

4.3.1. Group membership or association

Membership in a group, even one that may be classified as a terrorist organisation, or the commission of past serious human rights violations, does not automatically justify exclusion based on this ground.

This requirement was underlined by the CJEU in *XXX*, where it ruled that a Member State must duly justify its decision on this ground. National courts have overturned decisions when the asylum authority has failed to justify its decision with sufficient reasoning and relied solely on an applicant's membership of a group or a past episode when the applicant committed an excludable act. This is illustrated by the Administrative Court in Bratislava in Slovakia in *A.B. v Ministry of the Interior, Migration Department, Slovakia* (7 May 2025). The court referred to the aforementioned ruling of the CJEU and found that the determining authority had incorrectly based the application of Article 17(1)(d) on the sole fact of the applicant's membership of a banned political party in Russia, without assessing the nature of the party or specifying how the applicant poses an actual, and not potential, danger to society. It concluded that the danger the applicant represents for society must be present and sufficiently serious for his exclusion from international protection to be proportionate.

Similarly, case law from the French Council of State demonstrates that an applicant's sympathy on the Internet towards armed groups or terrorist groups is not sufficient in itself to conclude that the applicant constitutes a danger to the community or the security of a Member State. In *Applicant v OFPRA* (2 March 2020) concerning an applicants who expressed sympathy to jihadists and other armed groups opposing the Syrian regime, the council held that personal opinions may be taken into account, but this factor is not decisive. More importance is attributed to whether the applicant had any alerts or surveillance measures against him. As these elements were absent in the applicant's case, he could not be considered to constitute a serious threat to public order, public security or state security, within the meaning of Article L. 712-2 of the Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA). The case thus illustrates that online expression and association, without further evidence of active participation or a concrete link to dangerous conduct, falls short of the threshold required under Article 17(1)(d).

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