Please cite as: EUAA, 'Box 5. Case law related to secondary movements in 2023' in *Asylum Report 2024*, Giugno 2024.

Box 5. Case law related to secondary movements in 2023

Box 5. Case law related to secondary movements in 2023

CJEU

Box 5. Case law related to secondary movements in 2023

The Dutch Council of State referred questions to the CJEU for a preliminary ruling in August 2023 on the processing of applications lodged by persons who had received international protection in another Member State but cannot be transferred back due to a risk of inhuman or degrading treatment. On a similar issue, the CJEU Advocate General Medina's opinion, issued on 25 January 2024, held that Member States are not bound to recognise refugee status granted in another Member State if the person cannot be returned to that Member State due to a risk of inhuman or degrading treatment.385

National courts

The National Court of Asylum (CNDA) in France examined the necessary elements to determine the existence of international protection obtained in another Member State. It held that, in the absence of an official document from the authorities of the Member State who granted protection, the existence of such protection can be ascertained on the basis of consistent evidence from the case file and comparing the applicant's fingerprints taken at the time of submitting his application in France (in accordance with Article 9(1) of the Dublin III Regulation) with those taken previously in another Member State. The court further added that the applicant's statements on the granting of international protection must also be considered. In the individual case, the CNDA concluded that there were no systematic and general deficiencies in Hungary that would reach the particularly high level of severity in the reception of applicants and beneficiaries of protection, although there were difficulties with the integration of refugees due to language barriers, lack of interpreters, access to accommodation, a lack of integration programmes for employment and a lack of coordination between state authorities.

The Dutch Council of State ruled on the risk of indirect *refoulement* when returning Syrian nationals to Denmark. The Council of State held in September 2023 that an obvious and fundamental difference in protection policies no longer existed between the Netherlands and Denmark for this profile of applicants.

Furthermore, the Court of the Hague seated in Groningen dismissed an Eritrean national's appeal who had been granted subsidiary protection in Poland, as it considered that her rights would be guaranteed by Poland in accordance with the interstate principle of mutual trust. The same court rejected an appeal from a Syrian national who claimed that he would be at risk of inhuman or degrading treatment in Bulgaria where he held subsidiary protection. The Council of State confirmed this approach in general for persons with refugee status in Bulgaria.

- 385Court of Justice of the European Union. (2024, January 25). *Advocate General Medina: Member States are not bound to recognise refugee status granted in another Member State* [Press release].

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