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4.14.2.2 Review, cessation and revocation of international protection status

Trends from previous years continued pointing towards an increased use of status reviews and more rigorous use of cessation and revocation grounds. Courts were especially important in reviewing these cases and set limits on initiatives introduced by national authorities. Among more general guidance, ECRE published a legal note on cessation and status review, outlining legal obligations under international and EU laws which include the impact of the CJEU judgment in OA *(see Section 2)*.[1008]

The Danish Immigration Service, the Refugee Appeals Board and the Immigration Appeals Board have been jointly preparing a memorandum on the protection of foreigners' private and family life under the ECHR and the UN convention on human rights[1009] in connection with the amendments to the Danish Aliens Act introduced in 2019 on the revocation of refugees' and their family members' residence permits.[1010] The memorandum had not yet been finalised in April 2021.
UNHCR provided recommendations for Denmark to strengthen its refugee protection, for example, by refraining from the mandatory review of protection statuses, aligning the length of residence permits for different protection statuses, granting refugees residence permits for a longer period of at least 5 years, and removing legal and practical obstacles to family reunification.[1011]
The Danish Refugee Council observed that the public focus on the temporary nature of the permits and status withdrawals led to a high level of anxiety among beneficiaries of international protection in the country.[1012] In spring 2020, the Refugee Appeals Board upheld the Immigration Service's decision to revoke protection status for Syrians from Damascus in three cases.[1013] Based on these decisions, in the summer of 2020 the Minister for Immigration and Integration decided that the review of cases concerning persons from Damascus with a temporary residence permit granted on the grounds of general circumstances should be accelerated.[1014]

The Danish Refugee Appeals Board also delivered its first case following the 2019 amendments, [1015] and it confirmed the Immigration Service's status withdrawal for a Somali citizen who was granted protection based on the general situation in Somalia at the time of his application. However, given the changes in the situation in Somalia, the court assessed that the circumstances which formed the basis of granting protection no longer existed. The court noted that the person had substantial connections with both Denmark and Somalia, and the withdrawal of protection would interfere with his right to private and family life. Still, the withdrawal was legitimate, served a recognised purpose and cannot be considered contrary to Denmark's international obligations.
The Refugee Appeals Board has subsequently decided on several cases covered by the 2019 amendment. After the board's assessment of the individual circumstances of the cases, some

residence permits have been withdrawn or denied an extension, while others have resulted in the opposite, a revocation of the decision of the Danish Immigration Service or sent back to the Danish Immigrations Service for a new assessment.

The Hungarian Helsinki Committee observed that Afghan beneficiaries of subsidiary protection are typically refused a renewal of their status, and the national asylum authority established Kabul or the province of Balkh as an internal protection alternative for beneficiaries from other regions. The organisation also reported an increased number of withdrawal procedures based on alleged threats to national security.[1016]

The Dutch IND revised its policy on Sudan (see Section 4.4) and announced that previously-granted asylum permits would be reassessed if they were granted due to the situation in Darfur, South Kordofan and Blue Nile.[1017] In Austria, withdrawal procedures remained a priority for the BFA. The amendments to the Law on Asylum and Refugees in Bulgaria added two new circumstances when international protection status ceases: when a beneficiary passes away or when a person refuses expressly to be recognised as a beneficiary of international protection. The AIDA Bulgaria report noted that this latter circumstance included cases when a beneficiary failed to renew an expired ID card or replace a damaged, stolen or destroyed card within 30 days. The State Agency for Refugees underlined that this circumstance does not lead to an automatic cessation of international protection but only to the launching of the cessation procedure, in which all facts and evidence are considered before a decision on cessation may be issued. Still, the AIDA Bulgaria assessed that this change risks leading to a broad interpretation of the recast Qualification Directive and risks introducing in practice an additional cessation ground.[1018]

The Office of the United Nations High Commissioner for Human Rights published a press release on the revocation of the refugee status and planned removal of two Ugandan refugee parents with their baby, leaving their other seven children in different foster homes in the Netherlands.[1019]

The Swiss Parliament requested the Federal Council in 2018 to verify the temporary admission of 3,400 Eritrean nationals, following the decision of the Federal Administrative Court in 2017, which noted that in principle returns to Eritrea could be enforced. Temporary admission was withdrawn in 83 cases, 63 decisions became final, while 20 were appealed.[1020] The Swiss Federal Administrative Court delivered a landmark judgment on one of these appeals, noting that national authorities must apply the principle of proportionality when deciding on the withdrawal of temporary admission. The court observed that such a status gave a large number of substantive rights, and the scope of the examination to end the status is not the same as the scope of the examination to grant the status.

The French CNDA examined the case of a Russian applicant whose refugee status was withdrawn as he was considered to be a threat to national security and he obtained a Russian passport. The court analysed CJEU case law and concluded that the applicant voluntarily placed himself under Russian authorities when he requested a passport and there were no other reasons justifying that the refugee status should be maintained. In another case, the Council of State annulled the decision of the CNDA and sent it back for reconsideration. The court noted that the CNDA erred when it considered that threat to national security could not be invoked to withdraw refugee status, simply due to the fact that the person did not publicly praise terrorism.

In Czechia, the Supreme Administrative Court assessed the Ministry of the Interior's decision to withdraw protection granted to a Chechen national as he was re-convicted of burglary and extorsion. As such, he was considered to be a danger to national security. The decision came after the CJEU's judgment which was delivered in 2019, following the court's request for a preliminary ruling. The court underlined that the condition of committing a particularly serious crime under the recast Qualification Directive, Article 14(4b) should not be evaluated merely on the categorisation of national criminal law. The Czech transposition of this article is not word-by-word, and the court assessed that the national provision adds that the applicant must be considered a threat to national security when convicted of a particularly serious crime where the threat has to be actual and present.

The AIDA report for Poland noted that mainly Russian citizens had their protection status withdrawn, even if they undertook just one travel back to their country or if they obtained a Russian passport, while observing that the protection status of Chechen applicants was not being renewed due to the changed situation in Chechnya.[1021]

An Estonian district court assessed the impact of a beneficiary's travel to his country of origin. The PBGB initiated the withdrawal of a family's subsidiary protection status when, during the renewal of their permits, it surfaced that one of the family members travelled back once to their country of origin. The administrative court found that one travel gave no evidence that protection was not necessary anymore. On further appeal, the district court upheld the administrative court's decision but changed its reasoning, noting that the authorities should have assessed the best interests of the children and should have taken the family's integration and social ties with Estonia into consideration.

The Swedish Migration Court of Appeal sent back a case for a new assessment due to shortcomings in documentation. The person's subsidiary protection status was withdrawn because he served 1.5 years in prison for human trafficking in Germany and had a criminal record in Sweden. The court noted that he indeed had committed several crimes in Sweden, but to withdraw his protection, at least one of the crimes should have been of a serious nature. Regarding his conviction for human trafficking in Germany, the court noted that the European Criminal Records Information System (ECRIS) did not include the circumstances of this conviction and the authorities should have obtained the German judgment before withdrawing his status.

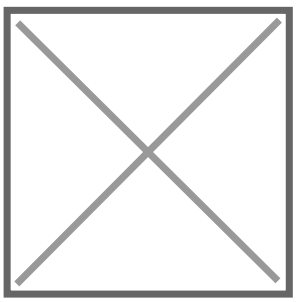
In France, the Council of State confirmed the withdrawal of refugee status of an applicant who was responsible for fundraising for a terrorist organisation for 5 years. It noted that, even though the applicant himself did not commit terrorist acts, actions in support of such acts should be considered to be contrary to the purposes and principles of the United Nations and to fall under the exclusion clause of the Geneva Convention.

A German Regional Administrative Court confirmed the decision of BAMF to withdraw subsidiary protection of an applicant who was convicted for particularly serious rape with dangerous bodily injury.

In Finland , the Supreme Administrative Court underlined that the assessment for the cessation of

refugee status does not include an assessment on whether the applicant has the possibility to settle safely in another area of his country of origin, based on changes in the information for the country of origin. Instead, the authorities must examine whether the circumstances which were the basis for granting protection have ceased to exist and whether this change in the circumstances is significant and lasting. The court repeated this reasoning in another case which involved a Vietnamese national who arrived through resettlement in 1990 and travelled back to Vietnam in 2015 to visit his ill father and then went again for his funeral. The court noted that the authorities provided no explanation whether the circumstances for granting refugee status had ceased to exist, yet the status was withdrawn. The court also underlined that the applicant had not applied for a Vietnamese passport and he travelled using refugee travel documents and visa, thus it cannot be considered that he voluntarily resorted to the protection of Vietnam. In another case, the court confirmed the withdrawal of subsidiary protection. The Iraqi applicant was granted subsidiary protection due to the security situation in his home region, Tuz Khurmatu, but then returned to Iraq where he stayed for 5 years in Erbil, in the autonomous Kurdish region of northern Iraq.

The Supreme Administrative Court in Austria examined a case of an Afghan applicant who was granted refugee status based on his conversion to Christianity, but then his status was withdrawn because he married his wife in Iran under Islamic law. The court ruled that a change of circumstances does not necessarily have to refer to an objective change in the situation in the country of origin, but this can also mean a significant and lasting change in the individual circumstances of the beneficiary.



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