

7. Post-offence considerations

Provisions related to exclusion from international protection concern acts that an applicant has committed. However, none of the legal instruments address the question of what weight, if any, should be given to developments occurring after the excludable conduct. Whether an applicant has served a custodial sentence, whether a significant period has elapsed since the offence or whether genuine remorse has been expressed are matters on which the legislative framework is silent. Until recently, that silence was broadly interpreted by national courts as rendering such considerations irrelevant to the exclusion assessment.

EUAA and UNHCR guidance have long held that such factors may be relevant to the assessment of whether the exclusion clauses apply. According to their guidance, relevant post-offence considerations may include whether the applicant has served the sentence, their conduct since the crime, the expression of remorse, whether they have made reparation or assumed responsibility for the act, the passage of time since the criminal conduct, and whether the applicant has benefited from an amnesty or pardon. Both the EUAA Practical Guide on Exclusion from International Protection (September 2026) and the UNHCR Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees caution, however, that the weight to be given to these factors diminishes as the seriousness of the excludable act increases, and some crimes are so grave that post-offence considerations cannot justify the non-application of the exclusion clauses.

That position has been confirmed by the CJEU's ruling in *K. L.* v *Migration Department at the Ministry of the Interior of the Republic of Lithuania [Galte]* (C-63/24, 30 April 2025), when it held for the first time that post-offence considerations must be taken into account in the exclusion assessment. The ruling represents a meaningful evolution in the applicable legal framework, establishing that the exclusion assessment is not a purely retrospective exercise fixed at the moment the crime was committed, but one that must consider the applicant's circumstances at the time the asylum decision is taken.

Sections 7.1 and 7.2 examine the CJEU's reasoning in *Galte* and the manner in which national courts have begun to respond to the ruling.

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