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This Factsheet does not bind the Court and is not exhaustive

# Collective expulsions

## Article 4 of Protocol No. 4: prohibition of collective expulsion of aliens

**“Collective expulsion” = any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group.**

## Violations of Article 4 of Protocol No. 4

The Court has found violations of Article 4 of Protocol No. 4 in two cases:

- [Čonka v. Belgium](#) 05.02.2002

**Violation of Article 4 of Protocol No. 4:** An expulsion procedure (against Slovakian nationals of Roma origin) had not afforded sufficient guarantees demonstrating that the personal circumstances of each of those concerned had been genuinely and individually taken into account. In the Court’s view, the procedure followed did not enable it to eliminate all doubt that the expulsion might have been collective, that doubt being reinforced by several factors: the political authorities had previously given instructions to the relevant authority for the implementation of operations of that kind; all the aliens concerned had been required to attend the police station at the same time; the orders served on them requiring them to leave the territory and for their arrest were couched in identical terms; it was very difficult for the aliens to contact a lawyer; the asylum procedure had not been completed.

- [Hirsi Jamaa and Others v. Italy](#)  
Grand Chamber Judgment 23.02.2012

The case concerned Somalian and Eritrean migrants travelling from Libya who had been intercepted at sea by the Italian authorities and sent back to Libya.

The Court found that the applicants had fallen within the jurisdiction of Italy for the purposes of Article 1 of the Convention: in the period between boarding the ships and being handed over to the Libyan authorities, the applicants had been under the continuous and exclusive de jure and de facto control of the Italian authorities.

The Court **was required, for the first time, to examine whether Article 4 of Protocol No. 4 applied to a case involving the removal of aliens to a third State carried out outside national territory.** The Court observed that the notion of expulsion, like the concept of “jurisdiction”, was clearly principally territorial but found that where a State had, exceptionally, exercised its jurisdiction outside its national

territory - the Court found that the applicants in this case had fallen within the jurisdiction of Italy -, it could accept that the exercise of extraterritorial jurisdiction by that State had taken the form of collective expulsion. The transfer of the applicants to Libya had been carried out without any examination of each individual situation. The Italian authorities had merely embarked the applicants and then disembarked them in Libya. The Court concluded that [the removal of the applicants had been of a collective nature, in breach of Article 4 of Protocol No. 4.](#)

The Court also held that there had been:

[two violations of Article 3](#) (prohibition of inhuman or degrading treatment) because the applicants had been exposed to the risk of ill-treatment in Libya and of repatriation to Somalia or Eritrea. The Court found that by transferring the applicants to Libya the Italian authorities had, in full knowledge of the facts, exposed them to treatment proscribed by the Convention and that when the applicants were transferred to Libya, the Italian authorities had known or should have known that there were insufficient guarantees protecting them from the risk of being arbitrarily returned to their countries of origin.

[a violation of Article 13](#) (right to an effective remedy) [taken in conjunction with Article 3](#) because the applicants had been unable to lodge their complaints with a competent authority and to obtain a thorough and rigorous assessment of their requests before the removal measure was enforced.

[a violation of Article 13 taken in conjunction with Article 4 of Protocol No.4](#) because the remedy under the criminal law against the military personnel on board the ship did not satisfy the criterion of suspensive effect.

## Other cases

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### [Becker v. Denmark](#) 03.10.1975

The applicant, who was a journalist and the director of a body called "Project Children's Protection and Security International" alleged that the return to Vietnam of 199 Vietnamese children received in Denmark would represent, if carried out, a violation of Article 4 of Protocol No. 4.

[Declared inadmissible:](#) as Denmark had agreed to a case-by-case examination and, as it was in the interest of some of the children to be repatriated rather than to remain, there was no longer a collective expulsion issue.

### [Sultani v. France](#) 20.09.2007

[No violation of Article 4 of Protocol No. 4:](#) The authorities, in their decision to reject asylum applications, had taken into consideration not only the overall context in Afghanistan but also the applicant's statements about his personal situation and the alleged risks for him in the event of his return. His situation had thus been examined individually and had provided sufficient grounds for his removal.

### [Pending cases in which the applicants allege violations of Article 4 of Protocol No. 4](#)

In these cases the applicants also allege that they would risk treatment contrary to Article 3 of the Convention (prohibition of inhuman or degrading treatment) if they are returned

F.Z. v. France and Greece (lodged on 11.01.2010) [Statement of facts in French](#): Afghan national complaining about his collective expulsion from France.

Alisina Sharifi and Others v. Italy and Greece (lodged on 25.03.2009) [Statement of facts in French](#): 35 applicants (32 Afghan nationals, 2 Sudanese nationals, 1 Eritrean national) were intercepted in various Italian ports by the border police, which allegedly returned them immediately to Greece. They complain, among other things, about their collective expulsion from Italy.

See also Factsheet on *Dublin cases and Expulsions and extraditions*.

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