

2.3. Complementing the legislative framework

2.3. Complementing the legislative framework

Section 4.4.2 Legislation changes

In an effort to deliver some elements of the Asylum Procedure Regulation (APR) at an early stage, the European Commission presented two proposals on the concepts of safe countries of origin and safe third countries in April and May 2025. The first proposal aimed to frontload APR provisions according to which applications for international protection from nationals of countries with an EU-wide recognition rate of 20% or lower can be processed under the accelerated or border procedure. The proposal also suggested that safe countries of origin and safe third countries can be designated with exceptions, thus providing Member States with flexibility to nuance their designations by excluding certain regions or certain categories of people. The European Commission proposed to establish the first EU list of safe countries of origin. This includes Bangladesh, Colombia, Egypt, India, Kosovo,ii Morocco and Tunisia. The EU accession candidate countries are included in the EU list, provided that the following three criteria are satisfied: there is no situation of international or internal armed conflict, no restrictive measures affecting fundamental rights and freedom, and the recognition rate for asylum claims by nationals of these countries is not higher than 20% across the EU. The list can be expanded or reviewed over time.28 The overall intention is to enable Member States to process applications faster and more efficiently for persons whose claims are likely to be unfounded.

The second proposal put forth by the European Commission concerned a revision of the APR with regard to the application of the safe third country concept.29 The concept allows determining authorities to consider an application for international protection as inadmissible when applicants can receive effective protection in a third country that is safe for them. With the intention of accelerating asylum procedures and reducing pressure on asylum systems, while maintaining legal safeguards for applicants, the European Commission proposed the following changes in the application of the concept:

- A connection between the applicant and the safe third country would no longer be a mandatory criterion under EU law;

- Transit through a safe third country before arriving to the EU can be considered a sufficient link between the applicant and that country, so the safe country concept could be applied;

- When there is no connection with or transit through a safe third country, the concept could still be applied if there is an agreement or particular arrangement with a safe third country. It must be ensured that the request for protection is effectively examined in that country and applicants have access to protection. This option does not apply to unaccompanied minors;

- An appeal against an inadmissibility decision issued on the basis of the safe third country concept will no longer have an automatic suspensive effect. This last change aims to reduce procedural delays and prevent abuse.[30]

According to the proposal, the best interests of the child shall be a primary consideration in the application of these provisions. In addition, prior to concluding an agreement or arrangement with a safe third country, Member States shall inform the European Commission and other Member States. On 8 December 2025, the EU Council reached general agreement on the proposal to amend the APR to apply the safe third country concept and establish an EU-wide list of safe countries of origin.[31] Soon after, provisional political agreement was reached between the Council and the European Parliament.[32] In February 2026, the European Parliament greenlighted the new rules,[33] and the Council formally adopted the first EU-wide list of safe countries of origin and revised the safe third country concept.[34] On 26 February 2026, Regulation 2026/464 was published, amending the APR by establishing a list of safe countries of origin at the EU level.[35]

Reflecting on the proposal, UNHCR stressed that enhanced safeguards must be applied when transferring asylum seekers to a safe third country and highlighted the importance of legally binding, public agreements with third countries, outlining state responsibilities for the protection of those who are transferred. UNHCR expressed concern about the removal of the automatic suspensive effect for an appeal of an admissibility decision on the basis of the safe third country concept, as it could entail the risk of applicants being removed without having their cases fully examined. The organisation also highlighted the complexity of transferring third-country nationals to countries where they have no connections and warned against using the concept to avoid the responsibility of providing protection on Member State territory.[36]

Similarly, the European Council of Refugees and Exiles (ECRE) offered its commentary on the two proposals. ECRE expressed concerns, for example, about respect for fundamental rights and the possibility of applicants who are not transferred to third countries going through long periods of legal uncertainty and limbo at European borders.[37]

To complete and complement the legislative framework of the Pact, in March 2025 the European Commission proposed to modernise European policy on returns through a new Common European System for Returns.[38] The regulation proposed by the European Commission foresees common procedures in Member States to issue return decisions and a single European Return

Order, which will foster uniformity, transparency and coordination. Member States will be able to recognise return decisions issued by other Member States and directly enforce them without having to start a new process. Forced returns will be mandatory for people staying illegally in the EU and who do not cooperate with authorities or pose a security risk. According to the proposal, being presented with clear consequences in the event of non-cooperation, returnees will be offered incentives to cooperate, including through receiving support for a voluntary return.

The proposal introduces rules to limit abuse of the system and reduce absconding, including through regular reporting, the obligation to reside in a designated place or detention. Stricter rules are also introduced for people posing security risks, including mandatory forced return, longer entry bans and separate detention grounds. To close the gap between the issuance of a return decision and its actual implementation to a third country, return decisions will be followed up with a readmission request. Importantly, the proposal introduces the possibility of returning persons who have received a final return decision to a third country on the basis of an agreement either bilaterally or at the EU level. Such arrangements can be concluded with third countries that respect international human rights standards and principles, while monitoring mechanisms will be in place to ensure that the necessary safeguards are respected.39 In December 2025, the Council finalised its position on the proposed regulation, while in March 2026, the European Parliament adopted its position on the proposed changes and the trialogue ensued.40

Earlier in the year, in February 2025 FRA issued a Position Paper on the creation of return hubs in non-EU countries. Considering the risks for fundamental rights which are associated with operating return hubs in practice, the FRA legal analysis presented the agency’s initial position on the pre-conditions that would need to be met to fulfil fundamental rights requirements of the Charter of Fundamental Rights of the EU.41 Following the publication of the European Commission’s proposal, a number of civil society and international organisations issued a joint open letter in September 2025 and raised concerns about the restrictive measures and the emphasis on coercion in the framework for returns.42 Points of concern included the possibility of third-country nationals being left in legal limbo without access to essential services, with possible implications on their fundamental rights.43

In June 2025, ECRE published a detailed commentary with concerns about the regulation’s implications on fundamental rights.44 Similarly, following the EU Council discussion on the proposal in December 2025, a number of organisations issued a joint statement characterising the updated proposal as "a severe and unprecedented deterioration of safeguards, legal protections and fundamental rights standards within EU return policy and the broader legislative framework".45

CJEU jurisprudence in 2025

In its role to ensure a harmonised interpretation and application of EU law, in 2025 the Court of Justice of the European Union (CJEU) issued approximately 20 judgments interpreting various provisions of CEAS. This was a similar number to 2024. In 2025, the topics addressed by the court related to:

- Accountability of Frontex for pushbacks carried out in operational activities
- Dublin procedure
- Detention measures
- Safe country concepts
- The possibility to extend the time limit to process applications for international protection due to a rapid and significant increase in the number of applications
- Membership of a particular social group for those involved in blood feudsSubsidiary protection claimed due to an alleged breach of private life as a result of removal from the host Member State
- Exclusion from international protection due to the commission of a serious nonpolitical crime
- Revocation or refusal of refugee protection based on reasonable grounds of being a threat to national security
- Covering basic needs in times of unforeseeable inflows of applicants for international protection
- Withdrawal of material reception conditions when transfer to another accommodation centre is refused by the applicant
- Right to an effective remedy
- Mandatory civic integration programmes
- Rectification of gender identity data for applicants
- Temporary protection
- Return following a negative asylum decision.

For more information, see Jurisprudence related to Asylum Pronounced by the Court of Justice of the EU in 2025, Fact Sheet No 42.

- ii

  This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

- 28

  European Commission. (16 April 2025). Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2024/1348 as regards the establishment of a list of safe countries of origin at Union level. COM/2025/186 final.

- 29

  European Commission. (20 May 2025). Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2024/1348 as regards the application of the ‘safe third country’ concept. COM/2025/259 final.

- 30

  European Commission. (20 May 2025). Commission proposes to facilitate the application of the safe third country concept.

- 31

  European Commission. (9 December 2025). Justice and Home Affairs Ministers agree position on key migration laws and security policies.

- 32

  European Commission. (19 December 2025). Commission welcomes political agreement on first EU list of safe countries of origin and new rules to facilitate the application of the safe third country concept.

- 33

  European Parliament. (10 February 2026). Asylum: New rules for safe third countries and EU safe countries of origin list.

- 34

  Council of the European Union. (23 February 2026). Council gives final greenlight to measures to make the EU's asylum system more efficient and robust.

- 35

  European Commission. (26 February 2026). Regulation (EU) 2026/464 of the European Parliament and of the Council of 24 February 2026 amending Regulation (EU) 2024/1348 as regards the establishment of a list of safe countries of origin at Union level.

- 36

  United Nations High Commissioner for Refugees (UNHCR). (12 June 2025). UNHCR calls for stronger safeguards in EU proposal on asylum transfers to third countries. Press release.

- 37

  European Council on Refugees and Exiles (ECRE). (July 2025). Creating more "safe" countries and frontloading the Pact: ECRE's analysis of the proposed amendments to the Asylum Procedure Regulation covering safe countries of origin, frontloading the Pact and safe third countries, and the politics behind the measures. Policy Paper 15.

- 38

  European Commission. (11 March 2025). New Common European System for Returns.

- 39

  European Commission. (11 March 2025). Commission proposes a new Common European System for Returns; European Commission. (March 2025). A New Common European System for Return.

- 40

Council of the European Union. (8 December 2025). Council clinches deal on EU law about returns of illegally staying third-country nationals. European Parliament. (9 March 2026). Migration: The Civil Liberties Committee adopts a reform of EU return rules. Press Release. European Parliament. (26 March 2026). Returns regulation: MEPs ready to start negotiations.

- 41

  EU Agency for Fundamental Rights (FRA). (6 February 2025). Planned returns hubs in third countries: EU fundamental rights law issues.

- 42

  Picum. (15 September 2025). Over 250 Organisations: Inhumane Deportation Rules Should be Rejected.

- 43

  European Council on Refugees and Exiles (ECRE). (2025). Towards a point of no return for fundamental rights? The EC's proposal for a Return Regulation. Policy Note No 50.

- 44

  European Council on Refugees and Exiles (ECRE). (June 2025). ECRE comments on the proposal for a regulation of the European Parliament and of the Council establishing a common system for the return of third-country national staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC.

- 45

  European Council on Refugees and Exiles (ECRE). (December 2025). Joint Civil Society Statement on the Council's position on the Return Regulation Proposal.

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