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3.2.2.3. Interpreting definitions in the Dublin III Regulation

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The Court of the Hague referred questions to the CJEU for a preliminary ruling in 2021, inquiring whether the interests of an unborn child should be taken into account when deciding on the Member State responsible for an asylum application.[329]The CJEU found that the dependency link mentioned under the Dublin III Regulation, Article 16(1) does not cover the link between an applicant for international protection and their spouse who is legally resident in the Member State where the application was lodged, nor the link between the unborn child and the applicant's spouse (the father of the child) (*see Sections 2.5 and 4.6*).

Ruling on another referral from the Dutch Council of State,[330]the CJEU held that diplomatic cards issued under the Vienna Convention on Diplomatic Relations are regarded as residence documents under the Dublin III Regulation. The court underlined that the issuance of a diplomatic card reflects the Member State's acceptance of a person's stay on its territory. In addition, the regulation does not exclude persons with a legal status governed by the Vienna Convention from the scope of its application (*see Section 2.5*).

The Polish Supreme Court examined whether the provisional document issued to an applicant by Italian authorities in connection with an international protection procedure could be regarded as a residence document within the Dublin III Regulation. It concluded that the document was issued to prove an application, and thus, it was not a residence permit.

- [329]European Union Agency for Asylum. (2022). *Asylum Report 2022*.
- [330]European Union Agency for Asylum. (2022). *Asylum Report 2022*.

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