

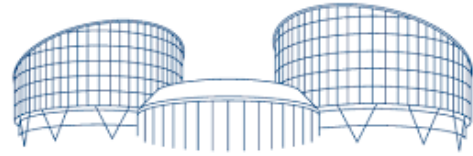
EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME



## SEMINAR

**European Convention on Human Rights and international refugee law  
compliant procedures at state borders  
Jurisprudence of the European Court of Human Rights and measures taken in  
the context of the execution of judgments**

Presentation by Kateřina Šimáčková,  
*Strasbourg, 25 October 2024*



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

# Key principles from the case-law of the European Court of Human Rights on protection against Refoulement under Art. 3 ECHR & Removal to “Safe Third Country”

Kateřina ŠIMÁČKOVÁ, Judge, European Court of Human Rights

25 October 2024



- the principle of subsidiarity and jurisdiction
- key decisions on Article 3 of the European Convention in the context of migration
- gender-based asylum claims and non-refoulement

# JURISDICTION

For the purposes of Article 1 of the Convention

Loizidou v. Turkey

# SUBSIDIARITY

the High Contracting Parties, in accordance with the principle of subsidiarity, have the primary responsibility to secure the rights and freedoms defined in this Convention and the Protocols

Article 1 Protocol No. 15 amending the Convention

# JURISDICTION

H.F. and others v. France, GC, 2022

N.D. and N.T. v. Spain, GC, 2020

# JURISDICTION

## Art. 1 of the Convention

Obligation to respect human rights.

“The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.”

# JURISDICTION

N.D. and N.T. v. Spain, GC, 2020

H.F. and others v. France, GC, 2022

# The Border with Belarus

M.A. and Others v. Lithuania, 2018

Pending – GC cases:

R.A. and Others v. Poland (no. 42120/21), H.M.M. and Others v. Latvia (no. 42165/21), C.O.C.G. and Others v. Lithuania (no. 17764/22)

The scope and substantive aspects of the Court's assessment under Art. 2 and 3 in asylum-related expulsion cases

F.G. v. Sweden [GC], 2016

Khasanov and Rakhmanov v. Russia [GC], 2022

Situation of violence  
additional individual risk factors

M.D. and Others v. Russia, 2021

O.D. v. Bulgaria, 2019

# Factors taken cumulatively

J. K. and Others v. Sweden [GC], 2016, § 95

NA. v. the United Kingdom, 2008, § 130

# Removal to third country

Ilias and Ahmed v. Hungary [GC], 2019

# Gender-based non-refoulement cases

...the idea of listening to and understanding personal stories,  
then deciding on them – that's non refoulement in a nutshell!

Ledi Bianku, Judge of the European Court of Human Rights

# Gender-based non-refoulement cases

## N. v. Sweden, 2010 – violation of art. 3

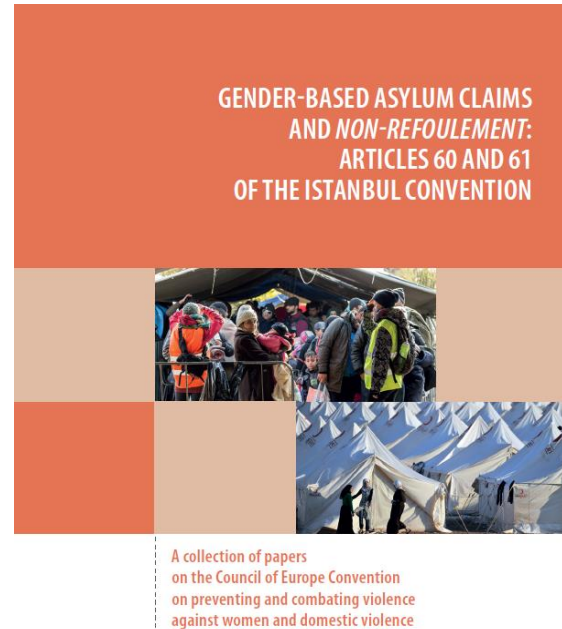
M.M.R. v. the Netherlands (dec.), No 64047/10, 2016 (inadmissible, risk of falling victim to sexual violence)

R.D. v. France, No 34648/14, 2016 (no violation)

A.A. and others v. Sweden, No 14499/09, 2012 (no violation, dissenting opinion of Ann Power-Forde)

Sow v. Belgium, No 27081/13, 2016 (inadmissible)

# Gender-based non-refoulement cases



<https://edoc.coe.int/en/violence-against-women/8301-gender-based-asylum-claims-and-non-refoulement-articles-60-and-61-of-the-istanbul-convention.html>