Please cite as: EUAA, '3.4.6. Derived right to international protection' in *Asylum Report 2024*, Juni 2024.

3.4.6. Derived right to international protection

3.4.6. Derived right to international protection

On 23 November 2023, the CJEU ruled in two cases referred by the Belgian Council of State (C-374/22 and C-614/22) that Articles 20 and 23 of the recast QD must not be interpreted as obliging Member States to grant the parent of a child who is recognised as a refugee in a Member State a derived right to international protection (*see Section 2.5*).Before these CJEU judgments, on 15 November 2023, the German Federal Administrative Court ruled that third-country family members of a child who was born after leaving the persecuting state and who was granted refugee protection in Germany were not entitled to refugee protection as a derived right, even when the marital partnership of the parents or the entire family already existed in the persecuting state.

For married persons, in February 2023 the German Higher Administrative Court of Lower Saxony decided on whether a derived right to asylum can be granted in the case of a proxy marriage which had taken place according to religious rites before an imam, without state registration. The court held that this would depend on whether a violation of public order occurred, which is not the case when merely the issuance of the declaration of marriage was done by proxy, contrary to the situation where a third person decides on the choice of the spouse.

The CNDA in France ruled in July 2023 that an applicant could not benefit from the principle of family unity to be granted international protection, although his wife was granted refugee status. She faced a serious risk of persecution, having filed a complaint in France against the applicant due to domestic violence, an attitude that would be regarded by the society and the authorities of her country of origin as transgressive with regard to social norms and customs.

More generally, the Swedish Migration Court of Appeal held that the principle of family unity does not entail a separate right to refugee status, when a new examination according to Chapter 12, Section 19 of the Aliens Act was granted to a third-country national who is a family member of a refugee but who has no such reasons of his own.

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu