October 2024
This Factsheet does not bind the Court and is not exhaustive

Collective expulsions of aliens

Article 4 (prohibition of collective expulsion of aliens) of Protocol No. 4 to the European Convention on Human Rights: "Collective expulsion of aliens is prohibited".

"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.

Cases pending[1] before the Grand Chamber of the Court

C.O.C.G. and Others v. Lithuania (application no. 17764/22)

Relinquishment of jurisdiction in favour of the Grand Chamber in April 2024

This case concerns four Cuban nationals and their repeated attempts in March and April 2022 to enter Lithuania by crossing the border with Belarus. They submit that on each attempt Lithuanian border guards pushed them back, at gunpoint, into Belarusian territory, without giving them an opportunity to submit asylum applications. They eventually entered Lithuania on 13 April 2022 and were apprehended. The applicants make a number of complaints about the alleged summary returns ("pushbacks"). They submit, in particular, that these summary returns, without an examination of each applicant's individual situation and without them having genuine and effective access to means of legal entry, amounted to collective expulsion.

On 8 April 2022, at the same time as the granting of an interim measure under Rule 39 of the Rules of Court, the Chamber to which the case had been allocated decided to give the case priority under Rule 41 of the Rules of the Court.

On 4 May 2022 the Court lifted the interim measure which had been granted on 8 April 2022.

On 2 December 2022 the Lithuanian Government was given notice of the application, with questions from the Court under, inter alia, Article 4 of Protocol No. 4 to the Convention.

The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 16 April 2024.

The Grand Chamber will hold a hearing in the case on 12 February 2025.

R.A. and Others v. Poland (no. 42120/21)

Relinquishment of jurisdiction in favour of the Grand Chamber in June 2024

This case concerns a group of 32 Afghan nationals who claim to have fled Afghanistan after the Taliban came to power. They were left stranded in a makeshift camp on the border between Belarus and Poland from 8 August until 23 October 2021. The applicants complain, in particular, that they have been subjected to a collective expulsion and that no effective remedy has been available to them. They also submit being deprived by the Polish authorities of access to asylum procedures and exposed to the risk, if returned to Afghanistan, of treatment in breach of the Convention and, if sent to Belarus, of chain

[1]. There are currently over 30 cases pending before the Court against Lithuania, Latvia and Poland concerning the situation at the Belarusian borders from spring 2021 to summer 2023.

refoulement. They further complain about their material and sanitary conditions, as well as of the failure by Poland to apply interim measures indicated by the Court.
On 25 August 2021 the Court, granting the request for an interim measure, indicated to the Polish Government to provide the applicants with food, water, clothing, adequate medical care and, if possible, temporary shelter. It also clarified that the interim measure should not be understood as requiring that Poland let the applicants enter its territory.
On 27 September 2021 the Court extended the interim measure and gave notice to the Polish Government of the application, with questions from the Court. The Court also decided to give priority to this application under Rule 41 of the Rules of Court. In addition, the Court indicated two new measures to the Government under Rule 39, asking them (i) to allow the applicants' lawyers to make necessary contact with them, for the purpose of the proceedings before the Court; and (ii) not to send the applicants to Belarus, provided that they were actually on Polish territory.
The Chamber of the Court to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 25 June 2024.
The Grand Chamber will hold a hearing in the case on 12 February 2025.

H.M.M. and Others v. Latvia (no. 42165/21)

Relinquishment of jurisdiction in favour of the Grand Chamber in July 2024

This case concerns alleged "pushbacks" in the vicinity of the Latvian-Belarusian border starting from 10 August 2021. The applicants, 26 Iraqi nationals of Kurdish origin, complain in particular that they were returned to the Latvian-Belarusian border zone without their asylum claims being registered and reviewed by the Latvian authorities and that they suffered frequent "pushbacks" from Latvia to Belarus, which is not a safe third country. They also allege that they did not have access to basic amenities such as food, water, shelter, or medical assistance when stranded in the forest near the Latvian-Belarusian border and that those who were taken to the tent were kept in inadequate conditions.
On 3 May 2022, the Latvian Government was given notice of the application, with questions from the Court.
The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 2 July 2024.
The Grand Chamber will hold a hearing in the case on 12 February 2025.

Cases in which the Court found a violation of Article 4 of Protocol No. 4 to the Convention

Čonka v. Belgium

5 February 2002 (Chamber judgment)

The applicants, Slovakian nationals of Romany origin, said that they had fled from Slovakia where they had been subjected to racist assaults with the police refusing to intervene. They had been arrested with a view to their expulsion after they had been summoned to complete their asylum requests. The applicants complained, in particular, about the circumstances of their arrest and expulsion to Slovakia.
The Court held that there had been a **violation of Article 4 of Protocol No. 4** to the Convention, noting in particular that the expulsion procedure 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' 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.
In this case the Court also found a violation of **Article 5 §§ 1** (right to liberty and security) **and 4** (right to take proceedings by which lawfulness of detention shall be decided) of the Convention, and a **violation of Article 13** (right to an effective remedy) of the Convention **taken in conjunction with Article 4 of Protocol No. 4**. It further held that there had been **no violation of Article 5 § 2** (right to be informed of the reasons for arrest) and **no violation of Article 13** (right to an effective remedy) **taken in conjunction with Article 3** (prohibition of inhuman or degrading treatment) of the Convention.

Hirsi Jamaa and Others v. Italy

23 February 2012 (Grand Chamber judgment)
This 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 applicants complained in particular that they had been subjected to collective expulsion prohibited by Article 4 of Protocol No. 4 to the Convention. They also submitted that they had had no effective remedy in Italy in that respect.
The Court found that **the applicants had fallen within the jurisdiction** of Italy **for the purposes of Article 1** (obligation respect human rights) 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.
In this case the Court was **required**, **for the first time**, **to examine whether Article 4 of Protocol No. 4** to the Convention **applied to a case involving the removal of aliens to a third State carried out outside national territory**. It observed in particular 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, it could accept that the exercise of extraterritorial jurisdiction by that State had taken the form of collective expulsion. The Court also noted that the transfer of the applicants to Libya had been carried out without any examination of each individual situation, as the Italian authorities had merely embarked the applicants and then disembarked them in Libya. It therefore concluded that the removal of the applicants had been of a collective nature, **in breach of Article 4 of Protocol No. 4**.
In this case the Court also found a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention because the applicants had been exposed to the risk of ill-treatment in Libya and of repatriation to Somalia or Eritrea. It lastly found a **violation of Article 13** (right to an effective remedy) of the Convention **taken in conjunction with Article 3** of the Convention **and with Article 4 of Protocol No. 4**, 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, and because the remedy under the criminal law against the military personnel on board the ship did not satisfy the criterion of suspensive effect.

Georgia v. Russia (I)[2]

3 July 2014 (Grand Chamber judgment)
This case essentially concerned the alleged existence of an administrative practice involving the arrest, detention and collective expulsion of Georgian nationals from the Russian Federation in the autumn of 2006.
The Court held in particular that there had been a **violation of Article 4 of Protocol No. 4** to the Convention, finding that the expulsions of Georgian nationals during the period in question had amounted to an administrative practice in breach of that Article.

[2]. On 16 September 2022 the Russian Federation ceased to be a Party to the European Convention on Human Rights ("the Convention").

The Court pointed out that Article 4 of Protocol No. 4 was applicable, irrespective of the question of whether the Georgian nationals in this case had been lawfully resident or not, given that that Article did not only refer to those lawfully residing within the territory of a State.
As regards the question of whether the expulsion measures had been taken following, and on the basis of, a reasonable and objective examination of the particular situation of each of the Georgian nationals, the Court took note of the concordant description given by the Georgian witnesses and international governmental and non-governmental organisations of the summary procedures conducted before the Russian courts. It observed in particular that, according to the Parliamentary Assembly of the Council of Europe Monitoring Committee, the expulsions had followed a recurrent pattern all over the country and that in their reports the international organisations had referred to coordination between the administrative and judicial authorities.
During the period in question the Russian courts had made thousands of expulsion orders expelling Georgian nationals. Even though, formally speaking, a court decision had been made in respect of each Georgian national, the Court considered that the conduct of the expulsion procedures during that period, after the circulars and instructions had been issued, and in view of the high number of Georgian nationals expelled – from October 2006 – had made it impossible to carry out a reasonable and objective examination of the particular case of each individual.
While every State had the right to establish their own immigration policy, concluded the Court, it had to be underlined that problems with managing migration flows could not justify practices incompatible with the State's obligations under the Convention.

See also: **Berdzenishvili and Others v. Russia** and **Shioshvili and Others v. Russia**, judgments (Chamber) of 20 December 2016[3].

Sharifi and Others v. Italy and Greece

21 October 2014 (Chamber judgment)

This case concerned 32 Afghan nationals, two Sudanese nationals and one Eritrean national, who alleged, in particular that they had entered Italy illegally from Greece and been returned to that country immediately, with the fear of subsequent deportation to their respective countries of origin, where they faced the risk of death, torture or inhuman or degrading treatment. They also submitted, with regard to Italy, that they had been subjected to indiscriminate collective expulsion.
The Court held that there had been a **violation** by Italy **of Article 4 of Protocol No. 4** to the Convention concerning the four applicants who had maintained regular contact with their lawyer in the proceedings before the Court[4], considering that the measures to which they had been subjected in the port of Ancona had amounted to collective and indiscriminate expulsions. It also held, concerning the four same applicants, that there had been a **violation** by Italy **of Article 13** (right to an effective remedy) **combined with Article 3** (prohibition of inhuman or degrading treatment) of the Convention **and Article 4 of Protocol No. 4** on account of the lack of access to the asylum procedure or to any other remedy in the port of Ancona. It further held that there had been a **violation** by Greece **of Article 13 combined with Article 3** on account of the lack of access to the asylum procedure for them and the risk of deportation to Afghanistan, where they were likely to be subjected to ill-treatment, and a **violation** by Italy **of Article 3**, as the Italian authorities, by returning these applicants to Greece, had exposed them to the risks arising from the shortcomings in that country's asylum procedure.
In this case, the Court held, in particular, that it shared the concerns of several observers with regard to the automatic return, implemented by the Italian border authorities in the ports of the Adriatic Sea, of persons who, in the majority of cases,

[3]. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.
[4]. In respect of the 31 other applicants, the Court struck the application out of its list of cases, pursuant to Article 37 (striking out applications) of the European Convention on Human Rights.

were handed over to ferry captains with a view to being removed to Greece, thus depriving them of any procedural and substantive rights.
In addition, the Court reiterated that the "Dublin" system[5] – which serves to determine which European Union Member State is responsible for examining an asylum application lodged in one of the Member States by a third-country national – must be applied in a manner compatible with the Convention: no form of collective and indiscriminate returns could be justified by reference to that system, and it was for the State carrying out the return to ensure that the destination country offered sufficient guarantees in the application of its asylum policy to prevent the person concerned being removed to his country of origin without an assessment of the risks faced.

Moustahi v. France

25 June 2020 (Chamber judgment)
This case concerned the conditions in which two children, apprehended when they unlawfully entered French territory in Mayotte, were placed in administrative detention together with adults, arbitrarily associated with one of them for administrative purposes, and expeditiously returned to the Comoros without a careful and individual examination of their situation. They both claimed in particular to have been subjected to a measure of collective expulsion without any individual examination of their situation. They also submitted that they had not had an effective remedy by which to complain about their removal.
The Court held that the children's expulsion had **breached Article 4 of Protocol No. 4** to the Convention. It noted in particular that, where a child was accompanied by a relative or the like, the requirements of Article 4 of Protocol No. 4 could be met if that adult was in a position to submit, meaningfully and effectively, arguments against the expulsion on behalf of the child. However, the particular circumstances of the case, taken as a whole, led the Court to find that the removal of the children, who were very young (five and three at the time) and were not known to or assisted by any accompanying adult, had been decided and implemented without affording them the safeguard of a reasonable and objective examination of their situation. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention **in conjunction with Article 4 of Protocol No. 4**, finding in particular that the applicants had not had any effective remedies available to them in respect of their complaints under that provision when their removal was being implemented. That failure could not be remedied by the subsequent issuance to them of residence permits. In this case, the Court further held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, in respect of the child applicants, on account of the conditions of their detention and on account of the conditions of their removal to the Comoros, a **violation of Article 5 § 1** (right to liberty and security), a **violation of Article 5 § 4** (right to a speedy decision on the lawfulness of detention), a **violation of Article 8** (right to respect for private and family life), **no violation of Article 13 in conjunction with Article 3** as regards the complaint of a lack of effective remedies against the conditions of removal, and a **violation of Article 13 in conjunction with Article 8**.

M.K. and Others v. Poland (nos. 40503/17, 42902/17 and 43643/17)

23 July 2020 (Chamber judgment)
This case concerned the repeated refusal of Polish border guards on the border with Belarus to admit the applicants, who had come from Chechnya and claimed that they had unsuccessfully attempted to submit applications for international protection at the border numerous times. The applicants complained in particular of being denied access to asylum procedures and of being exposed to a risk of treatment in Chechnya contrary to the Convention. They also complained that they had been subjected to collective expulsion and that they had had no effective remedy under Polish law by which to lodge their complaints.

[5]. See the "Dublin cases" factsheet.

The Court held that there had been a **violation of Article 4 of Protocol No. 4** to the Convention, finding that the decisions refusing the applicants entry to Poland had not been taken with proper regard to their individual situations and had been part of a wider policy of refusing to receive asylum applications from persons presenting at the Polish-Belarusian border and of returning those persons to Belarus. The Court also found a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention on account of having denied the applicants access to the asylum procedure and removing them to Belarus, and a **violation of Article 13** (right to an effective remedy) **in conjunction with Article 3 and in conjunction with Article 4 of Protocol No. 4**, due to the absence of a remedy with automatic suspensive effect. It lastly found that Poland had **failed to discharge** its **obligations under Article 34** (right to individual application) of the Convention: it complied with the interim measures indicated by the Court with significant delay or not at all.

See also: **D.A. and Others v. Poland (no. 51246/17)**, judgment (Chamber) of 8 July 2021; **A.B. and Others v. Poland (no. 42907/17)**, judgment (Chamber) of 30 June 2022; **A.I. and Others v. Poland (no. 39028/17)**, judgment (Chamber) of 30 June 2022; **T.Z. and Others v. Poland (no. 41764/17)**, judgment (Committee) of 13 October 2022.

Shahzad v. Hungary

8 July 2021(Chamber judgment)

This case concerned the entry from Serbia to Hungary, as part of a group, of the applicant, a Pakistani national, and his subsequent summary expulsion by the police. The applicant submitted that his expulsion from Hungary had been part of a collective expulsion, and that he had no remedy for his complaint.

The Court held that there had been a **violation of Article 4 of Protocol No. 4** to the Convention, finding that the applicant had been subject to a "collective" expulsion, as his individual situation had not been ascertained by the authorities, and they had not provided genuine and effective ways to enter Hungary, and his removal had not been a result of his conduct. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention **taken in conjunction with Article 4 of Protocol No. 4**, finding that the applicant had not had an adequate legal remedy available to him.

J.A. and Others v. Italy (no. 21329/18)

30 March 2023 (Chamber judgment)

This case concerned the presence of the applicants, four Tunisian nationals, at the "hotspot" on the Italian island of Lampedusa, where they had been taken having been rescued by an Italian ship in the Mediterranean Sea, and their later removal to Tunisia. The applicants complained, in particular, of allegedly having being deprived of their liberty without a clear decision or without being able to legally challenge that deprivation of liberty, and that their deferred refusal of entry (*respingimento differito*) had amounted

The Court held that there had been **violations of Article 3** (prohibition of inhuman or degrading treatment) **and Article 5 §§ 1, 2 and 4** (right to liberty and security) of the Convention, and a **violation of Article 4 to Protocol No. 4** to the Convention in the present case. It found, in particular, that the Italian Government had failed to rebut the allegations that the conditions at the hotspot had been inadequate; that their presence there was deemed to be detention which had neither been a result of an official order, nor had it been a limited period to clarify their situation or to send them elsewhere, as required by law, and that their situations had not been individually assessed before their being issued with refusal-of-entry orders. The Court noted in particulars that the orders had been formulaic and had contained no individual information as regards the first two applicants. Regarding the second two, they had been unable to obtain copies of the orders from the relevant police headquarters. Given the short period of time following their signing, and the fact that they appeared not to have understood the orders, it was unclear that they had been able to appeal against those decisions.

M.A. and Z.R. v. Cyprus (no. 39090/20)

8 October 2024 (Chamber judgment[6])

This case concerned the interception of Syrian nationals at sea by the Cypriot authorities and their immediate return to Lebanon, where they had already spent four years in a refugee camp after they had fled Syria because of the civil war there, the targeting of civilians and the destruction of their homes. The applicants maintained that they were asylum-seekers and had stated that they wished to seek asylum in Cyprus, whereas the Cypriot Government had treated them as economic migrants. The applicants alleged in particular that the Cypriot authorities had refused to allow them access to an asylum procedure and had returned them to Lebanon as part of a collective measure without examining their asylum claims or their individual circumstances. They also complained that they had not had access to an effective domestic remedy.

The Court concluded that, in the present case, the applicants' expulsion had been of a collective nature, in **breach of Article 4 of Protocol No. 4** to the Convention. It noted, in particular, that there was no doubt that the applicants' removal from Cypriot territorial waters and their forced return to Lebanon had constituted "expulsion" within the meaning of Article 4 of Protocol No. 4. The Court further observed that, other than personal details (names, date of birth, nationality, identity card number) which could have been retrieved from the applicants' identity cards, the Cypriot Government had not provided the Court with any other records specific to each migrant, transcripts of interviews with the applicants, or even copies of the forms which Cyprus would have been required to complete under the terms of the Bilateral Agreement before returning the applicants to Lebanon. There was no record of the applicants' having been informed of their rights or told how to challenge the decision to remove them. It was however clear that the applicants, who had been kept on the boat with the intention of preventing their disembarkation onto Cypriot soil, had not been given access to legal advisers, and that contact with their relatives, through whom they had attempted to obtain legal assistance, had been extremely difficult while at sea. The Court lastly observed the absence of any written decision informing them of the reasons for their return to Lebanon. In the present case, the Court also held that there had been: on account of the applicants' return to Lebanon, a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, and a **violation of Article 13** (right to an effective remedy) of the Convention **read in conjunction with Article 3** of the Convention **and with Article 4 of Protocol No. 4**; and, on account of the applicants' treatment by the Cypriot authorities, a **violation of Article 3** of the Convention.

See also, recently:

M.H. and Others v. Croatia (no. 15670/18)

18 November 2021 (Chamber judgment)

H.K. v. Hungary (no. 18531/17)

22 September 2022 (Committee judgment)

R.N. v. Hungary (no. 71/18)

4 May 2023 (Committee judgment)

S.S. and Others v. Hungary (nos. 56417/19 and 44245/20)

12 October 2023 (Chamber judgment)

K.P. v. Hungary (no. 82479/17)

18 January 2024 (Committee judgment)

[6]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.

Sherov and Others v. Poland (nos. 54029/17 and three others)
4 April 2024 (Chamber judgment)

M.D. and Others v. Hungary (no. 60778/19)
19 September 2024 (Chamber judgment[7])

Cases in which the Court found no violation of Article 4 of Protocol No. 4

Sultani v. France
20 September 2007 (Chamber judgment)
This case concerned the risk of deportation on a collective flight used to deport illegal immigrants. The applicant submitted, in particular, that if he were to return to Afghanistan he ran the risk of being subjected to inhuman and degrading treatment. He complained of the deportation proceedings against him, and in particular of the short time taken by the French Agency for the Protection of Refugees and Stateless Persons (OFPRA) to consider his second asylum application.
The Court held that there would be **no violation of Article 4 of Protocol No. 4** to the Convention **if the deportation decision were to be enforced**. The French authorities, in their decision to refuse the asylum applications, had taken account of both the overall situation in Afghanistan and the applicant's statements. The Court therefore found that the applicant's case had been examined individually and provided sufficient grounds for his deportation. In this case the Court also held that there would be **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention if the applicant were to be deported.

See also: **Ghulami v. France**, decision (Chamber) on the admissibility of 7 April 2009.

M.A. v. Cyprus (no. 41872/10)
23 July 2013 (Chamber judgment)
This case concerned a Syrian Kurd's detention by Cypriot authorities and his intended deportation to Syria after an early morning police operation removing him and other Kurds from Syria from an encampment outside government buildings in Nicosia in protest against the Cypriot Government's asylum policy. The applicant complained in particular that the Cypriot authorities had intended to deport him as part of a collective expulsion operation, without having carried out an individual assessment and examination of his case.
The Court held that there had been **no violation of Article 4 of Protocol No. 4** to the Convention. It noted in particular that it was important that every case concerning deportation was looked at individually and decided on its own particular facts. The fact that the protestors, including the applicant, were taken together to the police headquarters, that some were deported in groups, or that deportation orders and letters were phrased in similar terms and therefore did not specifically refer to earlier stages of respective applications did not make this a collective measure. Each decision to deport a protestor had been based on the conclusion that they were an irregular immigrant following the rejection of his or her asylum claim or the closure of the file, which had been dealt with on an individual basis over a period of more than five years. Consequently, the measures in question did not have the appearance of a collective expulsion.
In this case the Court further held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention **taken together with Articles 2** (right to life) **and 3** (prohibition of inhuman or degrading treatment) of the Convention, a **violation of Article 5 §§ 1** (unlawful detention) **and 4** (effective remedy to challenge lawfulness

[7]. This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention.

of detention) of the Convention, and **no violation of Article 5 § 2** (right to be informed of reasons for arrest and charge) of the Convention.

Khlaifia and Others v. Italy

15 December 2016 (Grand Chamber judgment)

This case concerned the detention in a reception centre on Lampedusa and subsequently on ships moored in Palermo harbour, as well as the repatriation to Tunisia, of clandestine migrants who had landed on the Italian coast in 2011 during the events linked to the "Arab Spring". The applicants submitted in particular that they had been subjected to collective expulsion.

The Grand Chamber held that there had been **no violation of Article 4 of Protocol No. 4** to the Convention. It found in particular that Article 4 of Protocol No. 4 did not guarantee the right to an individual interview in all circumstances. The requirements of that provision were satisfied where each alien had the possibility of raising arguments against his or her expulsion and where those arguments had been examined by the authorities of the respondent State. In the present case, the Grand Chamber concluded that, having been identified on two occasions, and their nationality having been established, the applicants had had a genuine and effective possibility of raising arguments against their expulsion. The Grand Chamber also held that there had been **no violation of Article 13** (right to an effective remedy) of the Convention **combined with Article 4 of Protocol No. 4**, finding that the lack of suspensive effect of a remedy against a removal decision did not in itself constitute a violation of Article 13 where the applicants did not allege a real risk of a violation of the rights guaranteed by Articles 2 (right to life) or 3 (prohibition of torture and inhuman or degrading treatment) of the Convention in the destination country. Lastly, the Grand Chamber held that there had been a **violation of Article 5 § 1** (right to liberty and security) of the Convention, a **violation of Article 5 § 2** (right to be informed promptly of the reasons for deprivation of liberty), a **violation of Article 5 § 4** (right to a speedy decision by a court on the lawfulness of detention), **no violation of Article 3** (prohibition of inhuman or degrading treatment) as regards both the conditions in the Lampedusa early reception and aid centre and the conditions on the ships in Palermo harbour, and a **violation of Article 13** (right to an effective remedy) **taken in conjunction with Article 3** concerning the lack of a remedy by which the applicants could have complained about the conditions in which they were held in the Lampedusa reception centre or on the ships.

N.D. and N.T. v. Spain (nos. 8675/15 and 8697/15)

13 February 2020 (Grand Chamber judgment)

This case concerned the immediate return to Morocco of two nationals of Mali and Côte d'Ivoire who on 13 August 2014 attempted to enter Spanish territory in an unauthorised manner by climbing the fences surrounding the Spanish enclave of Melilla on the North African coast. The applicants maintained that they had been subjected to a collective expulsion without an individual assessment of their circumstances and in the absence of any procedure or legal assistance. They complained of a systematic policy of removing migrants without prior identification, which, in their view, had been devoid of legal basis at the relevant time. They also complained of the lack of an effective remedy with suspensive effect by which to challenge their immediate return to Morocco.

The Grand Chamber held, unanimously, that there had been **no violation of Article 4 of Protocol No. 4** to the Convention. It noted in particular that the applicants had in fact placed themselves in an unlawful situation when they had deliberately attempted to enter Spain on 13 August 2014 by crossing the Melilla border protection structures as part of a large group and at an unauthorised location, taking advantage of the group's large numbers and using force. They had thus chosen not to use the legal procedures which existed in order to enter Spanish territory lawfully. Consequently, the Court found that the lack of individual removal decisions could be attributed to the fact that the applicants – assuming that they had wished to assert rights under the Convention – had not made use of the official entry procedures existing for that purpose, and that it had

thus been a consequence of their own conduct. The Grand Chamber also held that there had been **no violation of Article 13** (right to an effective remedy) of the Convention **taken together with Article 4 of Protocol No. 4**. In this regard, the Court considered that, in so far as it had found that the lack of an individualised procedure for their removal had been the consequence of the applicants' own conduct, it could not hold the respondent State responsible for the lack of a legal remedy in Melilla enabling them to challenge that removal.

See also: **Doumbe Nnabuchi v. Spain**, decision (Committee) on the admissibility of 1 June 2021; **M.B. and R.A. v. Spain (no. 20351/17)**, decision (Committee) on the admissibility of 5 July 2022.

Asady and Others v. Slovakia

24 March 2020 (Chamber judgment)

This case concerned the expulsion of 19 Afghan nationals to Ukraine by the Slovak Border and Foreigners Police.

The Court examined the complaints of only seven of the 19 applicants, striking the case out of its list in respect of the others. It held that there had been **no violation of Article 4 of Protocol No. 4** to the Convention in respect of the seven applicants, finding that the Slovakian police had not subjected them to collective expulsion when they had returned them to Ukraine. The Court considered in particular that despite short interviews at the police station, they had been given a genuine possibility to draw the authorities' attention to any issue which could have affected their status and entitled them to remain in Slovakia. Their removal had not been carried out without any examination of their individual circumstances.

See also, recently:

A.A. and Others v. North Macedonia (nos. 55798/16, 55808/16, 55817/16, 55820/16 and 55823/16)

5 April 2022 (Chamber judgment)

Cases declared inadmissible under Article 4 of Protocol No. 4

Becker v. Denmark

3 October 1975 (decision of the European Commission of Human Rights[8])

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 to the Convention.

The European Commission of Human Rights declared the application **inadmissible** (incompatible *ratione materiae*). Since Denmark had agreed to a case-by-case examination, and since it could be in the interests of some of the children to be repatriated rather than to remain in Denmark, no issue of collective expulsion could arise.

Andric v. Sweden

23 February 1999 (decision (Chamber) on the admissibility)

This case concerned the expulsion to Croatia and Bosnia-Herzegovina of ethnic Croatians from Bosnia-Herzegovina holding both Bosnian and Croatian citizenships. They requested asylum in Sweden after having fled Bosnia-Herzegovina and the immigration authorities decided to deport them to Croatia after rejecting their requests. The applicants

[8] Together with the European Court of Human Rights and the Committee of Ministers of the Council of Europe, the European Commission of Human Rights, which sat in Strasbourg from July 1954 to October 1999, supervised Contracting States' compliance with their obligations under the European Convention on Human Rights. The Commission ceased to exist when the Court became permanent on 1st November 1998.

complained under Article 3 (prohibition of inhuman or degrading treatment) of the Convention and Article 4 of Protocol No. 4 to the Convention.
The Court declared the application **inadmissible** under **Article 4 of Protocol No. 4** to the Convention as being manifestly ill-founded. It observed in particular that the fact that a number of aliens receive similar decisions should not lead to the conclusion that there has been a collective expulsion when each person concerned has been given the opportunity to put arguments against his expulsion to the competent authorities on an individual basis. In the present cases, each applicant had submitted an individual application to the immigration authorities and had been able to present arguments against his deportation to Croatia. The authorities hence had taken into account not only the general situation but also each applicant's background and the risks allegedly facing him upon return. Moreover, in rejecting their applications the authorities had issued individual decisions concerning each applicant's situation.
The Court also declared the complaint under **Article 3** of the Convention **inadmissible**.

Berisha and Haljiti v. "The former Yugoslav Republic of Macedonia"

16 June 2005 (decision (Chamber) on the admissibility)
The applicants are spouses and nationals of Serbia and Montenegro, from the Kosovo province. They are of Roma ethnic origin. They claimed that they were harassed by Albanians from their village on a daily basis, and forced by members of the Kosovo Liberation Army and other villagers to leave their house. They complained that they had been subjected to collective expulsion, contrary to Article 4 (prohibition of collective expulsion of aliens) of Protocol No. 4 to the Convention, since the authorities had issued a single decision for both of them without providing reasonable and objective examination of the particular circumstances of each.
The Court declared the application **inadmissible** as being manifestly ill-founded. The mere fact that the authorities had issued a single decision for both of them, as spouses, was a consequence of their own conduct: they had arrived together to "The former Yugoslav Republic of Macedonia", lodged their asylum request jointly, produced the same evidence and submitted joint appeals. In these circumstances, the applicants' deportation did not reveal any appearance of a collective expulsion.

Dritsas and Others v. Italy

1 February 2011 (decision (Chamber) on the admissibility)
In July 2001 the 46 applicants, all Greek nationals, had boarded a ferry in Patras bound for Ancona and then Genoa, together with some eight hundred Greek nationals belonging to the Greek anti-G8 protest committee, in order to attend the demonstrations against the G8 summit. They alleged in particular that they had been arrested by the police on their arrival in Ancona and eventually forced to return to Patras. Relying in particular on Article 4 (prohibition of collective expulsion of aliens) of Protocol No. 4 to the Convention, they notably argued that their removal had amounted to collective expulsion, as no formal individual decisions had been taken or served on them.
With regard to **Article 4 of Protocol No. 4**, the Court declared the application **inadmissible** as being manifestly ill-founded. Even supposing that the applicants had shown their identity documents to the police initially, the demonstrators in the group of which they had formed part had not complied with two subsequent requests to do so. The documents in question had been requested with a view to drawing up removal orders in respect of the persons concerned, in accordance with the instructions issued to the police by the Interior Ministry. In those circumstances, the respondent Government could in no sense be held responsible for the fact that no individual orders had been issued for the applicants' removal. The Court also declared the applicants' **other complaints inadmissible**.

See also, more recently:

- **Abdi Ahmed and Others v. Malta**, decision (Chamber) on the admissibility of 16 September 2014;

- **Doumbe Nnabuchi v. Spain**, decision (Committee) on the admissibility of 1 June 2021;

- **Zarubin and Others v. Lithuania**, decision (Chamber) on the admissibility of 26 November 2019;

- **M.A. and Others v. Latvia**, decision (Chamber) on the admissibility

Cases struck out of the Court's list of cases insofar as Article 4 of Protocol No. 4 was concerned

Hussun and Others v. Italy

19 January 2010 (strike-out judgment (Chamber))

In 2005 the 84 applicants, who told the Court that they belonged to a group of around 1,200 illegal immigrants, arrived in Italy on board boats coming from Libya, and were placed in temporary reception centres. Deportation orders were issued in respect of a number of the applicants. Some of those concerned were released as they had been held for longer than the maximum period allowed; the others were deported. Relying in particular on Article 4 (prohibition of collective expulsion of aliens) of Protocol No. 4 to the Convention, the applicants notably complained of their collective expulsion as aliens.

In a decision on the admissibility of 11 May 2006, the Court had adjourned examination of the applications concerning the 57 applicants whose whereabouts were unknown and declared admissible, under Articles 2, 3, 13 and 34 of the Convention and Article 4 of Protocol No. 4 to the Convention, those concerning the 14 applicants who had been expelled and, under Article 34 of the Convention only, those of the 13 applicants who had been released.

In its judgment of 19 January 2010, concerning the applicants' complaints under **Articles 2** (right to life), **3** (prohibition of inhuman or degrading treatment), **13** (right to an effective remedy) of the Convention and **4 of Protocol No. 4** to the Convention, as to the group of 14 applicants expelled to Libya, the Court noted that the expulsion order against each one of them had been individually endorsed by a district court following a hearing held in the presence of a lawyer and an interpreter. The Court further noted that the validity of the powers of attorney concerning some of these applicants was open to doubt. As regards the group of 57 applicants whose whereabouts were unknown, at least some of whom seemed to have absconded towards the end of March 2005, the Court noted that according to the graphologist's report the powers of attorney of a large number of them had been written and signed by one and the same person. In any event, the representatives had lost contact with all of the applicants concerned, so the Court was unable to learn any more about the particular situation of each one. In view of all these elements, the Court held that **further examination of the applications** in this respect was **not justified** and they should be **struck out of the list** pursuant to Article 37 § 1 (c) of the Convention.

As to the applicants' complaint under **Article 34** (right of individual petition) of the Convention, the Court found, for the same reasons as above, that **further examination** of the applications in this respect was **not justified** and they should be **struck out of the list** (with the exception of one application: in this case, there was no doubt as to the authenticity of the applicant's power of attorney and he had remained in contact with his counsel – the Court however noted that there was no sign of any conduct on the part of the domestic authorities that might have prevented him from lodging an application with the Court, or rendered his application ineffective and held that there had therefore been no violation of Article 34 of the Convention in his case).

Further readings

See in particular:

- ECHR Knowledge Sharing platform (ECHR-KS), **Article 4 of Protocol No. 4 - Prohibition of collective expulsion of aliens**

Media Contact:
Tel.: +33 (0)3 90 21 42 08