

# Introduction

The exclusion clauses under EU asylum law operate as a fundamental safeguard of the integrity of the international protection system, ensuring that its benefits are not extended to individuals who have committed serious crimes or acts that are incompatible with the values that underpin the system. Articles 12 and 17 of the recast Qualification Directive (QD) and the Qualification Regulation (QR), which are closely modelled on Article 1F of the 1951 Refugee Convention, provide the legal basis for excluding persons from refugee status and subsidiary protection, respectively. In particular, Articles 12(2) and 17(1) cover the grounds under which someone is rendered undeserving of international protection, including crimes against peace, war crimes and crimes against humanity; serious (non-political) crimes; acts contrary to the purposes and principles of the United Nations; and, in the context of subsidiary protection, a danger to the community or the security of the Member State. Article 12(1), which covers the grounds under which a person is not in need of protection, falls outside of the scope of this report.

This report analyses the jurisprudence of courts and tribunals across EU Member States and associated countries of Iceland, Norway and Switzerland (EU+ countries) in interpreting and applying these exclusion grounds to applicants for international protection. It sets out the standard-setting rulings issued by the Court of Justice of the European Union (CJEU) on exclusion since 2010, and draws on a wide range of national case law sourced from the EUAA Case Law Database, covering the period 2020–2026. It supplements these with guidance issued by the EUAA and the United Nations High Commissioner for Refugees (UNHCR).

Due to the recent entry into application of the QR, the case law highlighted in this report interprets the equivalent provisions provided for in the recast QD. Its primary aim is to map how courts have interpreted the relevant provisions, present the extent to which their approaches have been harmonised in line with the standard-setting judgments of the CJEU, and identify areas of persistent divergence and challenges. In doing so, the report provides an overview of how national courts have operationalised the exclusion framework in concrete cases within the international protection system and presents the relevant international legal instruments that define the material elements of each ground.

The analysis is structured around the sequential steps of an exclusion assessment: first, the material assessment of whether the act in question falls within the scope of an exclusion ground (Sections 2-4); second, the assessment of individual responsibility, including the different modes of participation recognised under international criminal law and the consideration of mitigating factors and grounds that may negate or reduce individual responsibility (Sections 5-6); and third, the relevance of post-offence considerations in the exclusion assessment, such as the passage of time since the excludable act occurred, whether a sentence has been served or whether the

applicant has demonstrated remorse (Section 7).

This report is intended to serve as a practical reference tool for decision-makers, legal practitioners and courts involved in the examination of asylum applications in which exclusion may be relevant. It does not aim to be exhaustive or prescriptive as to the outcome in any individual case, but rather to elucidate the analytical frameworks, evidentiary standards and interpretive approaches that have been applied across EU+ jurisdictions, with a view to supporting harmonised decision-making within the Common European Asylum System (CEAS).

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