retain' nationality upon marriage.
81 Fitzpatrick and Bonoan (n 10) 527.
82 UNHCR, The Cessation Clauses: Guidelines on Their Application (April 2009) [17].
83 Ibid [9].

There is much good practice to ensure both the voluntariness of re-establishment and its sustainability. For example, carefully managed visits and enabling refugees to 'go and see' have, in a range of different contexts, promoted refugees' decision to return home.[84]

In reality, however, the too ready threat of cessation may compel refugees to live in exile in a manner that undermines the possibility of future voluntary repatriation. The maintenance of transnational ties is the norm for refugees and other migrants, enabling the preservation of family connections, community ties, and property. While enduring contact with and residence in the home state does demonstrate the absence of protection needs, sporadic or occasional contact does not.[85] The cessation clauses should be interpreted with the object of enabling future return, not in a manner which renders it less likely. For this reason, the UNHCR Executive Committee affirms that refugees

> should be able to make visits to their country of origin to inform themselves of the situation there – without such visits automatically involving loss of refugee status.[86]

c) Cessation under Article 1C(5) and 1C(6) CSR51- The Ceased Circumstances Clauses

Article 1C(5) and (6) apply when the refugee:

> (5) .. can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;
> Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;
> (6) Being a person who has no nationality he is, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, able to return to the country of his former habitual residence;
> Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.'

These cessation clauses are different from those discussed above, in that they are

> based on the consideration that international protection is no longer justified on account of changes in the country where persecution was feared, because the reasons for a person becoming a refugee have ceased to exist.[87]

That states 'rarely' invoked these provisions in relation to individuals was welcomed by UNHCR in 2003 on the basis that it was beneficial for refugees' 'sense of stability'

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84 James C Hathaway, The Rights of Refugees under International Law (2nd edn, CUP 2021) 1183-4.
85 'The cessation clauses should not be transformed into a trap for the unwary or a penalty for risky or naïve conduct.' Fitzpatrick and Bonoan (n 10) 525.
86 Executive Committee of the High Commissioner's Programme, Conclusion No. 18 (XXXI): Voluntary Repatriation (Adopted by the Executive Committee (1980), No 18 (XXXI) 1980, 16 October 1980) [E].
87 UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees [115].

which 'should be preserved as much as possible.'[88] Such an approach was also deemed consistent with states' obligations under Article 34.[89] In contrast, the

> individualized application of the clause is a relatively recent and contentious development which has led to differing interpretations of key aspects of the 1951 Convention.[90]

States increasing use of individualised cessation necessitates, therefore, careful delineation of the legal elements of these provisions. The authors are concerned that routine cessation undermines the core object and purpose of the Refugee Convention, namely the provision of status and rights which increase over time. Consonant with this position, the authors' starting point is that, as far as possible, states should avoid undertaking periodic reviews of individual cases on the basis of changes in the country of origin.

Where this clause is applied, two questions must be answered in the affirmative.

First, is the change of circumstances fundamental, stable and enduring?[91] As UNHCR's Executive Committee notes:

> States must carefully assess the fundamental character of the changes [...] An essential element in such assessment by States is the fundamental, stable and durable character of the changes[92]

An alternative formulation of this first requirement could instead ask whether or not the change represents an 'overarching political transformation' of the situation in the country of origin?[93]

Second, and having established a change of circumstances by reference to one of the above exacting standards, can the refugee effectively re-avail herself of protection?[94]

This 'two-part inquiry… ensures a healthy balance between the legitimate aims of the asylum states and those of refugees who have been admitted to protection.'[95]

Pursuant to the above, while a change of circumstances may trigger a consideration of the applicability of these clauses, it is the restoration of protection that enables cessation to occur. The burden here is, therefore, higher than that of refugee recognition. More is required than that a fear of persecution no longer exists.[96] Article 1C(5) and (6) should be interpreted as only applicable when the change in circumstances is such as to warrant a switch away from the durable pathway of integration that the refugee would otherwise be on, and focus on the alternative solution of repatriation.

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88 UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees [18].
89 ibid [18].
90 Kneebone and O'Sullivan (n 10) 593.
91 UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees [10]-[16].
92 ExCom Cessation Conclusions [a], [b].
93 Drawing on Hathaway, The Rights of Refugees under International Law (n 84) 1144.
94 UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees [10]-[16].
95 Hathaway, The Rights of Refugees under International Law (n 84) 1138.
96 Contra Joined cases C-175/08, C-176/08, C-178/08 and C-179/08 Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, Hamrin Mosa Rashi and Dler Jamal v Bundesrepublik Deutschland [2010] ECLI:EU:C:2010:105, see further Hathaway, The Rights of Refugees under International Law (n 84) 1141.

Finally, effective protection requires a functioning state, the protection of rights, and the ability to meaningfully reintegrate.[97] Contrary to the approach taken in some European states, protection must be assessed as regards the country as a whole.[98] The authors are of the view that there is no justification for integrating the idea of an internal protection alternative into cessation assessments.[99]

d) *The 'compelling reasons proviso'*

The so-called 'compelling reasons' provisos contained in Article 1 C(5)-(6) explicitly applies only to refugees under Article 1A(1), that is, pre-1951 refugees recognised *en masse* under previous arrangements. Here, the reference to 'compelling reasons' acknowledges that the impact of some refugees' causes of flight may be so profound that return would be unthinkable. The authors share the view of UNHCR and other commentators that the proviso should also be applied to contemporary refugees, such an approach being reflective of humanitarian principle, customary international law, and/or EU law.[100]

2.3 Articles 32 and 33(2) CSR51 – Expulsion and Non-refoulement

Article 32 of the Refugee Convention states that:

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. [….]

Further, in relation the Convention's protection from *refoulement*, Article 33 provides that:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the

97 UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees [15].
98 SB (refugee revocation; IDP camps) [2019] UKUT 358 at [49]: 'In summary, in a case in which refugee status has been granted because the person cannot reasonably be expected to relocate, a cessation decision may be made if circumstances change, so as to mean that that person could reasonably be expected to relocate, provided that the change in circumstances is, ….. "significant and non-temporary"'.
99 'Summary Conclusions: Cessation of Refugee Status' in Erika Feller, Volker Türk and Frances Nicholson (eds), Refugee Protection in International Law: UNHCR's Global Consultations on International Protection (CUP 2003) 548; UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees [17].
100 Drawing on UNHCR, Guidelines on International Protection No. 3: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees [21]; Qualification Directive (recast), Article 11(3); Goodwin-Gill and McAdam (n 60) 176-8.

> country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

These provisions offer refugees important protections from deportation, safeguarding status and rights. In relation to Article 33(2), the requirement that grounds be 'reasonable' protects against arbitrariness and ensures that evidence is adduced. The thresholds to be satisfied are also high concerning, for example, the endangering of a country's security. Here the authors note debates that took place when the Convention was drafted and in particular, that through the introduction of Article 33(2) rather than an extension of the grounds on which an individual could be excluded:

> States intended to exclude certain people from recognition at point of entry … but nevertheless to accord a higher level of protection to the recognised refugee who might subsequently be considered a danger to the community or to security.[101]

Finally, even when the requirements of Article 33(2) are met, the strengthening of the prohibition of *refoulement* that has occurred since its drafting, particularly in relation to its absolute nature and likely *jus cogens* status, calls into doubt its continued relevance and application.[102] There is a well-established line of ECtHR caselaw confirming the absolute nature of the prohibition to return to face risks of torture, inhuman and degrading treatment in particular.[103]

2.4 International Human Rights Law

a) Non-refoulement

Within the ECHR, protection from *refoulement* arises in cases of real risk to the right to life (Article 2), to the prohibition on torture, inhuman, and degrading treatment or punishment (Article 3), and in relation to flagrant breaches of other rights.[104] *Refoulement* includes direct, indirect and constructive *refoulement*. Where material conditions are constructed in host states to compel individuals to leave, putting themselves at risk of the particular degree of harm in question, the prohibition will be breached.[105] As explained above, the absolute nature of this has been repeatedly affirmed.[106]

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101 Goodwin-Gill and McAdam (n 60) 161.

102 Costello and Foster (n 20). See also, Jean Allain, 'The jus cogens Nature of non-refoulement' (2001) 13 International Journal of Refugee Law 533; Sir Elihu Lauterpacht and Daniel Bethlehem, 'The Scope and Content of the Principle of Non-Refoulement: Opinion' in Erika Feller, Volker Türk and Frances Nicholson (eds), Refugee Protection in International Law: UNHCR's Global Consultations on International Protection (CUP 2003); ILC, Fourth report on peremptory norms of general international law (jus cogens) by Dire Tladi, Special Rapporteur (UN Doc A/CN4/727, 31 January 2019) [131].

103 Chahal v UK App no 22414/93 (ECtHR, GC, 15 November 1996); Saadi v Italy App no 37201/06 (ECtHR, GC, 28 February 2008); Hirsi Jamaa and others v Italy; Ilias and Ahmed v Hungary App no 47287/15 (ECtHR, GC, 21 November 2019).

104 Cathryn Costello, 'The Search for the Outer Edges of Non-refoulement in Europe: Exceptionality and Flagrant Breaches' in Bruce Burson and David James Cantor (eds), Human Rights and the Refugee Definition (Boston: Brill Nijoff 2016). See also, 'Guide on the case-law of the European Convention on Human Rights: Immigration' (Council of Europe, European Court of Human Rights, Updated 31 August 2025) <https://ks.echr.coe.int/documents/d/echr-ks/guide_immigration_eng> accessed 17 November 2025.

105 Penelope Mathew, 'Non-refoulement' in Cathryn Costello, Michelle Foster and Jane McAdam (eds), The Oxford Handbook of International Refugee Law (OUP 2021) and the discussion of constructive or disguised refoulement.

106 See the references and text at n 103.

The ECHR's protective framework is strengthened by the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).[107] This is important because UNHCR has warned that

> For women and girls, returns are especially difficult, as they return to an environment where their basic rights, including the right to education, to freedom of movement and the right of expression, are being systematically eroded.[108]

The Istanbul Convention's focus on securing rights and protection for women without discrimination is, therefore, highly relevant in this context (also discussed below, on non-discrimination). Article 61 affirms the international prohibition of *refoulement* and its application to victims of violence against women, requiring issues, such as those highlighted by UNHCR, to be addressed in gender-sensitive decisions on status and return.[109]

Internationally, *refoulement* is prohibited by a range of treaties signed and ratified by Council of Europe member states and by customary international law. It is also 'ripe for recognition' as a norm of *jus cogens*.[110] Relevant here are the International Covenant on Civil and Political Rights (ICCPR),[111] the Convention Against Torture,[112] the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[113] and the Convention on the Rights of the Child.[114] These instruments also contain important protections for non-nationals, against removal, for example, and to a family life. The ICCPR's Article 12(4) states that no one shall be deprived of the right to enter their 'own country', Article 13 offers protections from expulsion, and Article 23 protects family life.

b) Prohibition of Collective Expulsion of Non-nationals

Whether or not people are or have ceased to be refugees, the expulsion of groups of persons without individual assessment may violate the prohibition of collective expulsion protected by Article 4, Protocol No 4 ECHR.

In the leading case of *Čonka v Belgium* (2002),[115] the ECtHR reiterated that collective expulsion was to be understood as

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107 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (adopted 11 May 2011, entered into force 1 August 2014) CETS 210. See also, Council of Europe, Recommendation CM/Rec(2022)17of the Committee of Ministers to member States on protecting the rights of migrant, refugee and asylum-seeking women and girls (CM/Rec(2022)17, 20 May 2022); Catherine Warin, 'Gender in European Union Asylum Law: The Istanbul Convention as a Game Changer?' (2024) 36 International Journal of Refugee Law 93.
108 UNHCR, 'Global Trends: Forced Displacement in 2024' 10.
109 See further, Louise Hooper, Gender-Based Asylum Claims and Non-Refoulement: Articles 60 and 61 of the Istanbul Convention (Council of Europe, December 2019).
110 Costello and Foster (n 20) 273.
111 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171. See further UN Human Rights Committee, 'General Comment No 36, Article 6: Right to Life' (3 September 2019) UN Doc CCPR/C/GC/36.
112 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, in force 26 June 1987) 1465 UNTS 85
113 See further, Catherine Briddick, 'Unprincipled and Unrealised: CEDAW and Discrimination Experienced in the Context of Migration Control' (2022) 22 International Journal of Discrimination and the Law 224.
114 Convention on the Rights of the Child (adopted 20 November 1989, in force 2 September 1990) 1577 UNTS 3.
115 Čonka v Belgium App no 51564/99 (ECtHR, 5 February 2002)

> any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group.[116]

In this case, the applicants had their asylum applications and appeals individually assessed, but nonetheless, the detention and deportation orders did not refer to individual's personal circumstances. Accordingly

> in view of the large number of persons of the same origin who suffered the same fate as the applicants, the Court considers that the procedure followed does not enable it to eliminate all doubt that the expulsion might have been collective.[117]

Also relevant were various factors reflecting the collective nature of the decision-making and enforcement, such that

> at no stage … did the procedure afford sufficient guarantees demonstrating that the personal circumstances of each of those concerned had been genuinely and individually taken into account.'[118]

Further, in *HQ and others v Hungary* (2025), the Court found that for the protection against collective expulsion to be practical and effective

> it cannot be contingent on the simultaneous removal of the members of the group in question… Even when a State expels one individual separately, the safeguard must still apply if he or she belongs to a broader group of foreigners subjected to expulsion. The Court would note in this regard that it is the nature of the measure, rather than the manner of its execution, that determines whether the expulsion is collective.[119]

The authors maintain that, following these and other relevant cases, any expulsion procedure adopted must take into account the personal circumstances of each individual concerned.

c) Protection of Private and Family Life

The ECtHR case law on Article 8 ECHR protects private and family life, including security of residence, reflecting the value of the human connections forged over time.

Article 8(1) provides that everyone 'has the right to respect for his private and family life, his home and his correspondence'. This right is not absolute and may be limited 'in accordance with the law' and where 'necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others' (Article 8(2)).

Article 8 is invoked in a variety of migration-related scenarios of relevance to this thematic paper, including status reviews, withdrawal or change of status, and in the contesting of deportation. In immigration control, states are generally allowed to assert highly general

116 Ibid [59].
117 Ibid [61].
118 Ibid [63].
119 HQ and Others v Hungary App nos 46084/21, 40185/22 and 53952/22 (ECtHR, 24 June 2025) [113].

legitimate aims and are often accorded a wide margin of appreciate in their assessment.[120] For example, in *MA v Denmark* (2021)[121] the Court agreed that restricting family reunification for one category of international protection status holders served the general interests of the economic well-being of the country, integration, and social cohesion.[122] However, the three year waiting period with no options for individualised assessment was excessive.[123]

In *BF and Others v Switzerland* (2023),[124] also on family reunion, the ECtHR took note of UNHCR's position that there was no hierarchy of Convention refugees, and rejected differentiation between those compelled to flee and refugees *sur place,* reducing the margin of appreciation accordingly.[125] One reason given for this position was 'common ground' between Council of Europe member states on the treatment of Convention refugees in relation to their family life, this 'international consensus' contributing to the higher level of scrutiny applied.[126]

The expulsion of 'settled migrants', and even in some limited circumstances those irregularly residing, may breach Article 8.[127] Article 8 may also be violated by the refusal to make a decision within a reasonable time.[128] In an important line of cases, the ECtHR has bolstered refugee children's right to a nationality and to proof thereof,[129] in addition to the rights of stateless persons to a secure status.[130] Here, the Court treats lack of legal status itself as the human rights violation, in effect determining the persons concerned to be stateless or at risk of becoming so.

While there are a number of rights-protective strands in the ECtHR's reasoning, including in relation to statelessness, in more typical cases concerning refugees, the Court has tended to defer to national assessments, even if they appear faulty.[131] This reflects the Court's subsidiary role and deference to national authorities.[132] The authors of this report are concerned, however, that such an approach may leave refugees particularly vulnerable. States 'navigate and exploit grey areas in the Court's jurisprudence'.[133] The authors share the view, expressed by other leading scholars, that the ECtHR does not appear to be protecting refugees from the

120 Cathryn Costello, The Human Rights of Migrants and Refugees in European Law (OUP 2016) 112-3.
121 MA v Denmark App no 6697/18 (ECtHR GC, 9 July 2021).
122 Ibid [165].
123 Ibid [162], [192], [194]. See further, Hannah Zaruchas, 'Playing for Time: Temporary Status, Migration Control and the Human Rights of Forced Migrants to Family Reunification' (2025) International Journal of Refugee Law (https://doi.org/10.1093/ijrl/eeaf017).
124 BF and Others v Switzerland App nos 13258/18, 15500/18, 57303/18 (ECtHR, 4 July 2023).
125 Ibid [98].
126 Ibid [98].
127 Üner v the Netherlands App no 46410/99 (ECtHR, GC, 18 October 2006). See also Jeunesse v the Netherlands App no12738/10 (ECtHR GC, 3 October 2014).
128 BAC v Greece App no 11981/15 (ECtHR, 13 October 2016)
129 Hashemi & Others v Azerbaijan App No 1480/16 (ECtHR, 13 January 2022) finding a violation when the state refused to register children as nationals, as they should have done given domestic nationality law. See also, Council of Europe, Recommendation CM/Rec(2009)13 of the Committee of Ministers to member states on the nationality of children (CM/Rec(2009)13, 9 December 2009).
130 Hoti v Croatia App no 63311/14 (ECtHR, 26 April 2018); Sudita Keita v Hungary App no 42321/15 (ECtHR, 12 May 2020).
131 See, for example, Abuhmaid v Ukraine App no 31183/13 (ECtHR, 12 January 2017), where it appears that the applicant's rights under Article 1D CSR51 as a Palestinian refugee appear not to have been fully considered.
132 See Savran v Denmark App no 57467/15 (ECtHR, 7 December 2021).
133 Jessica Schultz and Jens Vedsted-Hansen, 'Article 8 ECHR and the 'Temporary Turn' in European Asylum Policies' (2025) 32 Maastricht Journal of European and Comparative Law 250, 253.

'temporary turn' discussed above.[134] They further observe that deference to a consensus among states may, for example, fuel, rather than scrutinise, the exploitation of different categories of legal status, promoting formalistic distinctions between protection seekers facing materially analogous predicaments and risks.[135]

d) Non-discrimination

Article 14 ECHR (prohibition of discrimination) states that:

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

Article 14 is not free-standing; it must be relied on in conjunction with another protected right. Those seeking to challenge a particular rule do not have to show that it violates Article 8, or another right (although it may), only that the 'facts at issue fall within the ambit' of the Convention's 'rights and freedoms'.[136]

Differential treatment has to be connected to a protected ground. Article 14's reference to 'other status' may be relied upon to challenge differences in treatment between individuals who are similarly situated for a range of different reasons, although grounds attract different levels of scrutiny.[137] In *Hode and Abdi v UK* (2012)[138] the ECtHR found that the applicant's position as a refugee who married *after* leaving his country was an 'other status' upon which an individual could be discriminated.[139]

Article 8 and Article 14 ECHR should be read together to ensure non-discrimination between similarly situated categories of international protection beneficiaries. In many cases Convention refugees and complementary protection beneficiaries are similarly situated.[140] Some Convention refugees may be siphoned into lesser statuses, such as temporary or subsidiary protection, or have their status rendered precarious. In such situations, their material needs remain the same. Refugees in these situations should not experience differential treatment and are, as explained above, entitled to a secure and rights protective status. Overall, the authors of this thematic paper assert that any difference of treatment, across different groups of those in need of international protection, requires proper justification and rigorous scrutiny.[141]

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134 Ibid.
135 Ibid 267 (drawing on and adding to the arguments made).
136 See, among many others Weller v Hungary App no 44399/05 (ECtHR, 31 March 2009); Ponomaryovi v Bulgaria App no 5335/05 (ECtHR, 21 June 2011).
137 Oddný Mjöll Arnardóttir, 'The Differences that Make a Difference: Recent Developments on the Discrimination Grounds and the Margin of Appreciation under Article 14 of the European Convention on Human Rights' (2014) 14 Human Rights Law Review 647.
138 Hode and Abdi v UK App no 22341/09 (ECtHR, 6 November 2012).
139 Ibid [46]-[48], drawing on the case of Bah v UK App no 56328/07 (ECtHR, 27 September 2011).
140 Cathryn Costello, Kees Groenendijk, Louise Halleskov Storgaard Realising the Right to Family Reunification of Refugees in Europe (Council of Europe: Commissioner for Human Rights, June 2017).
141 See further, Julia Kienast and Jens Vedsted-Hansen, 'Differential Treatment and Temporary Protection Arrangements: Discrimination or Legitimate Distinctions?' (2024) 26 European Journal of Migration and Law 1; Cathryn Costello and Michelle Foster, ''(Some) Refugees Welcome: When is Differentiating between Refugees Unlawful Discrimination?' ' (2022) 22 International Journal of Discrimination & the Law 244.

Within the Council of Europe system, the protection from discrimination provided by the ECHR is bolstered, in relation to violence to against women, by the Istanbul Convention. First, its general obligations on discrimination and prevention apply to migration law in the same way as they do to those other areas this Convention engages with, such as criminal or family law (Articles 4(1)-(2),12(2)).[142] Such provisions, whether drawn on alone or in conjunction with Article 14 ECHR, could be relied on to challenge failures in gender-sensitive decision-making, integration requirements that contribute to women's precarity of status, and status reviews that increase their vulnerability to violence. Second, Article 60 provides that states respond to women's experiences of violence by recognising them as refugees within the broad framework of the Refugee Convention. These articles of the Istanbul Convention (Article 60 and 61, the latter discussed above) have already had a significant impact on refugee protection within the EU.[143] The authors of this thematic paper argue that the 'gender-sensitive' decision making required in relation to refugee recognition should be extended to that on matters of cessation and status more broadly.

In exercising all their powers in this field (naturalisation, cessation, status review, removal) states must respect their obligations under international human rights instruments not to discriminate on prohibited grounds (such as race, sex, disability) and not to discriminate on grounds of nationality without justification. *Q v Denmark* (2015) is a pertinent example of discrimination in naturalisation practices.[144] The applicant, an Iraqi national of refugee background, was refused exemption from language requirements in his application for Danish nationality. He had argued that he should be exempted on grounds of his mental ill-health and disability. The HRC found that Denmark had 'failed to demonstrate that the refusal to grant the exemption was based on reasonable and objective grounds,' confirming that Article 26 ICCPR (on non-discrimination) applies to naturalisation. Language and other integration measures may also, depending on the facts, disproportionately disadvantage women.[145]

Race discrimination is also found in this field. An example of discriminatory cancellation of group based protection was found in Kenya, when its High Court held that the proposed revocation of Somali refugees' group-based status identified 'a particular community' in a manner than amounted to 'discrimination and unfair treatment'.[146] Such 'racial profiling results in group condemnation and is discrimination of the worst kind'.[147] Examples of the latter include, for example, disadvantaging certain groups of nationalities, where nationality also serves as a proxy for race.[148]

142 See further, Catherine Briddick, Violence against Women and Regimes of Exception: Undoing Discrimination in Migration Law (OUP 2025), chapters 7 and 8.

143 Case C-621/21 WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet [GC] [2024] ECLI:EU:C:2024:47

144 Q v Denmark UN Human Rights Committee, Communication No. 2001/2010 (views adopted 1 April 2015) UN Doc CCPR/C/113/D/2001/2010.

145 UN Committee for the Elimination of All Forms of Discrimination against Women, 'General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women' (14 November 2014) UN Doc CEDAW/C/GC/32 [55]; UN Committee on the Elimination of Discrimination against Women 'General Recommendation No 38 on Trafficking in Women and Girls in the Context of Global Migration' (20 November 2020) UN doc CEDAW/C/GC/38 [58]-[60].

146 Kenya National Commission on Human Rights & Anor v Attorney-General & Others [2017] eKLR 15/30.

147 Ibid 15/30.

148 See, for example, the examples given in Cecilia M. Bailliet, 'Examination of the Effects of Deportation as a Result of Revocation of Status Upon the Rights to Non- Discrimination, Revocation of Status Upon the Rights to Non- Discrimination, Family Unity, and the Best Interests of the Child: An Empirical Case from Norway' (2021) 25 Human Rights Brief 13.

e) Children's Rights

Article 3(1) of the Convention on the Rights of the Child[149] provides in that

> In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration

In addition to the particular protection accorded to child refugees (Article 22), also relevant here are child's right not to be separated from their parents (Article 9); to be heard (Article 12); and, to survival and development (Article 6(2)).

The 'best interests' principle is prominent in the ECtHR caselaw, described as of 'paramount importance' in the interpretation of Article 8, including in decisions regarding the revocation of a child's or a parent's residence permit.[150] The reference to 'paramount importance' suggests the overriding role of the principle. While a child's best interests cannot be a 'trump card', domestic courts must centre them in their considerations and attach 'crucial weight' to them.[151] Accordingly, although the jurisprudence on refugee and migrant children has long been viewed as uncertain and unstable, recourse to this principle may nonetheless tilt the balance in favour of according a right to stay in individual cases.

Finally, the ECtHR has, as discussed above, made decisions that protect children from statelessness. The duty to avoid statelessness and ensure effective nationality also appear in the Convention on the Rights of the Child (Articles 7 and 8) and other instruments, including the ICCPR (Article 24) and the European Convention on Nationality (Article 6). A violation of right to a nationality has been found in the case of child unable to register and acquire the nationality of their host state in circumstances where impossibly high bureaucratic barriers to establishing statelessness left them in limbo.[152] Here, the Human Rights Committee affirmed UNHCR guidance that

> States need to determine whether a child would otherwise be stateless as soon as possible so as to not prolong a child's status of an undetermined nationality.[153]

149 Convention on the Rights of the Child (adopted 20 November 1989, in force 2 September 1990) 1577 UNTS 3. The principle of 'best interests' has also been explicitly or implicitly incorporated into a range of human rights instruments.
150 See, for example, MA v Denmark [133], citing Jeunesse v the Netherlands [109]. See also Recommendation CM/Rec(2019)11 of the Committee of Ministers to member States on effective guardianship for unaccompanied and separated children in the context of migration (CM/Rec(2019)11, 11 December 2019); Council of Europe, Strategy for the Rights of the Child (2022-2027) (Council of Europe, March 2022).
151 BF and Others v Switzerland [119].
152 DZ v the Netherlands UN Human Rights Committee, Communication No 2918/2016 (Views adoped 19 October 2020) UN Doc CCPR/C/130/D/2918/2016.
153 Ibid [8.3].

3. EUROPEAN UNION (EU) LAW

Twenty-seven of the Council of Europe's forty-six member states also belong to the EU, and a further nine are EU candidate countries. The EU's Common European Asylum System (CEAS) is, therefore, a significant source of legal obligations for countries across the continent.

As a matter of EU law, the CEAS must be 'in accordance with the Refugee Convention and other relevant treaties,'[154] in particular the ECHR. The EU has ratified the Convention on the Rights of Persons with Disabilities[155] and partially ratified the Istanbul Convention.[156] Other relevant treaties include CEDAW, which all the member states have ratified.[157] In some instances, EU law informs the interpretation of the ECHR,[158] but ultimately, EU law must be interpreted in line with the relevant regional and international standards.

CEAS standards must also comply with EU fundamental rights as enshrined in EU general principles and the EU Charter of Fundamental Rights of the European Union (CFR).[159] Pertinent EU legislation includes the Return Directive[160] and the CEAS instruments, in particular the recast Qualification Directive,[161] the recast Asylum Procedures Directive,[162] and the Temporary Protection Directive.[163] The recasts remain applicable until 12 June 2026. Thereafter, new standards adopted in 2024 following the adoption of the New Pact on Migration and Asylum will become applicable, including the new Qualification Regulation,[164] and Asylum Procedures Regulation.[165] As for the Return Directive, negotiations on reform

154 Consolidated Version of the Treaty on the Functioning of the European Union [2012] OJ C 326/47, Article 78(1).
155 Convention on the Rights of Persons with Disabilities (adopted 13 May 2006, entered into force 3 May 2008) 2515 UNTS 3; COUNCIL DECISION of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (2010/48/EC) [2010] OJ L 23/35, Article 1.
156 COUNCIL DECISION (EU) 2023/1076 of 1 June 2023 on the conclusion, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to matters related to judicial cooperation in criminal matters, asylum and non-refoulement [2023] OJ L 143 I/4, Article 1 (emphasis added); Declaration concerning the competence of the European Union with regard to matters governed by the Council of Europe Convention on preventing and combating violence against women and domestic violence 2023/C 194/02 [2023] OJ C 194/2. See further Briddick, Violence against Women and Regimes of Exception: Undoing Discrimination in Migration Law (n 142) chapter 7.
157 Joined Cases C-608/22 and C-609/22 AH and FN v Bundesamt für Fremdenwesen und Asyl [2024] ECLI:EU:C:2024:828; Case C-646/21 K, L v Staatssecretaris van Justitie en Veiligheid [2024] ECLI:EU:C:2024:487 [36]; Case C-621/21 WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet [GC] [2024] ECLI:EU:C:2024:47 [44]-[47].
158 ECHR, Article 53. See also Suso Musa v Malta App no 42337/12 (ECtHR, 23 July 2013) [97].
159 Charter of Fundamental Rights of the European Union [2007] OJ C 303/01.
160 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals [2008] OJ L 348/98 (Return Directive).
161 Qualification Directive (recast) (for full reference see n 56).
162 Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) [2013] OJ L 180/60 (Asylum Procedures Directive).
163 Temporary Protection Directive (for full reference see n 43).
164 Qualification Regulation (for full reference see n 56).
165 Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU [2024] OJ L 2024/1348 22.5.202 (Asylum Procedures Regulation).

have been pending since 2018 and have been relaunched in 2025 following a fresh legislative proposal from the European Commission.[166]

Although EU regulations allow less scope for national discretion in their implementation than Directives, all EU standards must still be interpreted and implemented in a fundamental rights-compliant manner. The Court of Justice of the European Union (CJEU) has developed extensive case law on the interpretation of the CFR and CEAS, emphasising the duty to apply EU legislation consistently with fundamental rights, including the prohibition on *refoulement* (Article 19(2) CFR),[167] the right to private and family life (Article 7 CFR) and the best interests of the child principle (Article 24(2) CFR).[168]

3.1 The Withdrawal of Refugee Status and Subsidiary Protection

There are, under EU law, a number of different grounds for withdrawing international protection statuses.[169] These may be summarised as follows: (i) cessation; (ii) exclusion *post hoc*; (iii) grant of status based on misrepresentation; (iv) danger to security or to the community. Whereas only the first three are mandatory withdrawal grounds under the current Qualification Directive, the prospective Qualification Regulation purports to render all four grounds mandatory,[170] although of course it cannot be interpreted to permit breaches of the Refugee Convention.

a) Criteria and Grounds

The grounds for cessation of Convention refugee status under EU law are set out in Article 11 Qualification Directive and Article 11 Qualification Regulation.[171] Both provisions largely replicate Article 1C of the Refugee Convention. Cessation of subsidiary protection is governed by Article 16 Qualification Directive and Article 16 Qualification Regulation respectively.

CJEU case law affirms that the level of protection required for the application of the 'changed circumstances' clause mirrors the contents of the term 'protection' in context of refugee status determination. This means that, actors of protection in the country of origin 'have taken reasonable steps to prevent the persecution' and 'operate an effective legal system for the detection, prosecution and punishment' of acts of persecution.[172] Further, the individual will, if he or she ceases to have refugee status, have access to that protection.[173] As explained in the preceding section, this approach to cessation falls short of that required by Article 1C(5) of the Refugee Convention. [174]

When applying the 'changed circumstances' clause, EU law requires member states to ascertain

166 European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union COM(2025) 101, 11 March 2025 (RR proposal).
167 Case C-181/16 Gnandi [2018] ECLI:EU:C:2018:465 [56].
168 Case C-460/23 Kinsa [2025] ECLI:EU:C:2025:392 [38].
169 Qualification Directive (recast) Articles 14 and 19 use the terms 'revocation of, ending of or refusal to renew'. Qualification Regulation Articles 14 and 19 employ the terms 'withdrawal of'.
170 Qualification Regulation Articles 14 and 19, both use the term 'shall'.
171 For a detailed discussion, see the Note written by Maria O'Sullivan (n 42).
172 Qualification Directive (recast) Articles 2(c) and 7(2).
173 Aydin Salahadin Abdulla, Kamil Hasan, Ahmed Adem, Hamrin Mosa Rashi and Dler Jamal v Bundesrepublik Deutschland [70].
174 See further and the text and references at n 96.

> whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of being persecuted can no longer be regarded as well-founded.[175]

The prospective Qualification Regulation reiterates this duty and adds an express obligation on states to take into consideration 'precise and up-to-date information' from relevant sources.[176] EU law precludes the application of the 'changed circumstances' clause to refugees who invoke compelling reasons for refusing to avail themselves of the protection of their home country arising out of past persecution.[177]

The 'security and community' clauses merit close consideration. Here, it has long been a source of concern that the Qualification Directive appears to 'conflate and confuse exclusion, cessation, cancellation and revocation'.[178]

Convention refugee status may be withdrawn under current EU rules – and must be under prospective EU rules – where:

- There are reasonable grounds for regarding the refugee as a danger to the security of the host member state;
- The refugee has been convicted by a final judgment of a particularly serious crime and constitutes a danger to the community of the host member state.[179]

The two elements of this provision are explicitly spelt out as cumulative conditions in the Qualification Regulation provision, in line with CJEU case law.[180]

The 'security and community' grounds for withdrawal of refugee status are therefore akin to exclusion clauses introduced by the EU legislature in a manner that purports to expand the grounds permitted under Article 1F of the Refugee Convention. Such an interpretation seems to be confirmed by the possibility that member states refuse to grant refugee status from the outset under those very circumstances, on the one hand,[181] and by the enactment of a mandatory 'danger to the community or to national security' clause for exclusion from subsidiary protection, on the other.[182]

However, according to the CJEU in *M (Revocation of Refugee Status)* [2019], the 'security and community' clauses are compatible with the Refugee Convention, if they are interpreted to correspond to the permissible grounds for the *refoulement* of refugees under Article 33(2).[183] The CJEU has added that an individual continues to be a refugee even after their refugee status has been withdrawn by state authorities,[184] since EU law expressly safeguards their entitlement to Articles 3, 4, 16, 22, 31, 32 and 33 of the Refugee Convention.[185]

In light of the above, individuals whose status is withdrawn on 'security or community' grounds are not *former* refugees, but merit consideration as a class of *deportable* refugees in the eyes of EU law.

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175 Qualification Directive (recast) Article 11(2); Qualification Regulation Article 11(2)(b).
176 Qualification Regulation Article 11(2)(a).
177 Qualification Directive (recast) Article 11(3); Qualification Regulation Article 11(1.
178 Jane McAdam, 'The Qualification Directive: An Overview', in The Qualification Directive: Central Themes, Problems, Issues and Implementation in Selected Member States (2007), 7, 14.
179 Qualification Directive (recast) Article 14(4); Qualification Regulation Article 14(1)(d),(e).
180 Case C-8/22 XXX v Commissaire général aux réfugiés et aux apatrides [2023] ECLI:EU:C:2023:542 [45].
181 Qualification Directive (recast) Article 14(5); Qualification Regulation Article 14(2).
182 Qualification Directive (recast) Article 17(1)(d); Qualification Regulation Article 17(1)(d) QR.
183 M (Revocation of Refugee Status) [93]-[94], [111]-[112].
184 Ibid [97]-[99].
185 Qualification Directive (recast) Articles 14(6); Qualification Regulation Article 14(4).

b) Process and Safeguards

Competence for deciding on the withdrawal of Convention refugee status or subsidiary protection lies with the 'determining authority' tasked with refugee status determination.[186] Member states should provide said authority with appropriate means and sufficient, qualified staff to perform such functions.[187]

The determining authority conducting the withdrawal process must inform the refugee in writing that their status is being reconsidered and give due reasoning.[188] The Asylum Procedures Directive currently in force states that the refugee has the right to submit a written statement or to attend a personal interview or hearing before the determining authority.[189] The Asylum Procedures Regulation entitles the refugee to both a written statement and a personal interview with the determining authority.[190]

Current EU law allows member states to incorporate return decisions into decisions rejecting an asylum application or an application for a residence permit.[191] Prospective EU law renders this mandatory for decisions dismissing an asylum claim, albeit not for decisions withdrawing international protection status.[192]

Decisions withdrawing refugee status must be made in writing and be amenable to appeal on points of fact and law.[193] States must grant free legal assistance to refugees who request it for the purpose of challenging a status withdrawal decision.[194]

Current EU law grants discretion to member states to define their time limits for lodging an appeal against a status withdrawal decision in domestic law.[195] Prospective EU law requires such time limits to be set between a minimum of two weeks and a maximum of one month.[196] Deadlines for exercising remedies are sufficient 'only if the applicant is in a position to exercise effectively, during that period, the procedural rights' set out in EU law, not least access to legal assistance and to the information in the individual case file which led to the decision.[197]

Appeals against refugee status withdrawal decisions carry automatic suspensive effect.[198] Under the Asylum Procedures Regulation, however, the appeal does not carry automatic suspensive effect where refugee status is withdrawn based on exclusion or security grounds.[199] It should be recalled that prospective CEAS rules introduce stricter requirements on states to accompany asylum decisions with removal orders. The absence of automatic suspensive effect in such appeals thereby raises significant risks of breach of Articles 3 and

186 Asylum Procedures Directive (recast) Article 4(1); Asylum Procedures Regulation Article 4(1)(c).
187 Asylum Procedures Directive (recast) Article 4(1); Asylum Procedures Regulation Article 4(7).
188 Asylum Procedures Directive (recast) Article 45(1)(a); Asylum Procedures Regulation Article 66(1)(a).
189 Asylum Procedures Directive (recast) Article 45(1)(b).
190 Asylum Procedures Regulation Article 66(1)(d).
191 Return Directive Article 6(6).
192 Asylum Procedures Regulation Article 37 requires member states to issue a return decision either under the same act rejecting an asylum application or 'without undue delay thereafter'.
193 Asylum Procedures Directive (recast) Article 45(3); Asylum Procedures Regulation Article 66(3).
194 Asylum Procedures Directive (recast) Article 45(4); Asylum Procedures Regulation Article 66(4).
195 Asylum Procedures Directive (recast) Article 46(10).
196 Asylum Procedures Regulation Article 67(7)(b).
197 Case C-58/23 Abboudnam [2023] OJ C 155 2.5.2023 [30]-[31].
198 Asylum Procedures Directive (recast) Article 46(5); Asylum Procedures Regulation Article 68(1).
199 Asylum Procedures Regulation Article 68(3)(e), citing Qualification Regulation Article 14(1)(b), (d) and (e).

13 ECHR.[200] This is because refugees run a real risk of being returned to their country of origin *before* their appeal against status withdrawal has been heard and have access to free legal assistance and representation only at the appeal stage. Whereas it expressly states that exceptions from automatic suspensive effect of appeals are 'without prejudice to the principle of non-refoulement',[201] the Asylum Procedures Regulation fails to offer clear guidance to states as to how compliance with *non-refoulement* is to be ensured in such cases. Although the legal obligation to ensure that appeals have automatic suspensive effect is well-established in both CJEU and ECtHR caselaw, it appears that the matter will, in likelihood, be relitigated.

3.2 The End of Temporary Protection

As for temporary protection in the event of a mass influx of displaced persons unable to return to their country of origin, the Temporary Protection Directive provides that temporary protection does not prejudge refugee status determination.[202] This means that temporary protection holders 'must be able to lodge an application for asylum at any time.'[203] Clarification has been sought from the CJEU on whether temporary protection holders may equally apply for subsidiary protection, the Advocate General answering this question in the affirmative.[204]

Temporary protection in the EU is activated by a Council Decision, lasts one year and may be automatically extended for a maximum of one additional year.[205] Member states may extend temporary protection to a broader class of persons than those covered by the Council Decision,[206] and enjoy discretion in ending such 'optional temporary protection' before the Council Decision ceases to have effect.[207] CJEU case law clarifies, however, that member states must observe the general principles of legal certainty and protection of legitimate expectations, not least by affording the individuals concerned an effective possibility to apply for refugee status when temporary protection ends.[208] The CJEU further stresses that residence in an EU country under temporary protection 'does not automatically become illegal from the date on which that protection is terminated.'[209]

The first and only activation of the Temporary Protection Directive occurred in 2022 for persons fleeing Ukraine. 'Mandatory temporary protection' under the Council Decision is in effect until 4 March 2027 for Ukrainian nationals residing in Ukraine or persons holding international or national protection statuses in Ukraine prior to 24 February 2022.[210]

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200 MK v Poland App no 40503/17 (ECtHR, 23 July 2020) [143] and cited case law; Case C-181/16 Gnandi [62]-[67].
201 Asylum Procedures Regulation Article 68(3). See also Return Regulation proposal Article 28(2): 'The enforcement of the return decision shall be suspended where there is a risk to breach the principle of non-refoulement.'
202 Temporary Protection Directive Article 3(1).
203 Temporary Protection Directive Article 17(1).
204 Case C-195/25 Framholm (Opinion of AG Campos Sánchez-Bordona) [2025] ECLI:EU:C:2025:700 [81].
205 Temporary Protection Directive Article 4(1).
206 Temporary Protection Directive Article 7(1).
207 Case C-244/24 Kaduna [2024] ECLI:EU:C:2024:1038 [109]-[123].
208 Ibid [124]-[130].
209 Ibid [154].
210 Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection [2022] OJ L 71/2 Article 2(1); Council Implementing Decision (EU) 2025/1460 of 15 July 2025 extending the temporary protection introduced by Implementing Decision (EU) 2022/382 [2025] OJ L 24.7.2025.

The authors are concerned about considerable variations of state practice in the implementation of the Temporary Protection Directive, including on access to asylum. While most countries allow temporary protection beneficiaries to claim asylum, some postpone the examination of such cases until the end of the relevant period (e.g., Belgium).[211] Others (Czechia, Norway, Sweden, and Switzerland) suspend access to asylum, and in the case of Switzerland, did not allow temporary protection beneficiaries to seek international protection even after the end of its temporary protection scheme.[212] Divergences also arose on whether temporary protection beneficiaries could resume their status in case their asylum claims were to be rejected, in breach of the Temporary Protection Directive.

3.3 Deportation, Voluntary Return, and Security of Status

When implementing EU rules on return, member states must give full effect to their human rights obligations. Article 5 of the Return Directive notably cites the principle of *non-refoulement*, the right to family life and the best interests of the child.[213] CJEU case law clarifies that the duty to ensure compliance with these must be discharged already at the stage of issuance of a return decision,[214] which has necessarily identified a specific country of destination.[215] The same applies where a state reactivates a formerly suspended return decision.[216] EU law therefore precludes member states from taking a decision to remove a (former) refugee from their territory where return would amount to *refoulement* or entail any other human rights violation. This may create insecurity of residence, as EU law seems to permit the withdrawal of the status where removal would not be lawful under human rights law,[217] leaving those affected in a highly precarious position.

In the case of persons facing return following the end of temporary protection, member states must 'consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.'[218]

Where a person cannot be removed from a territory, the Return Directive requires states to provide them with written confirmation of their inability to enforce the return decision, to maintain their family unity, to afford them emergency health care and treatment of essential illness, to grant children access to basic education, and to cater for special needs of vulnerable groups.[219] It also requires them to set out 'basic conditions of subsistence' in their domestic law.[220]

The Return Directive acknowledges that states *may* grant a residence permit or other authorisation to stay on compassionate, humanitarian, or other grounds.[221] States must interpret EU law in line with their human rights obligations to protect dignity (Article 1 CFR)

211 Henriët Baas and others, Measuring the Legal Implementation of the EU's Temporary Protection Directive for Displaced Persons from Ukraine : Convergence and Divergence across 32 European Countries (EUI, RSC, Working Paper, 2025/32, Migration Policy Centre, 2025) 25
212 Ibid 25
213 Return Directive Article 5; Asylum Procedures Regulation Article 37.
214 Case 663/21 Bundesamt für Fremdenwesen und Asyl v AA [2023] ECLI:EU:C:2023:540 [49]-[50]; Case C-484/22 Bundesrepublik Deutschland v GS [2023] ECLI:EU:C:2023:122 [25]-[28].
215 Case C-924/19 FMS v Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság [2020] ECLI:EU:C:2020:367 [115].
216 Case C-156/23 Ararat [2024] ECLI:EU:C:2024:892 [52].
217 Bundesamt für Fremdenwesen und Asyl v AA [39].
218 Temporary Protection Directive Article 22(2).
219 Return Directive Article 14. Member states enjoy 'wide discretion' on the form and format of such confirmation: RD Recital 12; Case C-146/14 PPU Mahdi [2014] ECLI:EU:C:2014:1320 [88]-[89].
220 Return Directive Recital 12.
221 Return Directive Article 6(4). The are not expressly required to do so.

and to prevent torture, inhuman or degrading treatment or punishment (Article 3 ECHR, Article 4 CFR). The authors argue that, consequently, EU member states should grant status to persons whose return cannot be enforced for reasons beyond their control, where a residence permit or authorisation is, for example, necessary to ensure basic conditions of subsistence.[222] Significantly, this argument has the support of the European Commission, in exchanges with national governments on the application of prospective CEAS rules.[223]

EU law creates some routes to secure status, although regularisation matters are generally for individual member states to decide. The Long-Term Residence Directive[224] enables the acquisition of long-term resident status to persons who demonstrate

- legal, uninterrupted residence in a member state for five years;
- stable and regular resources to sustain themselves without resorting to social welfare
- sickness insurance; and,
- potential integration conditions introduced by domestic law.[225]

The calculation of the five-year residence period includes time spent by a refugee in an asylum procedure,[226] though it restarts where the refugee has left the country that granted them a protection status for reasons that were not beyond their control.[227]

Though it makes no express reference to naturalisation, Article 34 Qualification Directive requires EU countries to grant refugees access to integration measures. The prospective Article 35 Qualification Regulation adds more prescriptive provisions, requiring that refugees have access to integration measures such as language courses, civic orientation or vocational training, and that such services are provided free of charge unless refugees have sufficient means. These provisions must be read and applied in line with the Article 34 CSR51 requirement on states to facilitate refugees' access to citizenship. The CJEU has held that

> Article 34 of the [Refugee Convention], in observance of which Article 34 [Qualification Directive] must be interpreted […] provides that the Contracting States are as far as possible to facilitate the assimilation and naturalisation of refugees, their integration thus being seen, in that context, as a logical step towards their possible naturalisation by the host member state.[228]

Settled CJEU case law also requires EU countries' powers to grant citizenship (and withdraw/remove it) to be exercised in line with EU law.[229] Member states have, therefore, a duty to provide refugees with accessible, free-of-charge integration measures that effectively

222 The ECtHR has granted interim measures under Rule 39 of the Rules of Court under such circumstances. See e.g., HIAS Greece, 'European Court of Human Rights Grants Interim Measures to Afghan Family in Legal Limbo' (9 August 2023) <https://hias.org/statements/european-court-human-rights-grants-interim-measures-afghan-family-legal-limbo/> accessed 19 September 2025.
223 For instance, European Commission, 2nd Meeting of the HOME-Greece Steering Committee on the Pact – 26 September 2024 Operational Conclusions, Ares(2024)7686884, 29 October 2024: 'A solution must also be found for individuals residing in Greece who are in the process of being returned but whose home countries are not cooperating. Since these individuals are not at fault, they need to be granted a legal status to allow them to remain in Greece lawfully.'
224 Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third Country Nationals who are Long-Term Residents 2003 OJ L16/33.
225 Long-Term Residence Directive Articles 4(1) and 5(1)-(2) as amended.
226 Long-Term Residence Directive Article 4(2), as amended by Qualification Regulation Article 40.
227 Long-Term Residence Directive Article 4(3a), as inserted by Qualification Regulation Article 40.
228 Case C-158/23 Keren [2025] ECLI:EU:C:2025:52 [60].
229 Case C-181/23 Commission v Malta [2025] ECLI:EU:C:2025:283 ECLI:EU:C:2025:283 [81]; Case C-689/21 Udlændinge- og Integrationsministeriet [2023] ECLI:EU:C:2023:626 [30]; Case C-135/08 Rottmann v Freistaat Bayern [2010] ECR I-01449 [45].

contribute to their access to citizenship. A correct reading of Article 34 Qualification Directive and Article 35 Qualification Regulation would require EU states to offer refugees an effective opportunity to obtain citizenship prior to withdrawing their protection status.

Regularisation at the end of temporary protection requires particular consideration. Those with temporary protection are excluded from EU long-term resident status.[230] Their rights and status will, therefore, depend on national rules (where those concerned may not apply for or qualify for international protection and cannot return). Such rules must ensure continuity of regular residence well beyond those persons who have secured employment.[231]

230 Long-Term Residence Directive Article 3(2)(b).
231 ECRE, Transitioning Out of the Temporary Protection Directive (ECRE 2025) 13 <https://ecre.org/wp-content/uploads/2024/02/ECRE-Policy-Paper-13_Transitioning-Out-of-the-Temporary-Protection-Directive.pdf> accessed 19 September 2025.

4. EXAMPLES OF NATIONAL LAW AND PRACTICE

4.1 Statistical Overview

Within the EU, the majority of Convention refugee status grants from 2020 to mid-2025 were concentrated in three countries: Germany (209,470), France (138,475), and Greece (133,385). Germany also accounts for the majority of withdrawals of Convention refugee status (14,620), followed by Switzerland (8,805) and Austria (6,380) (Appendix 1, tables 1.1 and 1.2).

A relative comparison of withdrawals against grants of Convention refugee status reveals significant disparities between the countries sampled for this thematic paper. The highest ratio is found in Switzerland (25%), followed by Austria (11%) and Germany (7%). The ratio is below 0.5% in Greece, similar to Italy and Ireland.

There is, therefore, significant divergence between EU states in their approach to refugee status withdrawals, one that does not seem to be linked to the number of arrivals in a country or the numbers of those recognised as entitled to international protection. Within this divergence, it is broadly the case that over the past four years, increasing numbers of those who were recognised as Convention refugees have had their status withdrawn. These withdrawals are not linked to removal practices or deportations. Of the nationalities of those whose Convention refugee status is revoked, Germany has most withdrawals for nationals of Syria (7,030) and Iraq (2,180) (Appendix 1, tables 1.3 and 1.4). Switzerland has more withdrawals for nationals of Eritrea (2,090) and Türkiye (1,080) than for all of rest of the EU combined (Appendix 1, tables 1.5 and 1.6). Yet there are no recorded returns to Syria by Germany between 2021-25. There were returns to Iraq from Germany during this period, 1,555 in total. Switzerland similarly returned no one to Eritrea between 2021-25 and just 965 to Türkiye (Appendix 2). Such withdrawal practices may generate insecure status in the country of refuge where there is no transition between statuses where, for example, the refugee does not acquire permanent residence of citizenship.

4.2 National Provisions on Protection Statuses, Cessation, and Return

Here, a *concise overview* is provided of the national legal frameworks that govern protection status reviews and transitions; status withdrawal; naturalisation; and, deportation in Austria; Germany; Greece; Italy; Ireland; Sweden; Switzerland; Türkiye; and, the UK.[232] This provides a diverse sample, including states both within and outside the EU. It also engages with states which, in absolute or relative terms, account for significant proportions of the regions' withdrawal of status and return decisions.

As the granting of refugee status is declaratory, there may be many instances where those who hold a different status, or no status at all, are nonetheless Convention refugees. It must, therefore, be recalled that there is a difference between being a Convention refugee and having a refugee or other protection status granted or withdrawn under EU or national law.

Council of Europe member states also use a range of different terms to describe the withdrawal of status and its justification. These terms may differ from those used in the CSR51 or EU law and the obligations that these impose. Detailed information on the number of protection and withdrawal decisions in EU countries is available via Eurostat. Such information

232 The information provided here has been taken from primary legal materials and second sources, such as the AIDA / ECRE Asylum Information Database (https://asylumineurope.org/), EUAA reports, and UNHCR materials. Translations were carried out by the research team and their assistants. Web-based translation services (google translate and ChatGPT) were also used.

is, however, concerned with status and does not, therefore, differentiate by reason (e.g., between former refugees and Convention refugees without status).

a) Austria

In Austria the Asylum Act 2005 establishes a legal framework for recognising refugees and revoking status. This legislation defines refugeehood by reference to Article 1A(2) CSR51 and has provisions on subsidiary protection which are consonant with the protection from *refoulement* provided by the ECHR and relevant provisions in EU law.[233] It also sets out those circumstances in which a person may be excluded from the granting of status or where status may be revoked. Those who are recognised as Convention refugees are given a residence permit valid for three years which may be extended while the revocation requirements are not met.[234] Reviews of on-going protection needs must occur once a year and where there is a significant and long-lasting change in the country of origin.[235]

Revocation can happen in three sets of circumstances, those that relate to exclusion, those that relate to cessation, and where the person has 'the centre of his life' in another state.[236] Exclusion applies in accordance with Article 1F CSR51 and broadly following the terms of Article 33(2) CSR51, where a person is a threat to security or a danger to the community as evinced by their conviction of a particularly serious crime.[237] The CJEU has ruled that any revocation decisions taken on the latter basis must be proportionate, having regard to the danger the individual poses.[238]

In relation to cessation, the Supreme Administrative Court has emphasized that where a person returns home, the length of time a person stays may indicate that they have settled there, but only where the return and stay occurred voluntarily.[239] Relevant safeguards include being informed of any review or revocation proceedings. Other protections ensure status for those who have been recognised as refugees for 5 years.

Those with subsidiary protection are given a residence permit for one year which is thereafter renewable every two years.[240] Parallel but different revocation provisions apply.[241] Convention refugees may be entitled to naturalisation after 10 years lawful residence, for those with subsidiary protection the period is 15 years (although it may be reduced in certain circumstances).[242]

Individuals cannot be removed if doing so would be contrary to Articles 2 and 3 ECHR and/or Article 33(1) CSR51.[243] The CJEU confirmed that a decision to return also cannot be made where removal is not possible, because of the principle of *non-refoulemen*t,

233 Federal Act on the Granting of Asylum (Asylum Act 2005 - AsylG 2005) s 1, s 4.
234 Ibid s 3(4).
235 Ibid s 3(4a) and s 7(2a)
236 Ibid s 7.
237 Ibid s 6. Also where CSR 1D applies, e.g., to Palestine refugees.
238 Case C-663/21 Bundesamt für Fremdenwesen und Asyl v AA [2023] ECLI:EU:C:2023:540 [43].
239 Ra 2021/20/0483 Supreme Administrative Court (VwGH), 24 April 2024.
240 Federal Act on the Granting of Asylum (Asylum Act 2005 - AsylG 2005) s 8(4).
241 Ibid s 9.
242 'Federal Law Concerning the Austrian Nationality (Nationality Act 1985 - Staatsbuergerschaftsgesetz) (unofficial consolidated version)' (23 December 2021) <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10005579> Article 11(a)(7) read in conjunction with Article 10(1) and Article 10a for refugees and Article 12(1) with Article 10(1) and Article 10a for beneficiaries of subsidiary protection.
243 Federal Act on the Exercise of Aliens Police, the Issuance of Documents for Aliens and the Granting of Entry Permits (Aliens Police Act 2005 – FPG) s 50.

for an indefinite period.[244] Where deportation is not possible, because a person is protected from *refoulement* or for other reasons not attributable to them, *Duldung* 'tolerated stay', may enable them to access basic rights.[245]

In December 2024, the Federal Minister of the Interior announced plans for an 'orderly repatriation and deportation program' for Syrians.[246] By March 2025, there were more than 6,000 withdrawal cases pending, the majority of which concerned Syrian nationals.[247] It is reported that, in July 2025, Austria became the first EU country to deport a Syrian national back to Syria.[248] The ECtHR granted and then discontinued interim measures in relation to another planned removal on the basis that:

> it had not been shown, considering the current general security situation in Syria and the individual circumstances of the case, that if removed, the applicant would face a real and imminent risk of irreparable harm to his rights under Articles 2 and 3 of the Convention.[249]

One individual deported has, however, been reported to have disappeared on arrival in Damascus, this disappearance being one of those investigated by the UN Working Group on Enforced or Involuntary Disappearances (discussed in the Introduction).[250]

b) Germany

In Germany the Asylum Act (as amended) transposes relevant CEAS measures into national law and incorporates and / or interprets key elements of the Refugee Convention, including in relation to the recognition of refugees and the granting of subsidiary protection.[251] Those who are recognised as Convention refugees or who are entitled to subsidiary protection are, under different legislation, entitled to a renewable residence permit of three years.[252]

The Asylum Act provides three legal bases for the ending of refugee status: cessation, revocation, and withdrawal. Cessation only occurs where the refugee has acted voluntarily to bring their status to an end, either by formally renouncing it or because they have obtained German nationality.[253] Revocation 'shall' occur where the conditions that gave rise to recognition no longer exist, as, for example, evinced by a person assuming the protection of

244 Bundesamt für Fremdenwesen und Asyl v AA [52].
245 Federal Act on the Exercise of Aliens Police, the Issuance of Documents for Aliens and the Granting of Entry Permits (Aliens Police Act 2005 – FPG) s 46.
246 'Parliamentary Correspondence No. 1097 of 11.12.2024 - Syria: Karner announces "orderly repatriation and deportation program" in the National Council' (Parlament Österreich, December 2024) <https://www.parlament.gv.at/aktuelles/pk/jahr_2024/pk1097> accessed 12 September 2025.
247 Asylkoordination Österreich, 'Cessation and Review of Protection Status: Austria' (AIDA / ECRE, 9 July 2025) <https://asylumineurope.org/reports/country/austria/content-international-protection/status-and-residence/cessation-and-review-protection-status > accessed 12 September 2025.
248 InfoMigrants, 'European Court Halts Austria's Deportation plans to Syria, For Now' (INFOMIGRANTS, 13 August 2025) <https://www.infomigrants.net/en/post/66345/european-court-halts-austrias-deportation-plans-to-syria-for-now> accessed 12 September 2025.
249 AF v Austria Application no 24394/25 (ECtHR, interim measures, 24 September 2025).
250 See the text in and accompanying n 50. According to InfoMigrants (n 248), the UN Committee for Enforced Disappearances is also making enquiries in relation to this case.
251 Asylum Act (AsylG) s 3, s 4.
252 Residence Act (AufenthG) s 25(2), s 26(1).
253 Asylum Act (AsylG) s 72 (as amended by the Act on the Acceleration of Asylum Court Proceedings and Asylum Procedures which came into force in 2023).

their country by voluntarily and permanently returning to it.[254] Status must be withdrawn where incorrect information was provided or if the person concerned is excluded/excludable.[255]

On cessation, the Administrative Court of Münster has found that a short stay in the country of origin, in this case Syria, because the refugee was visiting a sick family member and acted to avoid persecution, could not be considered a voluntary re-availment of protection.[256] What is required, the Court found, was a permanent restoration of their legal ties with the country of origin and a changed attitude towards it. However, it has been reported that Germany is or will seek to remove those with criminal records pursuant to a coalition government agreement to deport individuals to Afghanistan and Syria.[257]

Subsidiary protection may be revoked in circumstances similar to those in relation to refugee status.[258] Provision is also made for the status of family members to be withdrawn in line with a decision taken in relation to the main beneficiary of international protection.[259] A revocation procedure requires that beneficiaries of international protection are informed of any intended decision and have the chance to respond to it.[260]

The withdrawal of a protection status does not necessarily lead to a loss of a right to stay in Germany, as decisions on residence permits are taken by local authorities and take into account factors such as family life and degree of integration.[261] In the absence of a residence permit, or if one is withdrawn or revoked, a person is required to leave and, in certain circumstances, may then be deported.[262] Where deportation is not possible but a person's protection claim has been refused, '*Duldung'* (tolerated stay) may enable them to access basic rights and even, in the longer term and in certain circumstances, regularise.

The number of people receiving German citizenship in recent years has increased significantly. According to information published by ECRE, 75,485 former Syrian nationals were among those granted citizenship in 2023 (a 56% increase compared to 2022).[263] The number of naturalisations of Ukrainian nationals has also increased by 300 (up 6%) in 2023, reaching 5,900.[264] In Germany, naturalisation may occur after five years' lawful residence and subject to meeting integration, maintenance, and support requirements.[265] This change, which

254 Ibid s 73(1) (as amended by the Act on the Acceleration of Asylum Court Proceedings and Asylum Procedures which came into force in 2023).
255 Ibid s 73(4)-(5).
256 Judgment of 15.02.2024 - 2 K 5820/21.A Administrative Court of Münster, Judgment of 15 February 2024 - 2 K 5820/21A.
257 ECRE, 'CENTRAL EUROPE' (ECRE, 10 July 2025) <https://ecre.org/central-europe-austrias-first-deportation-to-syria-prompts-germany-to-follow-%E2%80%95-afghan-family-wins-visa-battle-against-german-government-%E2%80%95-germany-planning-migration-summit/> accessed 13 September 2025.
258 Asylum Act (AsylG) s 73(2)
259 Ibid s 73(a).
260 Ibid s 73b.
261 Lena Riemer, Lea Rau and Ronith Schalast, 'Cessation and Review of Protection Status: Germany' (AIDA / ECRE, 16 June 2025) <https://asylumineurope.org/reports/country/germany/content-international-protection/status-and-residence/cessation-and-review-protection-status/> accessed 13 September 2025.
262 Residence Act (AufenthG) s 50, s 58.
263 Lena Riemer, Lea Rau and Ronith Schalast, 'Naturalisation: Germany' (AIDA / ECRE, 16 June 2025) <https://asylumineurope.org/reports/country/germany/content-international-protection/status-and-residence/naturalisation/> accessed 29 September 2025.
264 Ibid.
265 Nationality Act (StAG) s10.

reduced the qualifying period from eight years, was introduced in June 2024 and is, therefore, likely to contribute further increases in the numbers of people naturalising over time.

c) Greece

In Greece, the Asylum Code[266] transposes CEAS provisions into domestic law, including those relating to the recognition of Convention refugees and subsidiary and temporary protection beneficiaries. Persons granted Convention refugee status are entitled to a renewable residence permit of three years. Those granted subsidiary protection obtain a one-year permit, renewable for two years.[267] The Asylum Code transposes both the mandatory and optional Qualification Directive grounds for withdrawal and refusal to renew refugee status and subsidiary protection.[268] Responsibility for withdrawing international protection status lies with a dedicated Withdrawals and Exclusion Unit within the Asylum Service.[269]

The refugee must be given at least 15 days' written notice by the Asylum Service on its reasons for withdrawing status, and has the right to make written submissions prior to withdrawal.[270] These requirements are observed by the Asylum Service[271] but are not followed by the Hellenic Police, which retains competence for people who applied for asylum prior to the establishment of the Asylum Service.[272]

Decisions withdrawing Convention refugee status or subsidiary protection are amenable to an administrative appeal on points of fact and law. The deadline to appeal is 30 days.[273] Appeals against decisions withdrawing status must be examined by oral hearing.[274] The Asylum Act foresees free legal assistance and representation for such an appeal.[275]

Temporary protection is withdrawn where exclusion considerations apply.[276] The Asylum Code transposes the exclusion grounds laid down in Article 28(1) Temporary Protection Directive.[277] The Asylum Service must invite the temporary protection holder to make written submissions prior to the withdrawal, without a set deadline.[278] Decisions withdrawing temporary protection incorporate a return decision.[279] An administrative appeal may be lodged within a deadline of five days.[280]

266 Law 4939/2022 as amended by Law 5226/2025, Gazette A' 111/10.06.2022 (Asylum Code)
267 Ibid Article 23(1).
268 Ibid arts 13 and 18.
269 Ministry of Migration and Asylum Regulation Article 31(2)(c).
270 Asylum Code Article 96(2).
271 Decisions have been quashed on appeal for failure to provide written notice: 20th Independent Appeals Committee no. IP/87512/2025 (Appeals Authority, 10 February 2025).
272 The Hellenic Police remains competent for grant and withdrawal of status to people whose asylum claims were lodged prior to 7 June 2013: Greek Council for Refugees, AIDA Country Report Greece (ECRE 2025) 245 <https://asylumineurope.org/wp-content/uploads/2025/09/AIDA_GR_2024-update.pdf> accessed 19 September 2025.
273 Asylum Code Article 97(1)(a).
274 Ibid Article 102(3)(a).
275 Asylum Code Article 96(5).
276 Ministerial Decision 172172/2022 Article 8(1).
277 Asylum Code Article 143(1). The provision uses the term 'danger for public order and security' instead of the term 'danger to the community' used in TPD Article 8(1)(b).
278 Ministerial Decision 172172/2022 Article 8(1).
279 Asylum Code Article 144(1).
280 Ibid Article 144(2).

Greece does not systematically resort to review of status on cessation grounds, even upon renewal of Convention refugee status or subsidiary protection residence permits. Cessation has, however, been automatically applied to certain groups of refugees upon renewal of residence permits on the sole ground of designation of their home country as a 'safe country of origin' following grant of status. Domestic courts have quashed such decisions on judicial review, affirming that the mere inclusion of country on the national list of 'safe countries of origin' does not *per se* substantiate a change of circumstances in the meaning of Article 11 Qualification Directive.[281]

Most decisions to withdraw status cite 'security and community' grounds of the Asylum Code and often invoke classified documents. The Greek Council of State is expected to deliver a pilot judgment on the human rights compatibility of withdrawal of status based on classified elements of the file.[282]

The transposition of the Return Directive into Greek law has recently been reformed by the Return Act.[283] The new legal framework offers restricted possibilities for voluntary departure within shorter deadlines,[284] and extends the duration of pre-removal detention to a maximum of two years.[285]

Greek law states that the rejection of an asylum claim must be accompanied by a return decision,[286] though such an obligation does not extend to withdrawal of a protection status. In practice, both first- and second-instance decisions withdrawing Convention refugee status or subsidiary protection incorporate a return order. Though Greek law requires observance of the principle of *non-refoulement* in return proceedings,[287] authorities order return without prior assessment of risks of *refoulement*.[288] The Greek Council of State is expected to deliver a pilot judgment on the compatibility of this practice with the *non-refoulement* principle.[289]

Greek law punishes 'illegal entry' and 'illegal stay' by a term of imprisonment of at least two years that may only be suspended by a court upon agreement to leave the country immediately. Persons convicted of those offences may be held in prisons or in pre-removal detention centres until 'completion of the voluntary immediate departure process'.[290] Prosecution for these offences extends to persons whose return is postponed due to a lack of prospect of removal.[291]

Regularisation possibilities previously available to undocumented persons on humanitarian grounds or for reasons of long stay in Greece have been abolished through successive reforms.

281 Decision AΔ816/2025 (Administrative Court of Athens, 30 July 2025) regarding the designation of Senegal as a 'safe country of origin'.
282 Case E2473/2024, heard by the Council of State on 7 February 2025. Note also 12th Independent Appeals Committee IP/14902/2024 (Appeals Authority, 9 January 2024).
283 Law 5226/2025, Gov. Gazette A' 154/08.09.2025 (Return Act), repealing Law 3907/2011.
284 Ibid Article 8(1) sets a general voluntary departure deadline from 7 to 14 days.
285 Ibid Article 16(5)-(6).
286 Asylum Code arts 87(8) and 100(10).
287 Return Act Article 6.
288 Refugee Support Aegean, 'Constant Barriers to Challenging Immigration Detention in Greece' (*RSA* 2025) [10]-[12] <https://rsaegean.org/en/constant-barriers-to-challenging-immigration-detention-in-greece/> accessed 9 December 2025.
289 Case E2473/2024, heard by the Council of State on 7 February 2025.
290 Return Act Article 27.
291 Ibid Article 10(2).

Naturalisation is conditioned on seven years' lawful residence and the meeting of integration and resource requirements. Greek law includes time spent under a Convention refugee status or subsidiary protection permit, but not temporary protection.[292] Prior to 2020, Convention refugees could apply for citizenship after three years of residence.

d) Italy

Legislative Decree No 251 transposes the Qualification Directive into Italian law**,** including in relation to cessation.[293] Amendments to this legislation state that any return to the country-of-origin that is not justified may be relevant to the cessation of international protection.[294] When reviewing revocation decisions on the basis of voluntary re-availment, domestic courts have considered the number of times a person travelled to the country of origin, the length of time they stayed, and whether or not they experienced or were at risk of persecution.[295] There are separate provisions that relate to the withdrawal of protection in cases of incorrect information or where exclusion clauses apply. Reportedly, these provisions are very rarely used.

Article 19 of Legislative Decree 286[296] protects from expulsion in cases where to do so would expose a person to the risk of *refoulement*, it also contains provisions that protect children, pregnant women, those with disabilities and those with particularly serious health conditions from removal. This provision was amended in 2023 to remove the requirement that when considering expulsion, the relevant authorities had to take into consideration a person's private and family life in Italy.[297]

Subject to integration requirements being met, Convention refugees are entitled to Italian citizenship after five years' lawful residence, beneficiaries of subsidiary protection after 10 years.[298]

e) Ireland

The legal framework governing international protection in Ireland is the International Protection Act 2015. Under this legislation, Convention refugees and those with subsidiary protection are provided with a three year, renewable, permission to remain.[299]

This Act also establishes the mandatory and discretionary grounds on which status must and may be revoked. On the mandatory grounds, status 'shall' be revoked where the person should have been excluded from protection, where the person has ceased to be a refugee, or

292 Law 3284/2004, Gazette A' 217/10-11-2004 (Citizenship Code), arts 5 and 5A.
293 Legislative Decree No. 251 of 19 November 2007, Implementation of Directive 2004/83/EC on minimum standards for the qualification of third-country nationals or stateless persons as refugees or as persons otherwise in need of international protection, and minimum standards for the content of the protection granted (Official Journal no. 3 of 04-01-2008). Article 9 covers cessation of refugee status, Article 15 subsidiary protection.
294 Ibid, art. 9(2-ter), and art. 15(2-ter)
295 Decision n 28882 Italy: Court of Cassation, Section VI, 8 November 2019; Decision n 2664 Italy: Court of Cassation, Section I, 30 January, 2023.
296 Legislative Decree No 286 of 25 July 1998, Consolidated Act of provisions concerning the regulation of immigration and rules on the condition of foreigners (Official Journal No. 191 of 18-08-1998 - Ordinary Supplement No. 139).
297 Law Decree n 20, 10 March, 2023, converted into Law n 50, 5 May, 2023 (Official Journal no. 59 of 10-03-2023), Article 7.
298 Law No 91 of 5 February 1992, New Rules on Citizenship (Official Journal n.38 of 15-02-1992) Article 6(2), Article 9.
299 International Protection Act 2015, s 54.

where there has been material misrepresentation.[300] **The relevant provisions on cessation mirror the CSR51 for refugees, with an explicit requirement that where the loss of protection is based on a change of circumstances, any such change must be of 'such a significant and non-temporary nature that the person's fear of persecution can no longer be regarded as well-founded'.[301] The Irish Court of Appeal requires any such decision to be based on an individualised assessment, one that takes into account the appellant's personal situation at the relevant time.[302]** Status 'may' be revoked where there are grounds to believe them a danger to security of the State, including following the conviction of a particularly serious crime.[303] **In all these cases, the person concerned will be notified in writing of any proposed revocation of status and will have the opportunity to make representations. Decisions to revoke may be appealed. Analogous provisions apply to beneficiaries of subsidiary protection.[304]**

Where status is revoked, general provisions on deportation apply, these include a protection that ensures that deportation orders will not be made where to do so would breach the prohibition on *refoulement*.[305] A person in this situation will be given a form of permission to remain.[306] While there are no official statistics on the number of cessation decisions and status revocations that have been made in Ireland in recent years, the partial information that is available indicates that these provisions are used very rarely.

After three years residence, Convention refugees may apply for citizenship, those with subsidiary protection can apply after five years.[307] If a person becomes an Irish citizen, their protection status will 'cease to be in force.'[308] It appears that Ireland's time periods are amongst the shortest in Europe, but 'long processing delays and lack of clarity regarding eligibility conditions have been raised as issues of significant concern by CSOs and in parliamentary debate.'[309]

f) Sweden

The residence rights of non-nationals in Sweden are determined by the Aliens Act.[310] Notably, this legislation differentiates between an entitlement to international protection and the circumstances in which a residence permit may be granted and revoked. There is no distinct permission to remain linked to 'refugee status' or 'subsidiary protection'. Instead, meeting the relevant definitions provide two routes to a residence permit, the decision on the latter explaining the basis on which it was granted.[311] A Convention refugee will be given a residence

300 Ibid, s 52(1).
301 Ibid, s 9(2)
302 *TF v Minister for Justice* [2023] IECA 183 (Irish Court of Appeal).
303 International Protection Act 2015, s 52(2).
304 Ibid, s11(2), s 52(3).
305 Ibid s 50-51; Immigration Act 1999, s 3A, as inserted by Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019, s 95(b). See also, Criminal Justice (United Nations Convention Against Torture) Act 2000, s 4.
306 Ibid, s 51.
307 Nationality and Citizenship Acts 1956-2004, note that in the case of refugees, time spent before the declaration of status 'counts', while in relation to subsidiary protection, the relevant period starts from the grant of the subsidiary protection declaration.
308 International Protection Act 2015, s 47(9).
309 Irish Refugee Council, 'Naturalisation: Republic of Ireland' (*AIDA, ECRE*, 2 June 2025) <https://asylumineurope.org/reports/country/republic-ireland/content-international-protection/status-and-residence/naturalisation/> accessed 30 October 2025.
310 Aliens Act (Utlänningslagen) 2005:716, amended until SFS 2025:850.
311 On the definitions, see ibid chapter 4, s 1 and 2, on the resulting grant of a residence permit, s 3.

permit that is initially valid for three years, renewable for a further two.[312] A person recognised as being in need of subsidiary protection is entitled to permit for 13 months, renewable for two years.[313]

Under the Aliens Act, Convention refugee status may be lost in four situations.[314] Refugee status must be revoked where the person concerned cannot be considered a refugee (because of cessation) or where the person should never have been considered a refugee (e.g., in cases of incorrect or misinformation and in cases of exclusion). There is a discretion to revoke where the person has committed a particularly grave crime or engages in activities which make her a danger to security. Similar provisions apply to a person granted subsidiary protection. Swedish Migration Agency guidance sets out how the relevant provisions should be interpreted.[315] As there is no separate 'refugee status', its revocation does not necessarily lead to the loss of a residence permit, the revocation of the latter being regulated by a separate part of the Aliens Act.[316] However, a residence permit may only be renewed on particular bases, including for example, an ongoing need for protection. **Cessation of refugee status may, therefore, not lead to an immediate revocation of the permit, but its non-renewal. No removal is possible where there is a risk of *refoulement*. The Swedish Migration Agency can also grant a residence permit *ex officio* or on application where a person has been given a removal order, but where it cannot be carried out because of the risk that any such removal would be *refoulement*.[317]**

Convention refugees and beneficiaries of subsidiary protection are entitled to permanent residence after three years in certain circumstances, including where they can support themselves.[318] Naturalisation is possible after four years for a Convention refugee and five years in other cases, subject to meeting good character requirements.[319]

g) Switzerland

In Switzerland, refugeehood, asylum, and residency are discrete, but connected concepts. Refugees may be given asylum and be entitled to residency, but refugees may also be denied asylum or lose it in certain circumstances.

The Asylum Act sets out the circumstances in which someone who is a Convention refugee is granted asylum, the latter being a form of protection that accords the right to stay.[320] The Act also sets out when a person may be entitled to temporary protection, this being granted to those who are at risk of serious danger, in particular during a war of conflict.[321] Under separate legislation, those who are not recognised as refugees may be granted temporary admission, a form of protection from removal in cases where there is a need for international protection.[322] Temporary admission may also be granted to those who are refugees, but who not granted

312 Ibid chapter 5, s 1.
313 Ibid chapter 5, s 1.
314 Ibid chapter 4 s 5.
315 Swedish Migration Board, Legal position: Conditions for Revoking a Declaration of Protection Status (RS/054/2021 (version 5), 2023).
316 Aliens Act chapter 7.
317 Ibid chapter 12, s 18 and 19.
318 Ibid chapter 5, s 7.
319 Act on Swedish Citizenship (svenskt medborgarskap) 2001:82, amended until SFS 2024:424, s 11.
320 Asylum Act (AsylA) (of 26 June 1998, status as of 1 April 2025) Article 1-3.
321 Ibid Article 4.
322 Federal Act on Foreign Nationals and Integration (of 16 December 2005, status as of 1 August 2025) Article 83.

asylum because they are deemed unworthy in some way, including in cases of serious misconduct.[323]

The State Secretariat for Migration shall revoke asylum or deprive a person of refugee status where they obtained it by fraud or where cessation applies.[324] The State Secretariat for Migration shall revoke asylum where the refugee represents a threat to Switzerland's security or has committed a particularly serious offence.[325] This structuring of mandatory grounds for revocation means that a person may remain a refugee, but lose their asylum status. In this case, the person concerned could be entitled to temporary admission. In addition, asylum status also expires if the person has lived abroad for more than one year, obtains a permission to remain in another country, renounces their status, has a removal or expulsion enforced (or where such an order is enforceable), or acquires Swiss nationality.[326]

The basis on which temporary admission is granted may also be re-examined and the status resolved, including in circumstances where the person stays abroad for a period.[327] When considering the revocation of temporary admission where obstacles to remove no longer exist, proportional consideration must be given to the degree of integration of the person concerned.[328]

A refugee with asylum is entitled to a renewable residence permit of one year, after 10 years, they may be entitled to permanent residence (there is a discretion to grant it after five years, if particular requirements are met).[329] Someone who is temporarily admitted is placed on an even longer route to permanent residence, one that involves a progression through different residence statuses. Further, in order to acquire Swiss citizenship a person has to have been a permanent resident and have resided in the country 10 years.[330] Integration requirements must have both a federal naturalisation permit and be naturalised by their municipality.

A person without a valid permission to remain may be made subject to a deportation order.[331] The Asylum Act contains a broad protection from *refoulement*, one that has an exception to it for cases where the person concerned has been convicted for a serious offence and represents a danger.[332]

As noted above, Switzerland has a high relative level of withdrawals of status. While the figures drawn on cover refugee status, information reviewed by ECRE indicates that temporary admissions are reviewed and ceased. **However, in both cases, transfer to another status is usual.** It is, therefore, reported that in 2024, asylum expired in 1,674 cases, the majority of which 1,148, concerned the acquisition of a new nationality.

h) Türkiye

323 Ibid Article 83(8).
324 Asylum Act (AsylA) (of 26 June 1998, status as of 1 April 2025) Article 63.
325 Ibid Article 63.
326 Ibid Article 64.
327 Federal Act on Foreign Nationals and Integration (of 16 December 2005, status as of 1 August 2025) Article 84.
328 Decision E-3822/2019 Switzerland: Federal Administrative Court (28 October 2020).
329 Asylum Act (AsylA) (of 26 June 1998, status as of 1 April 2025) Article 60; Federal Act on Foreign Nationals and Integration (of 16 December 2005, status as of 1 August 2025) Article 33-34.
330 Federal Act on Swiss Citizenship (of 20 June 2014, status as of 1 September 2023) chapter 1
331 Federal Act on Foreign Nationals and Integration (of 16 December 2005, status as of 1 August 2025) section 4.
332 Asylum Act (AsylA) (of 26 June 1998, status as of 1 April 2025) Article 5.

As explained in the Introduction, Türkiye maintains the Refugee Convention's optional geographical limitation. Consonant with this approach, the Law on Foreigners and International Protection provides for three international protection statuses: Convention refugee status, conditional refugee status (for those not from Europe, but who meet the Article 1A(2) CSR51 definition), and subsidiary protection (a status that mirrors this protection in EU law).[333] Türkiye also provides temporary protection in certain situations of mass influx, this regime being used on a group basis for Syrians and certain others.[334]

International protection statuses 'shall' terminate in situations similar to those set out in Article 1C CSR51, where, for example, a person re-avails themselves of the protection of their country, or where there has been a change in circumstances.[335] Termination must be preceded by an individual assessment and by an opportunity for the individual to express their views orally or in writing.[336] Status is cancelled in situations involving misrepresentation or exclusion.[337] Temporary protection ends where a person leaves the country, secures the protection of a third country or is resettled.[338]

However, Syrian refugees have reportedly been subject to cancellation of temporary protection without prior written notice and without the possibility of appeal. Cancellations of temporary protection without notice are applied on public order grounds, but also for minor infractions.[339]

Conditional refugees may reside in Türkiye until they are resettled.[340] Refugees, conditional refugees, beneficiaries of subsidiary protection as well as those with temporary protection cannot transfer to a long-term residence permit.[341] Naturalisation may be possible in certain circumstances, including where a foreigner has been resident for five years and were language and integration requirements are met.[342] Separate rules apply to those who marry someone who is Turkish or who make exceptional contributions to the country.[343] In practice, naturalisation on exceptional grounds has been granted to over 230,000 Syrian nationals formerly under temporary protection.[344]

The Law on Foreigners and International Protection permits derogations from *refoulement* for reasons of membership or support of a terrorist organisation or of public order or public health, and provides for the issuing of removal decisions in cases where an international protection status has been refused or cancelled.[345] Temporary protection holders shall be deported upon a third consecutive failure to comply with reporting obligations.

ECRE describes the procedure followed under the voluntary repatriation programme established by Türkiye in 2021 as follows:

333 Law No 6458 of 2013, Law on Foreigners and International Protection (LFIP) Article 61-63.
334 Ibid Article 91 and Temporary Protection Regulation 2014/6883 (22 October 2014).
335 LFIP Article 85.
336 Ibid Article 85(4).
337 Ibid Article 86.
338 Temporary Protection Regulation 2014/6883 (22 October 2014) Article 12.
339 ECRE, 'AIDA Country Report: Turkiye (update on 2024)' (4th August 2025) <https://ecre.org/aida-country-report-on-turkiye-update-on-2024/> accessed 30 October 2025 175-176.
340 LFIP Article 62.
341 Ibid Article 42.
342 Law No 5901 of 2009, Turkish Citizenship, Article 11.
343 Ibid Article 16, Article 12.
344 ECRE, 'AIDA Country Report: Turkiye (update on 2024)' 190-191.
345 LFIP Article 4, Article 54, 55.

> The voluntary repatriation form is completed in the individual's own handwriting and signed while being recorded on camera. A third-party observer—such as a representative from UNHCR, the Turkish Red Crescent, or the Provincial Human Rights Monitoring Commission which is overseen by the Human Rights and Equality Institution of Türkiye (TİHEK) and the governorates —is present during this procedure. Subsequently, the V-87 code is issued, and the individual hands over their identity document to the border police. Finally, at the point of crossing, the individual's fingerprint is checked once again.[346]

According to the Turkish government, more than 760,000 Syrian temporary protection holders returned to Syria from 2017 to 22 December 2024, while more than 250,000 have returned since December 2024.[347] Serious concerns persist, however, as to the voluntariness of such returns. Reports refer to an increasingly widespread, persisting practice of deportation of refugees under temporary protection or of those seeking international protection. Since 2017, refugees have been reportedly held in pre-removal detention centres, coerced into signing 'voluntary return forms' and removed from the country, at times despite pending court proceedings.[348] In *Akkad v Turkey* the ECtHR found that the expulsion of a temporary protection holder to Syria breached Articles 3, 5 and 13 ECHR.[349] The Turkish Constitutional Court found a breach of related constitutional rights in a 2023 judgment concerning a removal to Syria.[350]

It is also reported that 142,536 'irregular migrants' were 'deported' from Türkiye in 2024,[351] the majority of whom appear to have been returned to Afghanistan.

i) UK

In the UK applications for asylum are determined in accordance with the Refugee Convention as (partially and selectively) incorporated into UK law through primary legislation and pursuant to the Immigration Rules.[352] Additional protection is provided by the ECHR, which is incorporated through the Human Rights Act 1998. Consequently, the circumstances in which refugee status or humanitarian protection (a complementary protection status) are granted map broadly onto Article 1A(2) of CSR51 and Articles 2 and 3 of the ECHR respectively. Further protection is provided by Article 8 ECHR.

Generally speaking, individuals granted asylum in the UK receive five years' permission to remain after which they may apply for a secure, long term of permanent status ('indefinite leave to remain') and then naturalise.

Refugee status 'must' be revoked in four sets of circumstances: cessation, exclusion, misrepresentation, and where the person concerned is considered a danger to the UK.[353] The relevant provisions on cessation and exclusion correlate with and/or refer to Articles 1C and

346 ECRE, 'AIDA Country Report: Turkiye (update on 2024)' 170.
347 Ibid 16, 170.
348 Ibid 19-20, 23, 45, 171, 188; European Commission, Türkiye Report, SWD(2022) 333, 12 October 2022, 20.
349 Akkad v Turkey (see further the discussion and reference at n 24).
350 Abdulkerim Hammud App no 2019/24388 (Turkish Constitutional Court, 2 May 2023).
351 Presidency of Migration Management, 'The 15th Migration Board Meeting was held under the chairmanship of Minister of Interior Mr. Ali Yerlikaya' (PMM, 29 January 2025) <https://en.goc.gov.tr/en01> accessed 24 September 2025.
352 The Immigration Rules are a unique form subordinate legislation made under the Immigration Act 1971 s 3(2).
353 Immigration Rules part 11: Asylum [338A].

1F.[354] On cessation, the Secretary of State is directed to 'have regard' to whether or not any change of circumstances 'is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.'[355] The provisions on misrepresentation cover issues like the use of false documents where these were 'decisive for the grant of refugee status and the person does not otherwise qualify for refugee status'.[356] Danger to the UK is understood in terms of Article 33(2) of the CSR51 and the existence of relevant grounds for believing someone a danger or a where they have been convicted of a particularly serious crime.[357] Parallel but slightly different provisions apply to those granted humanitarian protection.

Guidance to decision makers explains the difference between Convention refugeehood and the status that may be given to and removed from refugees and former refugees.[358] Review of status and any potential revocation ground may be 'triggered' by, for example, the person returning to their country or obtaining a passport, or where there is a significant and non-temporary change of circumstances in the country of origin. [359] A review of protection status 'must' be conducted where the individual has been convicted of a criminal offence.[360] Relevant safeguards include an in-country right of appeal.[361] The Court of Appeal has affirmed that in any such proceedings the:

> **focus is on whether the decision to revoke the protection status previously granted puts the UK in breach of its international obligations.[362]**

The interaction between the CSR51 and national status has been the subject of litigation, particularly in cases involving the revocation of protection where the applicant has committed a crime. Here, the Courts have noted that the Convention's protections still applied to someone whose refugee status had been revoked following their conviction for a particularly serious crime, a person in such a position being a 'removable refugee'.[363]

On removals, the UK relevant guidance states that where the UK wishes to remove someone but needs assurances that they would be treated in line with 'our international obligations' under the ECHR, an agreement to that effect may be reached through a 'Memorandum of Understanding'.[364] Other than a general duty to 'have regard' to the need to safeguard and promote the welfare of children,[365] there are no specific protections of family unity or in relation to monitoring.

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354 Ibid [339AA], and also to Article 1D and E.
355 Ibid [339A]. PS (cessation principles) Zimbabwe [2021] UKUT 283 (IAC) which affirms that the views of UNHCR on changes of circumstances are of considerable importance, but are not determinative.
356 Immigration Rules part 11: Asylum [339AB].
357 Ibid [339AC].
358 UK Visas and Immigration, Revocation of Protection Status (accessible) (version 2.0) (GOVUK, 29 January 2025) 12.
359 Ibid 15-16.
360 Ibid 15-16.
361 Nationality Immigration and Asylum Act 2002 82(1)(c). Section 92(5) states that an appeal under s 82(1)(c) must be brought from within the UK if the decision to revoke protection status was made while the appellant was in the UK.
362 SA (by her litigation friend, David Wedgwood) v Secretary of State for the Home Department [2025] EWCA Civ 357, [2025] 3 WLUK 529 [6].
363 Essa (Revocation of protection status appeals) [2018] UKUT 244 (IAC), [2018] 6 WLUK 861. See also S M (Anonymity Order Made) v Secretary of State for the Home Department [2024] UKUT 323 (IAC), [2024] 8 WLUK 342
364 UK Visas and Immigration 21.
365 Borders, Citizenship and Immigration Act 2009 s55.

On naturalisation, the relevant legislative framework requires applicants to be of 'good character', in addition to meeting requirements on lawful residence and integration.[366] Changes made to the policy on 'good character' in February 2025 make it harder, if not impossible, for those who arrive irregularly in the UK to seek protection to meet this requirement.[367] Given the relative absence of legal routes to access the UK to claim asylum, this may amount to a bar on naturalisation. This measure is, at the time of writing, subject to legal challenge. The authors' view is that this policy, which may penalise refugees for their unlawful entry and does not facilitate assimilation or naturalisation, may be in breach of the Refugee Convention and broader protections in relation to trafficking.

5. KEY HUMAN RIGHTS ISSUES

5.1 Security of Protection Status

a) Security of Status as a Refugee and Human Right

The Refugee Convention's core object and purpose is to ensure a secure status with rights accruing over time for refugees. This status only ends under defined circumstances, usually requiring the agency of the refugee. Refugees can only lose their protection involuntarily under Article 1C(5) and (6) CSR51, which concern fundamental changes in the country of origin. Accordingly, a number of the practices identified in this thematic paper are incompatible with, or at least in tension with, the protection afforded by the Refugee Convention. Of concern are practices including the granting of short residence permits; frequent status reviews; expanded grounds for cessation / revocation; and, the conflation of grounds for cessation / exclusion / revocation. Some of these practices may also amount to constructive *refoulement*, where conditions are made so harsh that those subject to them are compelled to return to their country of origin.

Insecure status exposes people to the risk of serious harm and to a range of human rights violations. Lack of access to the labour market creates susceptibility to labour exploitation, including forced labour and trafficking. Lack of access to housing creates risks of homelessness, social marginalisation, and exclusion. Lack of access to social support and healthcare may compound discrimination and cause or contribute to ill-health. Finally, insecure status increases women's risk of being subjected to gender-based violence and intensifies any experience of it.[368] **To meet their legal obligations to refugees and to others in need of international protection, states should adopt integration policies in accordance with recommendations made by the Council of Europe Committee on Ministers which**

> **ensure equality and dignity for all members of society, and help build societies which are more inclusive, cohesive, secure and prosperous by realising the potential of diversity.[369]**

366 British Nationality Act 1981, s 6 and schedule 1.
367 Home Office, Nationality: Good Character Requirement (Version 6.0) (11 February 2025).
368 Briddick, Violence against Women and Regimes of Exception: Undoing Discrimination in Migration Law (n 142) chapter 4.
369 Council of Europe, Recommendation CM/Rec(2022)10 of the Committee of Ministers to member States on multilevel policies and governance for intercultural integration (CM/Rec(2022)10, 6 April 2022) [6]. See also, Council of Europe, Recommendation CM/Rec(2025)6 of the Committee of Ministers

b) Respecting the Cessation Clauses

Cessation must be preceded by a thorough assessment of the grounds under Article 1C CSR51. This involves examining the voluntary acts of the individual in cases involving Article 1C(1)-(4). Where Article 1C(5) and (6) may apply, the focus in on the change of circumstances in the home country and effective protection. The authors of this thematic paper are concerned that states have failed to meet the standards imposed by the CSR51.

First, cessation of protection status for reasons of changed circumstances is unlawful when applied prematurely. The launch of proceedings to revoke status where protection needs are ongoing and/or the situation in the country of origin remains unclear is likely to conflict with cessation provisions in both the CSR51 and EU law, in addition to creating risks of *refoulement*. This is the case where the proceedings involve groups, as in relation to Syrians in Austria, or those considered to have come from 'safe' countries in Greece. It is also the case where proceedings concern individuals, as occurred in Sweden where, contrary to the legal and factual assessment provided by UNHCR, becoming an adult was held to be a sufficient change.[370]

Second, cessation is also unlawful when applied in a discriminatory, group-based manner. Revocations of refugee status that are based solely on nationality, without an individualised assessment, as was attempted in Greece, may breach Article 1C CSR51 in addition to relevant EU and ECHR standards.

Third, regular, systematic, or active reviews of status, as appears to be practiced in Austria, creates uncertainty and unnecessary administrative proceedings. Such uncertainty is *per se* a source of harm and a factor undermining states' duties to facilitate integration and naturalisation. **In contrast, the abandonment of automatic review of refugee status in Germany is a positive practice that aligns with the Refugee Convention's provisions on cessation and its protective object and purpose.**

The authors of this thematic paper have identified disparities between states' laws/practices and relevant international standards. **Courts, at the national and regional level, play a vital role in correcting these and in protecting refugees and others**. **Greek courts have, for example, been clear that mere addition of a country on the national list of 'safe countries of origin' does not *per se* indicate a change of circumstances.[371] In individual cases, German courts have affirmed that short visits to the country of origin in family emergencies cannot be considered voluntary re-availment.[372]**

c) Limitation of National Security Grounds

International refugee and human rights law both have important mechanisms to limit states' tendencies to invoke 'national security' to evade accountability and limit rights. Under the Refugee Convention, this means that exclusion from refugee status is only permitted on the

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to member States on qualifications and linguistic competences of refugees in Europe (CM/Rec(2025)6, 9 July 2025).

370 MIG 2021:14, Case no UM2839-20 Sweden: Migration Court of Appeal (Migrationsöverdomstolen), 8 July 2021. See also UN High Commissioner for Refugees (UNHCR), Amicus curiae of the United Nations High Commissioner for Refugees in case number UM 2839-20, X against the Migration Agency before the Migration Court of Appeal (Kammarrätten i Stockholm, Migrationsöverdomstolen), 21 September 2020.

371 Decision ΑΔ816/2025 (Administrative Court of Athens, 30 July 2025) regarding the designation of Senegal as a 'safe country of origin'.

372 Judgment of 15.02.2024 - 2 K 5820/21.A.

grounds under Article 1F, at the time that status is granted. Thereafter, the higher protections of Article 33(2) and against *refoulement* in international human rights law apply. The authors of this paper have identified many practices where states purport to 'cancel' refugee status on amorphous national security grounds, without respecting these provisions.

The conflation of exclusion grounds under Article 1F and the exceptions to Article 33(2) of may have serious legal consequences. In the former case, the person was never a refugee, in the latter, the person may continue to be. Revocation of status may be appropriate in both situations, but there needs to be clarity on the position of those who do not have status but who cannot be removed. **It is noted here that courts have, for example, affirmed that the Convention's protections apply to those who are refugees, even though their statuses have been revoked under national law because they have committed particularly serious crimes.**[373] The authors contend that where such a revocation occurs, but the person concerned cannot be returned for reasons beyond their control, status or some other permission to remain should be granted. Such an approach would protect against constructive *refoulement* by ensuring that a person's basic needs are met, but also ensures the safety of the community.

5.2 Non-Discrimination

Across the Council of Europe member states and within the EU, a range of different statuses have been created for refugees and others in need of international protection. As a consequence, people in similar situations and facing analogous risks are siphoned into different protection routes, often according to their nationality and sometimes indirectly on grounds of race. This can occur as between different groups of refugees, such as between those fleeing Ukraine and Gaza, and between states in relation to the same group of protection seekers. Questions relating to the former are currently being litigated in the UK.[374] On the latter, disparities in refugee status determination have been particularly marked for those fleeing Syria. For example, refugee status was overwhelmingly granted in Greece, Italy and Austria, while most protection grants in Germany, Cyprus, or Bulgaria were limited to subsidiary protection.[375] Such differential treatment supports claims of a 'protection lottery'. Further, policies that seek to review or end status for particular groups of refugees suggest that the shift to temporariness discussed in this report may be racialised, as certain nationalities, or groups of nationalities, appear to be at higher risk of precarity than others. Such policies may also contribute to gendered disadvantage and expose women to additional risks.

The European Court of Human Rights has affirmed that states should not discriminate against the holders of different migration statuses when they are in substantively

373 E.g. Essa (Revocation of protection status appeals); S M (Anonymity Order Made) v Secretary of State for the Home Department.

374 IA and others v Secretary of State for the Home Department Upper Tribunal UI-2024-005295; UI-2024-005297; UI-2024-005301; UI-2024-005302; UI-2024-005309; UI-2024-005311 (13 January 2025).

375 ECRE, 'Asylum Statistics and the Need for Protection in Europe: Updated Factsheet' (ECRE, 15 December 2022) <https://ecre.org/ecre-factsheet-asylum-statistics-and-the-need-for-protection-in-europe/> accessed 1 November 2025. Note European Commission, Proposal for a [recast QD], COM(2009) 551, 21 October 2009, 8: 'When subsidiary protection was introduced, it was assumed that this status was of a temporary nature. As a result, the Directive allows Member States the discretion to grant them a lower level of rights in certain respects. However, practical experience acquired so far has shown that this initial assumption was not accurate. It is thus necessary to remove any limitations of the rights of beneficiaries of subsidiary protection which can no longer be considered as necessary and objectively justified'

similar situations.[376] The authors of this thematic paper argue that this is generally the case with regard to Convention refugees with different statuses (e.g., because they are refugees *sur place*); between Convention refugees and subsidiary protection beneficiaries; and, between Convention refugees/subsidiary protection beneficiaries and at least some of those with temporary protection. The protection of refugees and others will depend, in large part, on the ability of courts to scrutinise, at the appropriate level, differential treatment that may involve a range of different grounds, including race, sex, and other (migration) status.

5.3 Access to Effective Nationality

When procedures are accessible, refugees seek to naturalise, often at higher rates than other migrants.[377] Member states must facilitate the naturalisation of refugees under Article 34 CSR51 and the European Convention on Nationality, and apply nationality rules in conformity with their human rights obligations. States should also respect the obligation to avoid statelessness, particularly in relation to children born on their territories.

Across Council of Europe member states, the authors have identified examples of good practice. On waiting periods, examples of good practice include five-year naturalisation requirements in Germany and Italy, and Ireland's three-year requirement (although there is uncertainty as to the latter's accessibility).

Two issues arise in relation to waiting periods, however. The first is the imposition of long periods. Relatedly, and second, are the imposition of different and more onerous obligations for those with subsidiary or temporary protection. Long periods of minimum lawful residence, such as 10 years in Austria and the repeal of proceedings that were expedited in Greece, may breach the Convention's obligations on assimilation and in relation to citizenship. Here, the authors endorse UNHCR's recommendations that Austria reduce the period of lawful residence required and do more to consider individuals' personal circumstances.[378] Further, the practice in states such as Italy, which has significant disparities between protection statuses in minimum residence requirements (e.g. five years for Convention refugees and 10 years for subsidiary protection holders) is particularly concerning. Ireland also maintains such a distinction, with a three-year requirement for Convention refugees and a five-year rule for subsidiary protection beneficiaries. Similar concerns emerge in Switzerland, where temporary admission holders are afforded extremely limited avenues for naturalisation.

The duty to facilitate naturalisation militates against rules or requirements that place barriers or penalise refugees due to their status or circumstances of flight. For example, in Greece, time spent under a temporary protection permit is excluded from the minimum seven-year residence requirement. In Austria, the provisions on 'active' review / revocation mean that, essentially, naturalisation is only available to refugees and beneficiaries of subsidiary protection where no cessation procedure has been initiated and the circumstances that might give rise to it do not exist. The pathway to naturalisation is not, in such cases, 'facilitated'. In the UK, changes to the good character guidance made in 2025 which affect those compelled

376 Hode and Abdi v UK.
377 Maarten Vink and others, 'Long-Term Heterogeneity in Immigrant Naturalization: The Conditional Relevance of Civic Integration and Dual Citizenship' (2021) 37 European Sociological Review 751; Nadwa Mossaad and others, 'Determinants of Refugee Naturalization in the United States' (2018) 115 Proceedings of the National Academy of Sciences 9175.
378 'UNHCR-Empfehlungen zur Einbürgerung von Flüchtlingen und subsidiär Schutzberechtigten' (UNHCR, May 2025) <https://www.unhcr.org/at/media/unhcr-empfehlungen-zur-einbuergerung-von-gefluechteten> accessed 1 November 2025.

to arrive irregularly may penalise refugees, conflict with the obligation to facilitate naturalisation, and unlawfully discriminate.[379]

Finally, this thematic paper has emphasised the need to protect children, in particular, from statelessness. The ECtHR has integrated these concerns into its Article 8 ECHR jurisprudence in a manner that clarifies and strengthens states' obligations. To ensure effective implementation, registration and nationality practices should be accessible, streamlined, and protective.

5.4 Safe and Sustainable Returns

a) Respecting the Principle of Non-refoulement

To avoid *refoulement*, there must be a full, individualised assessment of the risks that the person concerned may face. Individual assessment is also required to avoid the prohibition on collective expulsion. Relevant procedures must have an appeal with automatic suspensive effect. The authors are, therefore, very concerned that some elements of prospective EU law appear to undermine this core principle.

The tendency of some states to issue deportation orders in circumstances where return is not possible is also of concern. The authors contend that the issuance of such orders to encourage people to return may, in some cases, amount to constructive *refoulement*. Legislation that merely foresees the postponement of a prior deportation order, as passed in Greece, falls short of providing clear protection from *refoulement* and leads to unnecessary, harmful administrative proceedings that may even order removal to unspecified places. Prospective EU law instruments, which do not spell out a clear prohibition on issuing deportation orders where a risk of *refoulement* is established,[380] may also be criticised on this basis. The authors submit that states should consider enacting domestic provisions to preclude the making of deportation orders to persons whose removal would be contrary to the principle of *non-refoulement*. **Positive examples of country practice here include Germany and Ireland, where the prohibition on issuing deportation orders in line with the principle of *non-refoulement* is placed on statutory footing.[381]**

Finally, where removal is not possible on account of member states' human rights obligations, secure status should be afforded. **Ireland has enacted an express requirement to grant 'permission to remain' to those whose removal would contravene *non-refoulement*.** Similar rules exist in Sweden. Conversely, some other countries, such as Greece, stop short of offering status, foreseeing only a 'postponement of removal' that bars access to key rights such as employment.[382]

b) Avoiding Collective and Discriminatory Expulsions

International human rights law also prohibits collective and discriminatory expulsions. States must, when seeking to remove non-nationals on a group basis, conduct a full examination of the circumstances of each individual member of the group.[383] Relevant procedures should afford sufficient guarantees by, for example, ensuring that decisions are made on the basis of detailed and up-to-date information. Individuals must be able to appeal decisions and bring

379 Catherine Briddick, 'A Dangerous Journey?: The Good Character Requirement, Naturalisation, Trafficking, and Discrimination against Women' (ILPA Blog, 2025) <https://ilpa.org.uk/category/ilpa-blog/> accessed 5 March 2025.
380 Article 5 RR proposal.
381 Residence Act s. 60; International Protection Act 2015 s 50.
382 Return Act Article 10.
383 Čonka v Belgium.

relevant matters to the attention of decision-makers. Legal advice and representation should be afforded in addition to, for example, the ability to provide further evidence.

c) Avoiding Coercion and Enabling Voluntary Return with Agency and Dignity

Many refugees and former refugees do wish to return home, in particular when there is a sustainable change in circumstances. UNHCR's Statute requires that it only cooperate with voluntary returns. Refugee returns can facilitate peace-building efforts and post-conflict reconstruction. But for returns to be sustainable, they need not only to be voluntary, but also facilitated in a manner that protects rights and promotes reintegration. For this to be the case, refugees need to be reconnected with their country of origin, potentially over time, and then be able to support themselves. **In this regard, enabling trips to 'go and see' are long-established good practice, one that depends on status remaining secure in not being revoked prematurely.**

Finally, return is not voluntary when it is threatened or coerced. The authors underline the need for states to cease all practices that place individuals under pressure to return, either by reviewing status, increasing precarity, or depriving liberty (e.g., in Türkiye or Greece, in the latter case departure being reportedly presented as the sole alternative to imprisonment for 'illegal entry' or 'illegal presence').

5. RECOMMENDATIONS

These recommendations are addressed to Council of Europe member states as well as to international organisations with a key role in this field, such as IOM and UNHCR.

1. Ensure that refugees and other international protection beneficiaries enjoy a secure status, so that they may plan their lives and exercise their human rights.

2. Ensure, as far as possible, equal treatment between Convention refugees and other international protection beneficiaries. States should not differentiate, without good justification, between protection seekers on grounds of status.

3. Uphold the absolute prohibition on *refoulement*, including constructive *refoulement*, and respect the prohibition on collective and discriminatory expulsions. Avoid deportation or threats thereof which would undermine these protections.

4. Provide a full *ex nunc* appeal with automatic suspensive effect to all those at risk of removal. Ensure that legal advice and representation is available throughout such proceedings.

5. Provide a status or permission to remain to those persons whose return to their country of origin cannot be enforced, legally and/or practically, for reasons beyond their control.

6. Ensure that refugees are only ever deemed to be *former* refugees under the limited conditions foreseen in international law.

7. Ensure that cessation practices comply with the Refugee Convention's provisions and its object and purpose, both to ensure security of status and to enable co-operation, so that refugees may exercise their agency to bring their refugeehood to an end.

8. Ensure that cessation practices and status reviews do not discriminate on the basis of nationality or other protected grounds, including race and sex. In particular, ensure gender equality in relation to refugee recognition, cessation, and naturalisation.

9. Where the grounds for cessation are met, offer an effective opportunity for the acquisition of permanent residence and/or naturalisation prior to the withdrawal of refugee or other protection status.

10. Restrict recourse to national security grounds for refugee status revocation and ensure that the limitations of the Refugee Convention are respected.

11. Ensure that refugees' inclusion and integration is facilitated.

12. Facilitate refugees' naturalisation, in line with the Refugee Convention and the European Convention on Nationality, including by reducing qualifying periods and removing bureaucratic and other administrative obstacles.

13. Ensure that refugee children have access to an effective nationality, in particular where they would otherwise be stateless.

14. Enable voluntary return, including by facilitating 'go and see' visits and ensuring continuity of status and rights while refugees re-establish links with their countries of origin.

15. Cooperate with and support international organisations, national human rights bodies/actors, civil society actors, and refugee community organisations, to ensure that returns are voluntary and sustainable, including by providing advice, resources, and funding.

APPENDIX 1: STATISTICS ON WITHDRAWAL OF REFUGEE STATUS

This Appendix presents statistics on first-instance decisions withdrawing Convention refugee status in the countries sampled for the purposes of the present analysis, extracted from the Eurostat database. The database contains data on EU member states and selected non-EU countries e.g., Switzerland. Figures on the UK and Türkiye are not available on Eurostat. The relevant period is 2020 to mid-2025.

Table 1.2 draws a comparison between first-instance Convention refugee status grants and withdrawals in the sampled countries. Tables 1.3 to 1.8 offer an overview of withdrawal of Convention refugee status for selected countries of origin.

Table 1.1: Withdrawals of Refugee Status at first instance 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Germany	6,475	3,925	1,450	1,120	1,120	530	**14,620**
Switzerland	1,940	1,485	1,450	1,390	1,760	780	**8,805**
Austria	1,520	1,450	1,060	690	970	690	**6,380**
France	255	1,020	815	885	1,165	660	**4,800**
Sweden	155	245	260	660	710	340	**2,370**
Greece	0	20	65	75	115	70	**345**
Italy	15	20	20	40	115	50	**260**
Spain	0	5	10	0	10	40	**65**
Ireland	0	5	0	5	0	0	**10**

Source: Eurostat, migr_asywitfsta

Table 1.2: Comparison of Refugee Status Grants / Withdrawals at first instance 2020-25									
Country		2020	2021	2022	2023	2024	Half 2025	**Total**	Rate
Germany	Grants	37,820	32,065	40,910	42,525	37,795	18,355	**209,470**	7%
	Withdrawals	6,475	3,925	1,450	1,120	1,120	530	**14,620**	
France	Grants	11,955	21,340	29,410	31,525	29,915	14,330	**138,475**	3.5 %
	Withdrawals	255	1,020	815	885	1,165	660	**4,800**	
Greece	Grants	26,370	13,035	18,730	24,360	39,270	11,620	**133,385**	0.3 %
	Withdrawals	0	20	65	75	115	70	**345**	
Austria	Grants	5,000	9,500	11,455	14,705	14,790	3,840	**59,290**	11%
	Withdrawals	1,520	1,450	1,060	690	970	690	**6,380**	
Switzerland	Grants	5,350	5,340	4,790	5,955	10,345	3,965	**35,745**	25%
	Withdrawals	1,940	1,485	1,450	1,390	1,760	780	**8,805**	
Spain	Grants	4,360	5,355	6,815	7,325	6,335	3,310	**33,500**	

	Withdrawals	0	5	1	0	10	40	**65**	0.2 %
Italy	Grants	4,580	7,380	7,610	4,910	6,000	2,820	**33,300**	0.8 %
	Withdrawals	15	20	20	40	115	50	**260**	
Sweden	Grants	3,450	2,795	3,145	3,285	1,930	625	**15,230**	16%
	Withdrawals	155	245	260	660	710	340	**2,370**	
Ireland	Grants	620	800	1,440	2,460	3,210	1,390	**9,920**	0.1 %
	Withdrawals	0	5	0	5	0	0	**10**	

Source: Eurostat, migr_asydcfsta; migr_asywitfsta.

Table 1.3: First-instance Withdrawals of Refugee Status of those with Syrian nationality 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Germany	3,780	1,855	505	410	390	90	**7,030**
Austria	90	80	75	85	125	70	**525**
Sweden	35	35	25	105	145	20	**365**
Switzerland	55	60	50	35	80	70	**350**
Greece	0	10	35	35	35	15	**130**
France	0	5	5	15	5	20	**50**
Spain	0	0	0	0	5	0	**5**
Italy	0	0	0	0	5	0	**5**
Ireland	0	0	0	0	0	0	**0**

Source: Eurostat, migr_asywitfsta

Table 1.4: First-instance Withdrawals of Refugee Status of those with Iraqi nationality 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Germany	860	555	265	185	185	130	**2,180**
Switzerland	190	125	80	70	110	45	**620**
Sweden	25	25	35	70	85	40	**280**
Austria	50	40	30	25	60	60	**265**
France	10	30	20	20	25	15	**120**
Greece	0	0	5	5	10	10	**30**
Italy	0	5	0	0	15	5	**25**
Spain	0	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	0	**0**

Source: Eurostat, migr_asywitfsta

Table 1.5: First-instance Withdrawals of Refugee Status of those with Eritrean nationality 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Switzerland	325	335	360	375	530	165	**2,090**
Germany	265	205	90	50	65	45	**720**
Sweden	10	15	20	60	45	35	**185**
France	0	5	5	5	5	5	**25**
Austria	0	5	0	0	0	0	**5**

Italy	0	0	0	0	5	0	**5**
Greece	0	0	0	0	0	0	**0**
Spain	0	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	0	**0**

Source: Eurostat, migr_asywitfsta

Table 1.6: First-instance Withdrawals of Refugee Status of those with Turkish nationality 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Switzerland	185	240	190	150	210	105	**1,080**
Germany	105	70	45	60	55	30	**365**
France	25	85	60	45	40	25	**280**
Austria	5	10	5	10	15	5	**50**
Sweden	0	0	5	5	5	5	**20**
Italy	0	0	0	5	5	0	**10**
Greece	0	0	0	0	5	5	**10**
Spain	0	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	0	**0**

Source: Eurostat, migr_asywitfsta

Table 1.7: First-instance Withdrawals of Refugee Status of those with Afghan nationality 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Germany	305	250	80	55	70	35	**795**
Sweden	15	55	70	120	110	65	**435**
Austria	80	40	10	25	70	40	**285**
France	0	40	10	80	80	65	**275**
Switzerland	60	30	30	25	65	10	**220**
Greece	0	0	5	5	20	10	**40**
Italy	0	0	5	0	5	0	**10**
Spain	0	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	0	**0**

Source: Eurostat, migr_asywitfsta

Table 1.8: First-instance Withdrawals of Refugee Status of those with Iranian nationality 2020-25							
Country	2020	2021	2022	2023	2024	Half 2025	**Total**
Germany	195	240	95	70	75	55	**730**
Switzerland	80	50	50	45	40	25	**290**
Austria	45	15	35	55	60	30	**240**
Sweden	10	20	30	45	40	40	**185**
France	5	5	5	5	0	5	**25**
Greece	0	0	0	5	10	5	**20**
Italy	0	0	0	0	0	0	**0**
Spain	0	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	0	**0**

Source: Eurostat, migr_asywitfsta

APPENDIX 2: STATISTICS ON RETURNS TO COUNTRIES OF ORIGIN

This Appendix presents statistics on returns to selected countries of origin following an order to leave issued by the countries sampled for the purposes of the present analysis, extracted from the Eurostat database. Figures on the UK and Türkiye are not available on Eurostat. The relevant period is from 2021-mid 2025.

Selected countries of origin correspond to those set out in Tables 1.3 to 1.8. The data presented in this Appendix is not limited to returns of persons formerly recognised as refugees. Persons returned may include rejected asylum seekers or individuals not engaging with the asylum process at all.

Table 2.1: Returns of Syrian nationals to their country of origin following an order to leave 2021-25

Country	2021	2022	2023	2024	Half 2025	**Total**
Austria	10	15	15	20	320	**380**
Sweden	10	10	30	15	40	**105**
France	0	0	0	0	40	**40**
Greece	10	0	0	0	5	**15**
Switzerland	5	0	0	0	5	**10**
Spain	0	0	0	0	0	**0**
Italy	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	**0**
Germany	0	0	0	0	0	**0**

Source: Eurostat, migr_eirtn1

Table 2.2: Returns of Iraqi nationals to their country of origin following an order to leave 2021-25

Country	2021	2022	2023	2024	Half 2025	**Total**
Sweden	390	250	485	465	245	**1,835**
Germany	40	25	300	860	330	**1,555**
Greece	395	165	75	70	25	**730**
Austria	145	90	145	155	50	**585**
France	0	0	40	180	80	**300**
Switzerland	20	15	45	45	55	**180**
Ireland	0	0	0	5	0	**5**
Italy	0	0	0	0	0	**0**
Spain	0	0	0	0	0	**0**

Source: Eurostat, migr_eirtn1

Table 2.3: Returns of Eritrean nationals to their country of origin following an order to leave 2021-25

Country	2021	2022	2023	2024	Half 2025	**Total**
Sweden	40	40	35	35	40	**190**
Switzerland	0	0	0	0	0	**0**
Greece	0	0	0	0	0	**0**
Austria	0	0	0	0	0	**0**
France	0	0	0	0	0	**0**
Germany	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	**0**
Italy	0	0	0	0	0	**0**

Spain	0	0	0	0	0	**0**

Source: Eurostat, migr_eirtn1

Table 2.4: Returns of Turkish nationals to their country of origin following an order to leave 2021-25						
Country	2021	2022	2023	2024	Half 2025	**Total**
Germany	285	250	875	1,860	1,020	**4,290**
Austria	150	240	555	1,325	730	**3,000**
France	0	0	325	910	465	**1,700**
Sweden	225	175	210	415	280	**1,305**
Switzerland	35	55	100	455	320	**965**
Greece	95	65	70	80	45	**355**
Italy	10	0	25	45	15	**95**
Spain	10	10	5	0	0	**25**
Ireland	0	0	0	0	5	**5**

Source: Eurostat, migr_eirtn1

Table 2.5: Returns of Afghan nationals to their country of origin following an order to leave 2021-25						
Country	2021	2022	2023	2024	Half 2025	**Total**
Sweden	80	0	15	50	20	**165**
Austria	100	0	10	20	5	**135**
Germany	85	0	0	35	0	**120**
Greece	80	0	0	0	0	**80**
France	0	0	5	25	5	**35**
Switzerland	0	5	0	5	0	**10**
Italy	0	0	0	0	0	**0**
Spain	0	0	0	0	0	**0**
Ireland	0	0	0	0	0	**0**

Source: Eurostat, migr_eirtn1

Table 2.6: Returns of Iranian nationals to their country of origin following an order to leave 2021-25						
Country	2021	2022	2023	2024	Half 2025	**Total**
Sweden	160	115	125	215	115	**730**
Austria	40	85	55	50	30	**260**
Greece	95	45	10	15	10	**175**
Germany	25	5	10	65	10	**115**
Switzerland	10	25	0	0	5	**40**
France	0	0	10	15	10	**35**
Ireland	0	0	10	0	0	**10**
Spain	0	0	5	0	0	**5**
Italy	0	0	0	5	0	**5**

Source: Eurostat, migr_eirtn1