



IN THE UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

LONDON JUDICIAL
REVIEW

JR-2025-LON-000695

Case Nos:
JR-2025-LON-000118
JR-2025-LON-000695
JR-2025-LON-000684

Field House,
Breams Buildings
London, EC4A 1WR

10th March 2026

Before:

UPPER TRIBUNAL JUDGE KEITH
UPPER TRIBUNAL JUDGE HOFFMAN
UPPER TRIBUNAL JUDGE KHAN

Between:

THE KING
on the application of
FH
AS
MA
(Anonymity Orders Continued)

Applicants

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Mr G Ó Ceallaigh KC and Ms A Buttle
(instructed by Duncan Lewis), for the applicants

Mr J Anderson and Ms K Elliot
(instructed by the Government Legal Department) for the respondent

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Hearing dates: 2nd, 4th and 5th December 2025

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the applicants are granted anonymity. No-one shall publish or reveal any information, including the name or address of the applicants, likely to lead members of the public to identify them. Failure to comply with this order could amount to a contempt of court. The parties may apply on notice to vary this direction.

J U D G M E N T

Judge Hoffman:

Introduction

1. The applicants are Syrian nationals who have been granted beneficiary of international protection (BIP) status by the Bulgarian authorities. After obtaining that status, they left Bulgaria, travelled to the United Kingdom, and made asylum and human rights claims. They now challenge the respondent's decisions to: (a) treat their asylum claims as inadmissible; (b) certify their human rights claims as clearly unfounded, thereby depriving them of a right of appeal; and (c) remove them to Bulgaria.
2. The issues to be determined by this Tribunal, as we agreed with the representatives, are as follows:
 - **Ground 1:** Whether the respondent's decisions to certify the applicants' human rights claims as clearly unfounded are unlawful because they are not bound to fail on appeal.
 - **Ground 2:** Whether the respondent has acted unlawfully in declaring the applicants' asylum claims inadmissible in the light of evidence showing a real risk that the Bulgarian authorities would refoul them to Syria, in breach of Article 3 of the European Convention on Human Rights (ECHR).
 - **Ground 3:** Whether the respondent has acted unlawfully in failing to make adequate enquiries contrary to Secretary of State for Education and Science v Tameside Metropolitan Borough Council [1977] AC 1014 ("the Tameside duty").

Background

3. The background facts relating to the three applicants can be summarised as follows:

FH

4. FH was born in 1992. He fled Syria for Turkey in 2022 and later entered Bulgaria on his second attempt in early 2023. In March 2023, he was granted BIP status by the Bulgarian authorities but states that he was left street homeless and relied on financial support from his brother and Syrians he met in Sofia. He remained in Bulgaria for approximately 20 days before making arrangements with a people smuggler, whom he paid to facilitate his travel to the United Kingdom via Greece, France, and Ireland. FH arrived in the United Kingdom on 19 July 2023 and claimed asylum the following day. He asserts that he suffered beatings and endured poor conditions in Bulgaria, and fears return due to his past mistreatment, the risk of being sent back to Turkey, and threats from the smuggler who assisted his entry into Bulgaria. Since claiming asylum in the United Kingdom, FH has reported suicidal ideation and self-harm thoughts and has been prescribed antidepressant medication.
5. On 29 November 2023, the respondent served FH with a Notice of Intent indicating that his asylum claim might be declared inadmissible and that he could be removed to Ireland, Greece, or Bulgaria. A readmission request was sent to the Bulgarian authorities on 12 January 2024 and accepted on 14 February 2024. A further Notice of Intent was served on 12 August 2024 explaining that he could be removed to Bulgaria. FH responded with further representations on 27 August 2024. On 3 December 2024, FH was detained on reporting and served with a decision dated 28 November 2024 declaring his asylum and humanitarian protection claims inadmissible and certifying his human rights claim as clearly unfounded. Removal directions to Bulgaria were set for 16 December 2024, but urgent representations and legal interventions followed, including a Rule 35 report indicating FH may have been a victim of torture. Removal directions were subsequently re-set for 8 January 2025. On 7 January 2025, FH issued an application for judicial review, and on the same day Mrs Justice Hill granted an injunction preventing his removal. FH amended his claim form on 27 January 2025. On 25 March 2025, the respondent issued a supplementary decision letter upholding the inadmissibility and certification decisions.
6. FH seeks to challenge the respondent's decisions dated 28 November 2024, 15 December 2024, and 6 January 2025 declaring his asylum claim inadmissible and certifying his human rights claim, together with the supplementary decision maintaining those determinations.

AS

7. AS was born in 1997. He left Syria in January 2021 and travelled through Turkey and Greece before entering Bulgaria. The precise date of entry into Bulgaria is unclear from the material before the Tribunal, but AS states that he was detained in prison for approximately one month and then held in a refugee camp for two and a half months. He was granted BIP status around late August or early September 2021 and was required to leave the camp. AS claims that he was left street homeless, living in a park in Sofia. After borrowing money from a friend, AS travelled to Germany on 18 September 2021, where he claimed asylum. His claim was refused in or around March 2023 on the basis that he held BIP status in Bulgaria, and he was returned there in or around April 2023. AS asserts that he was again left homeless and was advised by other Syrians to travel to the United Kingdom. Although he does not specify when he left Bulgaria, using his own savings, he travelled via plane through Greece and Belgium before arriving in Dublin on 25 August 2023, where he claimed asylum and was placed in refugee accommodation. He later left Ireland, according to him, because he feared return to Bulgaria, and arrived in the United Kingdom on 28 August 2023. AS claimed asylum in the United Kingdom on 31 August 2023. Since then, he has reported mental health difficulties, including low mood, stress, anxiety, nightmares, flashbacks, and suicidal ideation. He also suffers from back pain and asthma.
8. On 13 September 2023, the respondent served AS with a Notice of Intent. A readmission request was sent to the Bulgarian authorities on 15 December 2023 and accepted on 26 February 2024. A further Notice of Intent was served on 19 August 2024. On 5 December 2024, the respondent issued a decision treating AS's asylum claim as inadmissible and certifying his human rights claim. AS was detained on 11 December 2024, and removal directions were set for 7 January 2025. AS stated that he would commit suicide if returned to Bulgaria. His solicitors made further submissions on 28 December 2024, which were refused on 7 January 2025. Removal directions were then cancelled and re-set for 22 January 2025. On 15 January 2025, AS's new solicitors made further submissions, and AS requested a Rule 35 assessment, which took place on 17 January 2025. The respondent responded on 20 January 2025, maintaining detention. On 5 March 2025, AS lodged an application for judicial review. On 4 April 2025, the respondent issued a supplementary decision upholding the inadmissibility and certification decisions.
9. AS challenges the respondent's decisions dated 5 December 2024 and 4 April 2025.

MA

10. MA was born in 1996. He claims that in 2016 he was imprisoned as an opponent of the Assad regime, before escaping in 2017 and remaining in hiding until leaving Syria in October 2022. MA travelled through Turkey and entered Bulgaria in late December 2022 or early January 2023. He states that he was detained in prison while his protection claim was processed. Upon arrival at the prison, he claims he was forced to strip, beaten with sticks, and bitten by a dog. After two days, he says he was transferred to a different prison where he was again forced to strip and beaten. After approximately one month, he was granted BIP status in late January or early February 2023. He was issued a green document but tore it up, he says because he believed it would be of no benefit to him. Following the grant of BIP status, he was released from detention but became street homeless in Sofia. After around 25 days sleeping in a park in what he describes as extreme cold, MA paid a smuggler to facilitate his travel to the United Kingdom via Greece, Belgium, and Ireland, arriving on 5 June 2023. He was arrested and taken to a police station, where he was interviewed by an immigration officer and claimed asylum.
11. MA was served with Notices of Intent on 20 July 2023 and 16 January 2024. On 18 January 2024, Bulgaria accepted a takeback request made by the respondent. MA responded with a witness statement on 24 January 2024. On 28 November 2024, the respondent declared MA's asylum claim inadmissible and certified his human rights claim. On 5 December 2024, he was detained under immigration powers pending removal to Bulgaria. An examination on 6 December 2024, pursuant to rule 32 of the Short-term Holding Facility Rules 2018, concluded that MA may have been a victim of torture and noted his anxiety and sleep problems. In her response dated 9 December 2024, the respondent declined to treat MA under the Adults at Risk policy and maintained detention. On 17 December 2024, MA's previous solicitors submitted representations asserting that removal would breach Article 3 ECHR. On 29 December 2024, the respondent maintained her decision, and on 30 December 2024, MA was removed to Bulgaria where he claims he is now street homeless.
12. MA's new solicitors filed a judicial review claim on 28 February 2025. On 4 April 2025, the respondent issued a supplementary decision upholding her previous inadmissibility and certification decisions.
13. MA seeks to challenge the respondent's decisions dated 28 November 2024, 29 December 2024, 30 December 2024, and 4 April 2025.
14. Permission to apply for judicial review was granted in all three cases on 21 August 2025 by Upper Tribunal Judge McWilliam.

Legal framework

Inadmissibility of asylum claims

15. For asylum claims made on or after 28 June 2022, the framework for treating a claim as inadmissible is contained in ss.80B and 80C of the Nationality, Immigration and Asylum Act 2002 (“the 2002 Act”), as amended by the Nationality and Borders Act 2022, together with paragraph 327F of the Immigration Rules (“the Rules”). Where a claim is declared inadmissible, the respondent is not required to determine its substance and no right of appeal arises under s.82 of the 2002 Act.
16. The respondent may declare a person’s asylum claim inadmissible if they have a specified connection to a third country (as defined by s.80C) which is assessed as safe (according to the criteria under s.80B(4)).
17. Section 80B(4) defines a country as being “safe” if:
- “(a) the claimant’s life and liberty are not threatened in that State by reason of their race, religion, nationality, membership of a particular social group or political opinion,
 (b) the State is one from which a person will not be sent to another State –
 (i) otherwise than in accordance with the Refugee Convention, or
 (ii) in contravention of their rights under Article 3 of the Human Rights Convention (freedom from torture or inhuman or degrading treatment),
 and
 (c) a person may apply to be recognised as a refugee and (if so recognised) receive protection in accordance with the Refugee Convention, in that State.”
18. A person must meet one of the five conditions listed under s.80C which are considered to show a “connection” to a safe third country:

“80C Meaning of “connection” to a safe third State

- (1) Condition 1 is that the claimant –
 (a) has been recognised as a refugee in the safe third State, and
 (b) remains able to access protection in accordance with the Refugee Convention in that State.
- (2) Condition 2 is that the claimant –
(a) has otherwise been granted protection in a safe third State as a result of which the claimant would not be sent from the safe third State to another State –
 (i) otherwise than in accordance with the Refugee Convention, or
 (ii) in contravention of their rights under Article 3 of the Human Rights Convention, and
(b) remains able to access that protection in that State.
- (3) Condition 3 is that the claimant has made a relevant claim to the safe third State and the claim –

- (a) has not yet been determined, or
- (b) has been refused.
- (4) Condition 4 is that –
 - (a) the claimant was previously present in, and eligible to make a relevant claim to, the safe third State,
 - (b) it would have been reasonable to expect them to make such a claim, and
 - (c) they failed to do so.
- (5) Condition 5 is that, in the claimant’s particular circumstances, it would have been reasonable to expect them to have made a relevant claim to the safe third State (instead of making a claim in the United Kingdom).”
(Underlining added)

19. Any linked humanitarian protection claim is similarly inadmissible under paragraph 327F of the Rules.

Certification of a human rights claim

20. Human rights claims in the context of proposed removal to a third country are governed by Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Bulgaria is listed as a Part 2 State, which engages a conclusive presumption for certain Refugee Convention matters (including safety from persecution) and a rebuttable presumption for Article 3 ECHR. In particular, paragraph 3(1A) requires the decision maker to treat the listed State as one to which removal will not contravene Article 3 and from which onward removal will not breach Article 3 unless the contrary is shown in the claimant’s case.
21. A human rights claim may be certified as “clearly unfounded” under paragraph 5(4) of Schedule 3 if it is bound to fail. The test is a stringent one. In ZT (Kosovo) v Secretary of State for the Home Department [2009] 1 WLR 348, the House of Lords (per Lord Phillips) described certification as a “black and white” exercise: if, on any legitimate view of the facts or law, the claim might succeed, it cannot be certified; conversely, if it is bound to fail, certification is lawful. The House of Lords emphasised the need for anxious scrutiny in reviewing such decisions. Subsequent authorities have affirmed the high threshold of “no realistic prospect of success” while recognising that the court or tribunal’s jurisdiction is supervisory but often indistinguishable, in the absence of factual disputes, from asking the question for itself: see ZT (Kosovo) at [21]–[23]; FR (Albania) v Secretary of State for the Home Department [2016] EWCA Civ 605 at [62], [75]; SP (Albania) v Secretary of State for the Home Department [2019] Imm AR 1288 at [25].

Article 3 ECHR

22. Article 3 provides that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” The prohibition is absolute but the jurisprudence recognises a minimum level of severity, assessed relatively with reference to all circumstances (including duration of the treatment, its physical and mental effects, and in some instances, the sex, age and state of health of the victim): see Ireland v United Kingdom (1980) 2 EHRR 25 at [162]; MSS v Belgium and Greece (2011) 53 EHRR 2 at [219]–[220]. The ECHR imposes no general duty to house the homeless or to provide subsistence; however, state action or inaction that results in denial of the most basic necessities of life may cross the Article 3 threshold: Limbuela v Secretary of State for the Home Department [2006] 1 AC 396, especially [7], [66]; see also MSS at [249]–[250]; Tarakhel v Switzerland (2014) 60 EHRR 28 at [115].

Risk of refoulement

23. Where the claim concerns the risk of onward removal (in the present cases, alleged returns from Bulgaria to Syria), the focus is whether the individual will have access to an adequate and effective asylum procedure in the third country, such that there is no real risk of arbitrary refoulement: see the judgment of the Supreme Court in AAA v Secretary of State for the Home Department [2024] 1 All ER 1, at [23]–[24]; and MSS at [286]. The presumption of compliance is displaced only by a reliable body of relevant evidence demonstrating substantial operational failings which frequently result in refoulement; isolated aberrations do not suffice if the system normally provides the required protection: AI v Secretary of State for the Home Department [2015] EWHC 244 (Admin) at [67]–[73].
24. In assessing the risk of refoulement, the judge may also take account of protective measures available to the individual, including the possibility of Rule 39 interim measures from the European Court of Human Rights (ECtHR) and access to legal advice on the ground. Nonetheless, such measures cannot be invoked to avoid confronting credible risk evidence; they are relevant insofar as they show that effective remedies exist in practice for averting removal in breach of Article 3: see MSS at [357]; AI at [90]–[107].

The hearing

25. We heard submissions from both parties over three days in early December 2025. The Tribunal also had before it a substantial volume of documentary material: a 570-page core bundle, a 778-page applicants’ document bundle, a 962-page objective evidence bundle, and a 1,655-page authorities bundle. In addition, the day before the hearing the applicants filed a further objective evidence bundle of 862 pages, followed on the first day of the hearing by a

second further bundle comprising 148 pages. The respondent raised no objection to the latter, which contained a supplementary letter dated 25 November 2025 from the applicants' expert, Ms Ana Carolina Fisher da Cunha (permission to rely on which had already been granted) and two documents relied upon by the respondent that had been omitted from the main objective evidence bundle. However, the respondent did object to other material within the first further objective evidence bundle and to documents in the core bundle which, she submitted, the applicants had no permission to rely upon. Mr Ó Ceallaigh explained that the further objective evidence bundle included material cross-referenced in other documents and apologised for the oversight in seeking permission for new evidence in the core bundle, which included an additional witness statement made by MA.

The applicants' late application to rely on new evidence

26. The applicants' reliance on new evidence without permission must be considered in light of the procedural history. By order sealed on 21 August 2025 granting permission to apply for judicial review, the applicants were directed to file and serve, within 14 days of service of the respondent's detailed grounds of defence, any reply and any application to rely on further evidence. That deadline expired on 27 October 2025 without compliance. On 11 November 2025, the applicants applied to adjourn the substantive hearing for six weeks to allow time to "conduct further research and secure evidence about the current prevalence of coerced voluntary returns" of Syrian nationals from Bulgaria. No explanation was provided for their failure to apply to rely on the new evidence within the 14-day period. The respondent opposed the adjournment, and having considered both parties' representations, I refused the application by order sealed on 19 November 2025. In light of the applicants' non-compliance with the 21 August directions, I also issued fresh directions requiring the hearing bundles to be filed and served by 4 pm on 25 November 2025.
27. We therefore directed the applicants to submit a formal, paid application for permission to rely on the new evidence, which they did on 2 December 2025. That application encompassed approximately 27 items: 20 documents within the objective evidence bundle, six within the further objective evidence bundle, and MA's fifth witness statement, dated 25 November 2025. We agreed to proceed with the substantive hearing on the basis that the applicants could rely on this material *de bene esse*, with the Tribunal reserving its decision on the application. In determining that application, we have applied the three-stage test for relief from sanctions set out in Denton v TH White Ltd [2014] EWCA Civ 906.
28. First, we note that the deadline for making an application to rely on further evidence was 27 October 2025. The application was not made until 2

December 2025, the first day of the hearing. That delay is both serious and significant.

29. Secondly, we consider the applicants' explanation for the delay. While we acknowledge their submission that country conditions can change in cases of this nature and that updating evidence may be required, almost all of the objective material covered by the application pre-dates 27 October 2025 and could therefore have been the subject of an in-time application. Subject to the disputed point concerning the extent to which we can consider MA's post-removal evidence (addressed below), we accept that there is an understandable reason for seeking to rely on his updated witness statement for the purposes of the hearing. However, even in that respect, it is unclear why no formal application was made in advance and in compliance with the directions issued on 21 August 2025.
30. The applicants seek to attribute some responsibility to the respondent, citing (i) the three-week extension obtained for filing her detailed grounds of defence, and (ii) the respondent's failure to raise the issue of additional documents when the draft bundle indices were sent for review on 21 November 2025. As to the former, the extension did not affect the applicants' ability to apply within 14 days to rely on further evidence; that point is therefore unconvincing. As to the latter, it is not suggested that the applicants expressly flagged to the respondent that they intended to rely on new evidence in the hearing bundles. Given the compressed timetable for filing bundles following the refusal of the adjournment application, we consider that the respondent's representatives can reasonably be forgiven for not immediately identifying the inclusion of several new documents in lengthy indices. We are not, therefore, satisfied that the explanation offered is a good one.
31. Thirdly, we evaluate all the circumstances of the case. We take into account the importance of procedural rigour, including compliance with directions issued by this Tribunal. Judicial review proceedings require an appropriate degree of formality and predictability: see Bibi v Secretary of State for the Home Department [2025] EWCA Civ 622. The failure to comply with the direction to apply by 27 October 2025, coupled with the filing of new material not only on the day before the hearing but also on its first day, undoubtedly caused prejudice to the respondent, who had insufficient time to consider it. The breach of directions is compounded by the fact that the applicants only made a formal application after being prompted by the Tribunal. The applicants are represented by experienced solicitors who should have known better. Nevertheless, we accept that these claims raise serious issues concerning potential breaches of Article 3 ECHR and the risk of refoulement to Syria, and that the consequences for the applicants if they fail are potentially grave. It is therefore important that the Tribunal has a

clear and accurate view of the current circumstances in Bulgaria. In all the circumstances, we are, albeit with considerable hesitation, persuaded that it is just to grant the application to rely on the new evidence.

Discussion

32. In considering the grounds of claim, we adopt the same approach as Garnham J in HK (Iraq) v Secretary of State for the Home Department [2016] EWHC 857 Admin at [70]-[73], namely:
- a. Having been referred to a substantial volume of material by the parties, with some complaints resting on isolated sentences from country reports, we shall focus on what appear to be the most potentially significant points.
 - b. In considering the certification challenge, we must ask ourselves “could a tribunal properly directing itself conclude that there were substantial grounds for believing that there was a real risk of the person facing treatment contrary to Article 3 ECHR”?
 - c. There is a significant evidential presumption that listed states will comply with their obligations under the ECHR in relation to those recognised as requiring international protection.
 - d. The evidence of UNHCR is to be afforded significant weight.
33. Below, we first consider the country evidence relied upon by each party and make findings as to the weight to be attached to it. We will then consider the three grounds of claim in light of our findings on the country evidence.

The country evidence

UNHCR

34. We begin with the evidence from UNHCR, which is of considerable importance: see the High Court judgment in HK (Iraq) at [73], citing MSS and EM (Eritrea) v Secretary of State for the Home Department [2014] AC 132. It is noteworthy that in January 2014 UNHCR recommended the suspension of all returns to Bulgaria because of the conditions likely to face returning asylum seekers. However, that recommendation was withdrawn in April 2014, save in respect of vulnerable groups (in particular, asylum seekers who have specific needs or vulnerabilities), after Bulgaria was found to have made the necessary adjustments and improvements to its procedures: see HK (Iraq) at [76]-[80]. The improvements noted by UNHCR were listed at [79]:

- i. “Asylum claims are being processed in a timely manner”;
- ii. “Bulgaria’s law providing for mandatory legal aid for asylum-

seekers”;

iii. *“The Bulgarian authorities’ work towards the establishment of a new integration programme... [and] the commitment of the Bulgarian authorities to provide access to family reunification”;*

iv. *“The efforts of the Bulgarian authorities to counter xenophobic incidents”;*

v. *“The significant improvements in Bulgaria with regard to registration, the processing of request for international protection and the overall reception conditions for asylum-seekers in the reception centres”;*

vi. *“Conditions observed in the centres have improved significantly in comparison with the situation observed in December 2013”.*”

35. Since that time, UNHCR has maintained a presence in Bulgaria, monitoring its compliance with international obligations, and has issued no further recommendation against returning third-country nationals: see HK (Iraq) at [83]. We regard that as a significant factor.
36. UNHCR’s *Universal Periodic Review: 3rd Cycle, 36th Session: Bulgaria* (October 2019) reports that, in 2018, Bulgaria received 2,536 applications for international protection. During the same period, 804 persons were granted refugee status and 900 persons were granted subsidiary protection (i.e. BIP status), with an overall recognition rate of 35%. The report acknowledges that, since 2014, there has been no functioning refugee integration mechanism in place in Bulgaria (what is termed elsewhere as the “zero integration policy”). At page 3, it goes on to say:

“There are no targeted support measures for integration, nor measures for persons with specific needs, and refugees face a number of legal and practical barriers in accessing specific rights, notably in housing and social assistance. Once granted status, they may be allowed to remain in SAR centres, on a discretionary basis for a period of up to six months but are not entitled to food. There is real risk of homelessness. Access to social housing is difficult, as available houses are limited and legal provisions require the person to have resided in a particular area for an extended period and one of the family members having to be a Bulgarian citizen. Beneficiaries of international protection do not have access to all benefits granted to Bulgarian nationals.

Recommendations:

UNHCR recommends that the Government of Bulgaria:

- a) Facilitate the implementation of the current National Strategy on Migration, Asylum and Integration (NSMAI) 2015-2020 and work closely with UNHCR to draft the new NSMAI;
- b) Take measures to implement the Ordinance, including by appointing a Deputy Prime Minister responsible for integration as required by the Ordinance; and

c) Take measures to provide the necessary resources, including administrative and financial resources, to ensure that beneficiaries of international protection, in particular vulnerable persons, have full and effective access to their rights, including an adequate standard of living, food, housing and social assistance."

(Underlining added)

37. Mr Anderson accepted that the report identified a real risk of homelessness. However, he submitted that it did not provide any data on the number of individuals with protection status who are homeless or on the duration of such homelessness. He further acknowledged that recommendations had been made, but argued that none were expressed in stringent terms and, moreover, that UNHCR clearly did not consider the reported issues sufficiently serious to warrant a new recommendation against returning individuals to Bulgaria. While Mr Ó Ceallaigh had relied on the sentence stating that BIPs "do not have access to all benefits granted to Bulgarian nationals", Mr Anderson observed that the corresponding footnote made clear that this concerned benefits for pregnant women and families with children, which had no bearing on the applicants' cases.
38. Mr Ó Ceallaigh referred the Tribunal to a further report by UNHCR: *Municipal Housing Policies: A Key Factor for Successful Integration at the Local Level*, published in 2020. Mr Anderson submitted that it was striking that this document made no mention of homelessness being a problem for BIPs. The report states that Bulgaria's "public institutions still lack significant experience and practices to meet the short- and long-term housing needs of beneficiaries of international protection" and that "the rise of real estate prices...risk housing exclusion for wider strata of the population as well". We accept Mr Anderson's submission that unaffordable increases in property and rental prices are not unique to Bulgaria and that similar issues arise in western European countries, including the United Kingdom. Moreover, we find that this report is focussed on BIPs' access to municipal housing rather than housing more generally. As Mr Anderson submits, BIPs have no entitlement under any international framework to public housing; it is sufficient that they enjoy the same rights of access to available housing, including privately rented accommodation, as the local population. Finally, we observe that a lack of adequate housing is materially different from prolonged homelessness.
39. The next UNHCR report is *Voices of Refugees in Bulgaria: Socio-Economic and Financial Inclusion of Refugees in Bulgaria – AGD Participatory Assessment 2024* (July 2024). It is based on findings from structured focus groups with asylum seekers and refugees in Bulgaria. 56% of the participants were Syrian while 62% of the participants held BIP status. Mr Ó Ceallaigh highlighted a passage describing a "widespread and significant challenge which affects all groups of refugees" in accessing suitable private accommodation, citing

obstacles such as “higher rental costs, substantial agent fees, and large security deposits, which come together to create a significant financial burden for refugees.” We observe, however, that similar difficulties arise in accessing private accommodation in the United Kingdom, particularly in major cities. Moreover, the report does not suggest that refugees and BIPs are unable to obtain accommodation; rather, it indicates that the process is challenging. Indeed, the report records that 78% of participants lived in private rented accommodation, with the remainder in state accommodation (8%), registration-reception facilities (4%), or “Other” (4%) (it is unclear what category the remaining 6% fall into). Mr Ó Ceallaigh accepted that the applicants’ case is not that no BIP can secure private accommodation in Bulgaria, but that their particular needs make it especially difficult.

40. The *Voices of Refugees* report further notes that all non-Ukrainian refugees reported being refused banking services and were unable to open accounts. This was attributed to restrictive and bureaucratic practices by banks, including requirements for foreign identity numbers and employment contracts. This finding is corroborated by the U.S. State Department’s *Bulgaria 2022 Human Rights Report*, which states: “Banks often refused to open accounts for refugees, which impeded their ability to obtain legal jobs and receive benefits.”
41. We note that, like the *Municipal Housing Policies* report, the *Voices of Refugees* report does not identify a significant problem of homelessness among BIPs, let alone long-term homelessness. Mr Anderson further argued that obstacles to opening bank accounts, said to hinder access to “formal” employment, are not a material concern given that a substantial proportion of Bulgaria’s economy operates informally. We accept there is some force in that point. The OECD’s *Economic Surveys: Bulgaria 2023* observes that “Bulgarians are more familiar and exposed to informal work than EU-OECD countries,” estimating that up to 10% of the workforce is paid cash-in-hand, with retail trade, accommodation and food services, construction, and agriculture particularly prone to informal work. It estimates that informal working accounts for 19% of Bulgaria’s economy.
42. Furthermore, the *Voices of Refugees* report records that 66% of focus group participants were in employment, most in construction or fast-food work. While many complained of difficulties in securing “meaningful” employment, with most describing menial, low-paid jobs insufficient to sustain their livelihoods, that falls far short of establishing that BIPs are unable to access the labour market or that employment is rare. It is not uncommon for refugees, even educated ones, in any country to undertake low-paid, menial work. It is also relevant that, excluding Ukrainian refugees, most participants who disclosed their previous occupations had held manual jobs in their home countries. In that light, it is less surprising that

they also hold low-skilled positions in Bulgaria. Among the Syrian participants to the Voices of Refugees report, 45% were unemployed and 100% identified the language barrier as their main obstacle to finding work. (By comparison, only 10% of Ukrainians were unemployed, and none cited the language barrier as being their primary reason for unemployment. However, the report notes that many Ukrainians have been able to continue to work for Ukrainian employers remotely.)

43. UNHCR's *Protection Brief – Bulgaria: Detentions of Asylum-seekers and Refugees* (September 2024) identifies key challenges for asylum seekers and refugees from Syria and other countries, including “accommodation and longer-term housing, school enrolment, language support and access to health and social services.” While the report refers to a serious risk of homelessness, this is specifically in relation to those whose applications for international protection have been refused but who cannot be returned to their countries of origin. That has no bearing on the facts of the cases before us.
44. UNHCR's *Protection Brief – Bulgaria: Mixed and Onward Movements* (May 2025) reports that 79% of respondents stated that they were willing to permanently stay in Bulgaria if granted legal status and assisted with family reunion with only 5% saying that they were not willing to stay. As Mr Anderson pointed out, that figure is different to that given in the *Voices of Refugees* report which says that only 11% of non-European participants wished to stay in Bulgaria while 36% were undecided. The report does refer to “poor reception conditions, including administrative barriers to accessing essential services such as health care and education, as well as limited opportunities for employment and incomes that do not support decent living conditions” as being “among the primary motivators of onward movements”. However, the report also suggests that rights can be enforced before an administrative court.
45. Under a heading entitled “Calls to Action”, UNHCR recommends that Bulgaria adopts protection-sensitive entry procedures to: ensure timely screening and referral of vulnerable individuals; establishes an independent border monitoring mechanism to uphold human rights and investigate misconduct; promotes the integration of beneficiaries of international protection through access to essential services, livelihoods, and language training to reduce onward movement; and creates legal pathways for safe and orderly movement, including resettlement, family reunification, education, and labour mobility opportunities. We accept Mr Anderson's submission that these recommendations do not raise any point that could plausibly be said to rebut the presumption of compliance.
46. Mr Ó Ceallaigh relied on UNHCR Bulgaria's *Subsidiary protection in Bulgaria* Q&A letter from February 2025. This letter indicates that, while subsidiary

protection status in Bulgaria confers the same legal rights as permanent residents, including access to the labour market, social assistance and healthcare, in practice, beneficiaries face a number of barriers to exercising those rights, “thereby potentially exposing them to a risk of homelessness.” Refugees must vacate reception centres within 14 days of being granted status and, within that period, secure an external address for registration, which is essential to obtain identity documents and, in turn, access private housing. Landlords are generally reluctant to rent to refugees, and there are no government programmes to assist with housing. While access to homeless shelters is legally available, navigating the process requires support. Social assistance for a single adult living alone amounts to approximately 315,81 BGN (€162) per month, and access to state healthcare depends on payment of a monthly insurance contribution of 37,32 BGN (€19). Beneficiaries of international protection may register with the Employment Agency for job-seeking support, though language barriers and lack of formal qualifications often limit opportunities. Some NGOs provide project-based assistance to facilitate labour market access. The letter further confirms that, as of January 2025, Bulgaria continued to grant Syrians refugee and subsidiary protection status.

47. Mr Anderson submitted that the Q&A letter is framed in cautious terms, referring only to the “potential” for refugees and BIPs to face homelessness. Mr Ó Ceallaigh countered that UNHCR may have felt compelled to express its position cautiously, given what he described as significant hostility towards refugees in Bulgaria, and argued that the existence of a real risk of homelessness was nonetheless clear. However, on a plain reading, the Q&A letter does not state that there is a real risk of homelessness; rather, it speaks of the potential to expose refugees and BIPs to such a risk. UNHCR does not assert that homelessness is widespread, nor does it provide any data indicating how many refugees or BIPs are homeless.
48. Mr Ó Ceallaigh suggested that when writing its reports, UNHCR would have to be cautious not to antagonise the host state, which could prove counterproductive. While we accept that UNHCR does not operate in a political vacuum, we agree with Mr Anderson that it will be fully cognisant of the legal standards governing the treatment of refugees and beneficiaries of international protection and, as demonstrated by its 2014 recommendation to suspend returns to Bulgaria, it is prepared to act decisively where it considers those standards to have been breached. In that context, although the UNHCR materials, taken as a whole, clearly highlight concerns about the practical ability of refugees and BIPs to access their legal entitlements, we are satisfied that UNHCR does not suggest that these barriers reach the threshold of a breach of Article 3 ECHR.

The AIDA reports

49. The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles, and contains information on asylum procedures, reception conditions, detention and contents of international protection across all 19 EU Member States plus five non-EU countries.

50. We have several AIDA reports before us. The most recent is the *AIDA Country Report, Bulgaria: Update on 2024* (March 2025). Under the heading “Acknowledgements & Methodology”, it says:

“This report draws on information provided by monthly immigration and asylum statistical analyses published by the national authorities, regular information sharing utilised by the National Coordination Mechanism in the area of asylum and international protection, established since 2013 and chaired by the State Agency for Refugees (SAR), as well as monthly border, detention and refugee status determination (RSD) monitoring implemented by the refugee assisting non-governmental organisations.

The 2024 update to the AIDA country report on Bulgaria was shared with the State Agency for Refugees to provide an opportunity for comments. Any feedback received was reviewed by the author and, where appropriate, incorporated into the final version of the report.”

51. We are satisfied that the European Council on Refugees and Exiles is a well-established and impartial organisation whose reports are based on reliable data and credible sources. We therefore accord its findings significant weight.

52. The respondent relies upon the fact that while the 2023 AIDA report identified a “Catch-22” in obtaining housing assistance because valid ID was required to enter rental contracts, yet ID itself required a domicile, the 2025 report records that this issue has been addressed by legislative reform. Since January 2025, municipalities must provide a service address for newly recognised refugees and subsidiary protection holders who cannot state a domicile address. This amendment enables registration and access to services. It is noteworthy that the legislative change followed advocacy by civil society organisations, demonstrating a willingness on the part of the Bulgarian authorities to respond to criticism and take positive steps to improve matters.

53. Both the 2023 and 2025 AIDA reports confirm that access to the labour market for BIPs is “automatic and unconditional.” While they identify obstacles such as language barriers and limited state support for vocational training, these are described as “usual”, which we take to mean typical of the challenges faced by migrants arriving in a new country, rather than indicative of any systemic impediment. The 2025 report states:

“In 2024, the SAR issued 1,074 work permits to asylum seekers who were looking to support themselves while their asylum claims were being processed. Out of them, only 3 asylum seekers and 10 persons granted international protection were employed through employment programs, while the rest found work independently and on their own initiative. At the same time, a total of 272 persons with temporary protection were employed through employment programs.

In practice, it is still difficult for asylum seekers to find a job, due to the general difficulties resulting from language barriers, the recession and high national rates of unemployment. Comprehensive statistics on the number of asylum seekers in employment is not collected, except for those officially registered as seeking employment. In 2024, only 10 status holders, 3 asylum seekers and 272 temporary protection holders were employed through government job seeking programmes of the Employment Agency.”

While this indicates that state employment programmes may be inadequate, it nevertheless demonstrates that BIPs have, despite evident difficulties, been able to find work for themselves. The reports also confirm that BIPs have access to all forms of social assistance envisaged by law on the same basis as Bulgarian nationals, subject only to practical challenges such as interpretation and delays in processing.

54. The applicants highlight that the 2025 AIDA report describes 2024 as marking the eleventh consecutive year of the Bulgarian government’s policy of providing “zero integration” support to individuals granted international protection. However, the report also notes the presence of NGO support, including the Compass network of protection and inclusion centres, which assisted 17,879 individuals in 2024 with access to social services, employment and livelihoods. It also says that UNHCR has funded an information centre in Sofia run by the Red Cross for asylum seekers and refugees along with an information bureau for third-country nationals co-funded with Sofia Municipality. In 2024, these centres provided almost 3,000 consultations. This evidence, the respondent argues, undermines any suggestion that BIPs are abandoned without support.
55. In relation to healthcare, the reports state that BIPs have the same entitlements as nationals, though they must fund their own health insurance at a modest cost (€19.30 per month). The 2024 update does refer to asylum seekers facing difficulties in accessing healthcare, but it says that these “are the same difficulties as [faced by] Bulgarian nationals due to the general state of deterioration in the national health care system”. While in the past Dublin returnees faced significant obstacles in accessing medical care upon return, mainly as the result of the delay in restoring their insurance coverage in the national healthcare database, AIDA report that since 1 January 2019 the database has been reorganised to restore their coverage more quickly.

56. The 2025 report also says that in 2023, Syrians remained the nationality with the highest recognition rate in Bulgaria at 97%, with 96% granted subsidiary protection, 1% asylum, and only 3% refused. Of 12,416 Syrian applicants that year, nearly half received decisions within the year, while 31% absconded before a first-instance decision. The position is said to have changed markedly in late 2024 when SAR adopted an individualised approach to cases, issuing 1,125 refusals between October and December. Following the fall of Bashar al-Assad's regime on 8 December 2024, SAR temporarily suspended interviews and decisions for Syrians until 31 January 2025, resuming in February. In 2024, of 7,646 Syrian applicants, 81% were granted protection (0.5% refugee status, 80% subsidiary protection) and 19% were refused.
57. The most recent AIDA report is also notable for what it does not say. Specifically, while it refers to Dublin returnees facing possible homelessness on return to Bulgaria, this is mentioned only in the context of those whose asylum claim had been refused in absentia following their departure from the country and who, "due to administrative or institutional entanglements", have not been detained in an immigration pre-removal centre. Nowhere in the report does it say that returnees who have been granted BIP status face a real risk of homelessness, let alone prolonged homelessness. Furthermore, the report does not claim that Syrians with BIP status face a real risk of refoulement.

The international NGOs

58. The Bulgarian Helsinki Committee (BHC) report *Human Rights in Bulgaria in 2024* addresses the right to asylum and international protection at Chapter 11. In a section concerning civil registration and identity documents, the report explains that, in order to be registered in the Unified System for Civil Registration and Administrative Services of the Populations (USCRASP), all persons granted international protection must provide, among other details, a residential address. The report therefore highlights the legal "Catch-22" previously identified in the 2023 AIDA report: refugees and BIPs require an identity card in order to secure accommodation, yet without a residential address they cannot register with USCRASP to obtain an identity card. However, it goes on to say:

"At the initiative of BHC, the Civil Registration Law was amended in October 2024. The amendment allows newly recognized refugees and persons granted humanitarian status who, due to a lack of funds and documentation, are unable to rent housing and provide a valid residential address, to be registered at a designated business address in the municipality where they have established their habitual residence. This applies at the time they are first registered in the civil registry.

This provision took effect on December 8, 2024. As of January 8, 2025, all municipalities were required to designate such a service address or addresses in order to implement the new rule.”

We note that this change in the law is also acknowledged by UNHCR Bulgaria in its February 2025 Q&A letter, although it says that the “practical impact is not yet known, with district [sic] some civil registration offices refusing registering refugees [sic]. Without this registration, refugees cannot open bank accounts or access services requiring proof of residence.”

59. While we accept that refugees and BIPs have faced difficulties in obtaining identity cards in Bulgaria, particularly from 2016 onwards, as we have already explained, we are satisfied that the Bulgarian authorities have shown a willingness to amend the law to address these issues. Although UNHCR Bulgaria reports that some civil registration offices have failed to comply with their legal obligations, the extent of this problem is unclear. In any event, UNHCR does not suggest that such refusals occur across all districts or that service addresses are universally denied.
60. The remainder of Chapter 11 of the BHC report largely addresses access to Bulgarian territory and the procedures for determining protection claims. That material is not as relevant to the present cases, where the applicants have already been granted BIP status and Bulgaria has agreed to readmit them. The report does note that national legislation provides an additional ground for terminating protection status which is said to contravene both the Geneva Convention and the Qualification Directive, namely that protection may be revoked if a person fails to renew expired identity documents within thirty days or replace them if lost, stolen, or destroyed. However, the report confirms that this practice was discontinued by SAR in 2023 and 2024. This, again, suggests that the authorities are willing to take into account criticisms of their laws.
61. The Migrant Integration Policy Index 2025 provides ratings for Bulgaria across various aspects of its integration policies. Of note are the following:
 - a. Labour market mobility: halfway favourable
 - b. Health: slightly unfavourable
 - c. Permanent residence: slightly favourable
 - d. Access to nationality: unfavourable
 - e. Anti-discrimination: favourable

We agree with Mr Anderson that a halfway favourable rating for labour market mobility falls well short of establishing that BIPs are effectively denied a right to employment. We do, however, take into account the report’s observation that “migrants may find it harder to access healthcare

entitlements in Bulgaria than in most other countries in the region, and healthcare services are not adapted to migrants' specific health needs." We also note the positive finding that victims of discrimination can seek support from one of the strongest equality bodies in Europe, although the report provides no further detail on this. Overall, the Migrant Policy Index 2025 offers little support for the applicants' case.

62. We have already addressed the OECD's economic survey earlier in this judgment. While we accept that participation in the informal economy is far from ideal, we are satisfied that, given the scale of Bulgaria's unofficial economy (estimated at approximately 19% of GDP), it remains possible for BIPs to obtain work even without an identity card or bank account.

The local NGOs

63. The applicants rely on reports written by two local NGOs: No Name Kitchen (NNK) and the Center for Legal Aid (CLA). They assert that these are two of the main NGOs currently providing support to migrants in Bulgaria.

No Name Kitchen

64. Beginning with NNK, we have before us a report entitled *EU States Crack Down on Asylum Seekers After Al-Assad's Fall* (December 2024). It alleges coercive practices by the Bulgarian authorities aimed at forcing Syrian asylum seekers to sign "voluntary" return agreements following the overthrow of Bashar al-Assad. According to NNK, on 13 December 2024, approximately 200 Syrians at Harmanli Reception Centre were taken from their dormitories for interrogation, divided into large groups and then questioned individually, sometimes under physical duress. Testimonies describe beatings, threats, and psychological pressure, including questions about attitudes toward the Assad regime and assertions that Syria is now safe. It is claimed that interviewees were not allowed to retain copies of the documents they signed, and some reported that interpreters failed to explain their content, which was believed to relate to return to Syria. Similar reports emerged from Banya Reception Centre. NNK concludes that these findings indicate systematic intimidation and coercion, raising serious concerns about refoulement and the denial of fundamental rights to seek protection.
65. A further report is entitled *The Bulgarian Trap: How European Countries Force Asylum Seekers Into Abuse* (March 2025). The credited authors are Ana Carolina Fisher da Cunha and Esme Smithson Swain. The research team is given as "No Name Kitchen Activists". The report claims to highlight systemic human rights violations affecting individuals deported to Bulgaria, including widespread destitution among those with pending or accepted asylum claims, who are denied access to reception centres, food, healthcare,

and financial support, leaving many homeless or in extreme deprivation. Even those accommodated are said to face unsanitary conditions and inadequate medical care. The report also describes inhumane detention conditions, particularly in Busmantsi, where overcrowding, abuse, and degrading treatment are reported. Coercive practices to secure “voluntary” return agreements are alleged, including threats of prolonged detention, psychological abuse, misinformation, and physical intimidation. According to the report, every respondent experienced either destitution or coercion, with many reporting mistreatment said to amount to torture. The findings suggest that human rights violations following deportation to Bulgaria “could be near certain”.

66. There is also a blog entitled *Asylum in Bulgaria and Administrative Violence* written by Sara Minolfi and Eda Mirushi (21 May 2024). It describes how asylum seekers are encamped in reception centres that are isolated and far away from big cities and that, in Harmanli, residents are subject to an “illegal” 6 pm curfew that limits life outside. It claims that people have told the writers that children do not go to school, even though legally they are entitled to do so, because the asylum procedure lasts four to six months. Reference is made to the lack of Bulgarian language classes, and that there are no social and cultural activities promoting integration and cohesion. The blog says that even where people do receive “protection” (quotation marks as in the original) “some of them report being stressed and confused, because it seems that they are not given clear information about what they are allowed to do with the papers they receive.”
67. Mr Ó Ceallaigh argued that significant weight should be attached to NNK’s evidence given that they have people on the ground gathering first-hand experiences of the treatment of asylum seekers, refugees and BIPs by the Bulgarian authorities. Mr Anderson, however, submitted that no or little weight could be attached to NNK’s reports due to what he described as a complete want of objectivity. He pointed to the description of NNK given in *The Bulgarian Trap*:

“No Name Kitchen (NNK) is an independent civil movement committed to defending the human rights of people on the move and asylum seekers, challenging systemic violence while providing essential support to individuals seeking safety and dignity. Founded in 2017, NNK works closely with communities affected to identify, document, and report human rights violations, including pushbacks, collective expulsions, systemic neglect, and administrative and judicial misconduct, while offering legal counseling [sic] to individuals in distress. NNK’s team has been present in Bulgaria since December 2023.”

Mr Anderson submitted that he did not mean to suggest that there is anything wrong with what NNK is doing, but maintained that they are not

an objective organisation. He also contended that NNK is a small NGO, has only limited experience of operating in Bulgaria since 2023, and that there was no evidence the authors of the report possess any notable expertise or experience in the field. Furthermore, he argued that the summary at the end of the report – “**Deportations to Bulgaria are not mandatory or justifiable – and they must end**” (bold as in the original) – demonstrated that NNK is an advocacy organisation rather than an objective source of information.

68. Mr Anderson characterised *EU States Crack Down on Asylum Seekers After Al-Assad's Fall* as demonstrating a complete lack of objectivity. We accept that the report does little to acknowledge that, following the fall of the Assad regime, there may be categories of Syrians who no longer require international protection. Instead, NNK adopts the position that measures taken by European states, including the United Kingdom, to halt asylum applications from Syrian nationals after the change of the government in Damascus amount to “a wave of repressive measures” against Syrians. We agree that the report is, as Mr Anderson described, partisan in nature and therefore carries little weight.
69. According to Mr Anderson, the principal difficulty with *The Bulgarian Trap* is that it frequently fails to distinguish between different categories of individuals returned to Bulgaria from third countries. Some will have already been granted or refused status; others may still be awaiting a decision on their claim. We agree, and accept that this lack of differentiation renders parts of the report unclear.
70. For example, under the heading “Observations: Destitution After Deportation”, NNK records the testimony of an Egyptian man deported from Germany to Bulgaria in February 2024. He stated that he attempted to access accommodation and food as an asylum seeker but was refused entry and told to sleep on the streets. However, as Mr Anderson submitted, the report is unclear as to whether this individual was in fact an asylum seeker or whether his claim had already been determined. Nor is it clear whether he was homeless at the time of the interview. Similarly, the account of a Syrian man returned from Germany, who claims to have received no assistance with housing, healthcare, education, language learning, or employment, fails to specify his legal status.
71. The next account appears to relate to MA. For reasons we address later in our judgment, we consider that his description of his circumstances on return to Bulgaria must be treated with caution. What is striking in the NNK report is the suggestion that he was unaware of having been granted BIP status until informed by an unnamed organisation in Sofia, and that he did not understand what this meant. This is, to say the least, surprising given that he was, and remains, legally represented in the United Kingdom.

72. The distinction between the legal status of the individuals mentioned in NNK's report is significant, as it directly affects their entitlement to access employment, healthcare, housing, and social benefits. NNK's failure to be clear about this therefore makes it difficult to discern how the vignettes have any bearing on the applicants' cases.
73. NNK also asserts that "deportees who hold some form of protection status in Bulgaria are abandoned without support and face a high risk of homelessness." Mr Anderson invited us to note that NNK provides no sources, figures, or substantive evidence to support this claim. While that criticism is correct, we accept that the risk of homelessness is a concern also acknowledged by UNHCR in several of its reports.
74. Ultimately, we find that little weight can be attached to *The Bulgarian Trap*.
75. As to the blog, we also agree with Mr Anderson that its content is highly rhetorical, as illustrated by the use of the term "administrative violence" in the title and the parenthetical references to those granted "protection" by the Bulgarian authorities. We further agree that the blog is vague, lacking in detail, and primarily focused on asylum seekers. In our view, little weight can be attached to it.
76. In addition to these NNK reports, the applicants also rely on a bespoke report written by Ms da Cunha dated 15 April 2025. Her report highlights alleged systemic difficulties faced by BIPs, including barriers to accessing housing, education, healthcare, and employment, compounded by language obstacles and a lack of institutional support, including clear signposting. She states that documents are often issued only in Bulgarian without translation, forcing individuals to sign papers they do not understand. Healthcare access is, she says, limited due to administrative delays, the need for paid insurance and discrimination by medical practitioners, while employment opportunities are scarce, partly because of banking restrictions and language barriers. The report also refers to instances of police violence and intimidation, and describes widespread reliance on NGOs with limited capacity in the absence of state support. Overall, she concludes that these factors leave many returnees vulnerable to homelessness, destitution, and a heightened risk of abuse.
77. Ms da Cunha states that she is an international lawyer with two years of experience in migration and border violence, focusing on Europe's external sea and land borders. She has participated in Mediterranean search and rescue operations as a human rights observer and worked on strategic legal interventions before the International Criminal Court aimed at holding perpetrators accountable for crimes against humanity against migrants in

- Libya and during pushbacks at sea. In November and December 2024, she volunteered in Harmanli as a “protection focal point” for NNK, providing basic legal assistance, signposting, and “documenting cases of border and administrative violence and abuse”.
78. We consider that two years’ experience as an international lawyer and two months’ on the ground experience does not amount to a substantial accumulation of expertise. Furthermore, Ms da Cunha has not provided a formal CV, leaving us without information regarding her academic background, professional training, jurisdiction of registration, or prior work history before November 2024. We also note that she is the co-author of *The Bulgarian Trap* and contributed to *EU States Crack Down on Asylum Seekers After Al-Assad’s Fall*. Consequently, there is an inevitable degree of overlap between those publications and her own report, particularly in relation to the examples of individuals said to have encountered difficulties in Bulgaria.
79. We agree with Mr Anderson that Ms da Cunha’s report, as well as the NNK reports she contributed to, consistently fails to distinguish clearly between individuals with BIP status and those who are asylum seekers or have been refused protection. This omission is perhaps explained by a disclaimer in her report stating that NNK is not always aware of the legal status of those it assists or interviews.
80. Although the questions posed by the applicants’ representatives were framed in the context of BIPs, it is often difficult to discern which of the examples cited by Ms da Cunha actually relate to individuals with that status. For instance, in response to a question concerning BIPs with chronic health conditions, she refers to cases of alleged mistreatment or discrimination by healthcare professionals but does not clarify whether any of those individuals were BIPs; indeed, one is expressly identified as an asylum seeker, and another as a person accused by the Bulgarian authorities of feigning cancer symptoms to avoid detention. Similarly, when asked about language barriers, Ms da Cunha cites the case of a man deported from Germany to Bulgaria who was given paperwork in Bulgarian to sign upon arrival at Harmanli camp without the aid of a translator. However, as BIPs are neither entitled to reside in refugee camps nor generally liable to detention, both examples strongly suggest that the individuals concerned did not hold that status.
81. In addressing housing difficulties for BIPs, she refers to a Syrian man deported from the United Kingdom to Bulgaria, an account drawn from *The Bulgarian Trap* and very likely to be that of MA, which, as we have already explained, should be treated with caution. A second example concerns an Egyptian man deported from Germany who was refused access to a reception centre for food and accommodation; this too originates from *The*

Bulgarian Trap and his status remains unclear. As Mr Anderson correctly submitted, the limited number of individuals referenced across the NNK and Ms da Cunha reports is insufficient to constitute cogent or reliable evidence of the general conditions experienced by BIPs in Bulgaria.

82. There is also the reference to Syrians “who believed they were forced to sign voluntary return agreements,” sourced from *EU States Crack Down on Asylum Seekers After Al-Assad’s Fall*. The use of the word “believed” indicates that these individuals had no clear understanding of what they signed. Indeed, Ms da Cunha herself acknowledges that “we have not been able to confirm” that anyone was compelled to sign such an agreement. Furthermore, beyond that NNK report, there is no evidence to suggest that the Bulgarian authorities have forced Syrian asylum seekers – let alone those with BIP status – to sign voluntary return agreements. In the circumstances, we are of the view that little weight can be attached to the suggestion that the applicants face a real risk of being forced to sign a voluntary returns agreement.
83. There are also notable omissions in Ms da Cunha’s report. For example, in the section addressing housing for BIPs, she asserts that “BIPs are abandoned without support upon their arrival in Bulgaria, leaving them at high risk of homelessness” and that they “must find private housing.” However, no statistics or empirical data are cited to substantiate the claim of a “high risk” of homelessness. Furthermore, the report fails to engage with measures introduced by the Bulgarian authorities to facilitate access to accommodation, such as the legislative change in December 2024 permitting registration at a service address. Nor does it acknowledge the existence of the Compass Protection and Inclusion Centres, funded by UNHCR, which provide assistance to individuals seeking protection in Bulgaria. A fair and balanced report would reasonably be expected to address these matters.
84. The respondent advanced several criticisms of Ms da Cunha’s report in the consolidated detailed grounds of defence, prompting a response from her by letter dated 25 November 2025. We agree with Mr Anderson that this letter does little to address those concerns and, if anything, exacerbates them. No further information is provided regarding her qualifications or professional background. Although she states that she returned to Bulgaria in May and June 2025 and claims to have “again witnessed the same conditions affecting asylum seekers and BIPs”, no detail is offered. In relation to the methodology underpinning the NNK reports, which informed her own report, she explains that “testimonies collected by their field reporters form the core of the report” and that *The Bulgarian Trap* was based on the accounts of “twenty-one people on the move.” While acknowledging that “the sample size is limited,” she asserts that this must be understood in the context of “restrictions in accessing information, repression faced by human rights

organizations in Bulgaria, and systemic detention practices that obstruct independent investigations.” We note, however, that organisations such as UNHCR and the AIDA reports do not report any comparable restrictions on their ability to gather data. In any event, the testimony of 21 individuals – many of whose precise legal status is unknown – cannot, in our judgment, constitute a reliable or cogent evidential basis to which significant weight should be attached when assessing the circumstances faced by BIPs in Bulgaria.

85. Ms da Cunha further states that, for her expert report, she “relied upon [her] professional experience in Bulgaria and the personal accounts previously collected for the report *The Bulgarian Trap*.” As we have already explained, we do not consider that *The Bulgarian Trap* warrants much weight. As for Ms da Cunha’s own professional experience, at the time of writing her report this appears to have comprised of just two months in Bulgaria, with only a further two months spent there thereafter.
86. In response to the criticism that she failed to refer to improvements noted in the March 2025 AIDA report, Ms da Cunha explains that “such references do not appear because they had not yet been reflected in the lived reality of the individuals I encountered.” In our view, that explanation merely underscores the limitations of Ms da Cunha’s research, experience, and expertise on the matters in issue.
87. Ms da Cunha further asserts that it is immaterial whether the individuals she interviewed were asylum seekers or BIPs, contending that this “criticism overlooks the nature of the obstacles mentioned in the Secretary’s response – language barriers, unfamiliarity with the health insurance system, and discrimination – which affect both groups equally.” We do not accept that claim. As the country material before us demonstrates, refugees/BIPs, asylum seekers, and those refused status are entitled to markedly different rights and levels of support in Bulgaria. Accordingly, when Ms da Cunha cites examples of individuals claiming to be unable to access accommodation, food, healthcare, or other services without specifying their legal status, such evidence does little to assist in determining the likely experience of a BIP in particular.
88. In our judgment, Ms da Cunha cannot reasonably be regarded as either objective or an expert. Mr Ó Ceallaigh argued that, even if she could not properly be described as an expert, a First-tier Tribunal judge might nonetheless attach some weight to her report by reason of her experience in Bulgaria. However, we consider that a judge properly directing themselves on the law would be bound to afford her report little, if any, weight.

89. While we accept Mr Ó Ceallaigh's submission that NNK's activists have some on-the-ground experience of the treatment of asylum seekers and refugees in Bulgaria, the extent of their expertise remains unclear. Their presence appears confined to certain areas, primarily Harmanli and other locations near reception centres. Given the nature of their work, it appears likely they would engage disproportionately with individuals who cannot access state support – whether because their asylum claims have been refused or for other reasons – and less often with those who, having been granted protection, have successfully integrated without significant difficulty. As noted, Ms da Cunha acknowledges that NNK is not always aware of the legal status of those it assists or interviews. Consequently, its first-hand observations may present an incomplete picture of migrants' experiences in Bulgaria. Our concern is reinforced by the limited evidence of NNK's collaboration with other NGOs; for example, Ms da Cunha's report states that NNK has never worked with the Bulgarian Red Cross, and her references to support offered by organisations such as the Helsinki Committee appear second-hand. Moreover, given the accounts of its activists being arrested by the Bulgarian authorities, NNK seems to have what might be described as a mutually antagonistic relationship with the country's authorities. By contrast, AIDA seeks feedback from the SAR before finalising its reports – a practice which, in our view, is more likely to produce a balanced and comprehensive account of conditions in Bulgaria.
90. In our judgment, NNK is not an objective source of information. Its own description as an activist and advocacy organisation underscores its lack of neutrality. Moreover, its reports exhibit significant deficiencies, including a partisan tone, a failure to distinguish between individuals with different legal statuses, an emphasis on the experiences of a relatively small cohort, and an absence of empirical data or corroborated evidence. We also bear in mind the observations of Elisabeth Laing J (as she then was) in Tabrizagh v Secretary of State for the Home Department [2014] EWHC 1914 (Admin) at [169]: where country reports differ from UNHCR's "pre-eminent and possibly decisive assessment", what weight could the First-tier Tribunal rationally give to them? The judge concluded: "Very little". Accordingly, in relation to the position of BIPs in particular, the content of NNK's reports should be afforded little weight.

Center for Legal Aid

91. CLA describes itself as "one of the three legal aid organizations in Bulgaria" and that it has been "providing legal assistance to refugees, asylum seekers, undocumented migrants" for 15 years. It is "a grassroots organization providing legal services in refugee camps and immigration pre-removal detention centers in Bulgaria." The applicants seek to rely on CLA's *Legal*

statement on the situation of international protection holders returned to Bulgaria dated 5 March 2025.

92. The CLA report describes Bulgaria as traditionally a transit country with systemic shortcomings in the treatment of asylum seekers and BIPs. It highlights the absence of an integration policy, leaving BIPs at risk of homelessness, social marginalisation, and mental health issues. Although BIPs have formal rights to work, healthcare, and social assistance, the report identifies significant practical barriers: landlords' reluctance to rent to refugees, bureaucratic hurdles in address registration, and the lack of government housing programmes. It notes that GPs often refuse to register BIPs as patients, psychological care is not covered by state insurance, and health insurance contributions, though modest, must be paid by unemployed persons. Vulnerability screening is described as inadequate, particularly for victims of torture and those with mental health conditions. Overall, the report concludes that BIPs in Bulgaria rely heavily on overstretched NGOs for basic needs and face serious obstacles to accessing housing, healthcare, and welfare services.
93. The report mentions that the SAR had interpreted the failure to renew ID documents as "a *de facto* manifestation of the individual's will not to enjoy their international protection status anymore" but, like the BHC, CLA says that this practice ceased, with no reports of anyone having their status revoked since 2022, although the law remains on the statute book.
94. Dealing with Syrians in particular, CLA says:

"Currently, Syrian citizens with subsidiary protection are particularly in a kind of limbo situation due to the latest political developments in Syria. The official position of the national Agency for Refugees is that subsidiary protection would not be revoked on the ground of the new political situation in the country.

Still, approximately three months before Assad fled Syria, the national Agency started to dismiss applications for international protection submitted by Syrian citizens. The dismissals were on the ground that the security situation had been improving following calls in the EU for re-establishing diplomatic relations with the Assad government.

With the fall of Assad's regime, Syrians are currently facing insecurities and uncertainties about their humanitarian status. In the aftermath of the Assad's fall, testimonies were published about Syrian asylum seekers with ongoing asylum procedures who were taken for interrogation by the Bulgarian authorities trying to force them to sign documents for their voluntary return to Syria."

While we note CLA's observation that the SAR dismissed international protection applications prior to the collapse of the Assad regime, we bear in mind that the three applicants before us have already been granted BIP status. In principle, we see nothing objectionable in the Bulgarian authorities reviewing the status of BIPs in light of the change of regime in Syria. There is no indication that persons granted international protection in Bulgaria acquire a right to permanent residence, nor would such a right exist for the applicants in the United Kingdom. Moreover, CLA does not suggest that the applicants would be unable to challenge any decision to revoke their status before the Bulgarian courts or obtain a Rule 39 indication from the ECtHR. As for CLA's reference to testimonies alleging attempts to coerce Syrian asylum seekers into signing voluntary return forms, this is drawn from NNK's report *EU States Crack Down on Asylum Seekers After Al-Assad's Fall*. As we have already noted, Ms da Cunha herself acknowledges that NNK has been unable to confirm that the documents in question were voluntary return agreements.

95. In conclusion, the CLA says that as a result of Bulgaria's zero integration policy, BIPs are exposed to the following "critical risks": homelessness; limited access to healthcare and basic services; an increased vulnerability to mental health issues; and social marginalisation.
96. Having considered the report, we accept Mr Anderson's submission that, at its highest, the CLA states no more than that a GP "could" refuse to register a BIP, and no figures are provided to indicate the prevalence of such refusals. Similarly, on the issue of homelessness, while the report explains that BIPs are left to secure accommodation independently – a point not disputed by the respondent – it offers no data on the extent of rough sleeping. Only one specific example is cited: a returnee with BIP status who, since December 2024, has reportedly been sleeping in parks in Sofia due to a lack of financial means and inability to present valid identification for municipal registration. From the description, this individual appears to be MA. As Mr Anderson observes, it is striking that no other examples are provided. Additionally, when discussing difficulties in obtaining accommodation, CLA makes no reference to the legislative change introduced in December 2024 permitting BIPs to register with a service address.
97. We therefore conclude that, while the CLA report warrants more weight than the NNK reports given that the CLA has a more established presence in Bulgaria and it does not exhibit the same lack of objectivity, it nonetheless adds little to advance the applicants' cases.

The international rulings on Bulgaria

98. The applicants rely on several judgments from other jurisdictions in which national courts have held that the return of third country nationals to Bulgaria is unlawful.
99. In the Scottish case of Racheed v Secretary of State for the Home Department [2019] CSIH 8, the Inner House of the Court of Session considered the lawfulness of the Secretary of State's decision to certify an Article 3 claim brought by a Syrian national who had previously been granted refugee status in Bulgaria. It found that there was sufficient information for the case to be tried and the certification decision was consequently quashed. In doing so, the Court of Session adopted a stricter approach than that taken by the courts in England and Wales and this Tribunal when considering third-country removal cases. It considered it inappropriate to engage in an assessment of the merits of the country evidence relied upon by the petitioner, regarding such matters as being for the First-tier Tribunal judge to determine. That approach differs from that taken in the HK (Iraq) litigation and from that advanced by the parties before us. As a consequence, the judgment is brief and does not contain the detailed analysis of country evidence found in HK (Iraq). Furthermore, the decision of the Court of Session is neither binding upon us nor persuasive. In these circumstances, we attach little weight to it.
100. We also do not find the other cases relied upon by the applicants to be of assistance:
 - a. The decision of the Committee on the Rights of the Child (CRC) in MKAH v Switzerland (No 95/2019, 6 October 2021) is factually distinct from the cases before us. It concerned a stateless young child and his single mother, both with mental health difficulties. Their vulnerabilities meant they would face particular disadvantages in accessing housing, employment, social assistance and healthcare in Bulgaria, given the absence of an integration programme: see [10.6]-[10.9].
 - b. Similarly, the case of RAA and ZM v Denmark (No 2608/2015, 28 October 2016) can be distinguished because it involved a family with a one-year-old baby. The father had a significant heart condition that required specific medical treatment. While the CRC took into account mistreatment that the family received on arrival in Bulgaria, including a racially motivated attack that the father was prevented from reporting to the police, the determinative factors were the need for accessible healthcare and the impact on the child: see [7.7]-[7.9].

- c. The applicants cite three German cases: a decision of the Administrative Court of Cologne dated 15 November 2022; a decision of the Regional Administrative Court in Oldenburg dated 2 March 2023; and a decision of the High Administrative Court of Mecklenburg-Vorpommern dated 2 February 2024.
- i. The first concerns a couple with a young child, which is factually distinct to the applicants' cases.
 - ii. The second involved a man granted BIP status. The Court found that it would be impossible for BIPs to access housing, social rights and employment in Bulgaria. However, we have only been provided with an abstract of the ruling and not the judgment itself and it is therefore impossible to know what evidence was before the court and what legal arguments were made.
 - iii. The third case concerned an individual with significant mental health issues. While the applicants before the Tribunal each complain of mental health problems none has required the inpatient psychiatric care that the plaintiff in the German case did. A further distinguishing feature is that the plaintiff did not hold BIP status and his asylum application in Bulgaria had lapsed.
- d. The applicants also rely on the 2025 AIDA *Dublin Country Report, Germany* (updated 16 June 2025) which cites two further decisions of German courts halting removals to Bulgaria. However, we note that while the applicants rely on these five cases, they must be viewed in the context of Germany having made 8,090 requests in 2024 to remove people to Bulgaria, 3,297 of which were accepted and 290 transferred: see second page of the 2025 AIDA *Dublin Country Report, Germany*. It is also significant that the *AIDA Country Report, Bulgaria: Update on 2024* says that:

“different local courts in Germany rejected appeals against BIP transfers to Bulgaria, ruling that applicants who are not particularly vulnerable do not seriously risk inhuman and degrading treatment by virtue of the living conditions of [BIPs] in Bulgaria, despite recognised issues: while there are issues in finding housing, there is no particular evidence of general homelessness of BIPs, realistic employment opportunities are deemed to exist, and language and integration courses, while not foreseen by the State, are offered by NGOs. Generally, non-vulnerable health and able-bodied, single young adults and not considered at risk of destitution, notably thanks to NGO assistance in finding work, for

interpretation, administrative processes, financial aid, etc, despite major challenges in gaining access to housing and the labour market.”

That passage undermines the applicants’ case and highlights the limited value in cherry-picking isolated decisions of foreign courts.

- e. In respect of France, the applicants rely on the *AIDA Dublin Country Report, France* (updated 11 June 2025) which refers to Administrative Court decisions in 2021, 2022 and 2025 annulling transfers to Bulgaria. The earlier decisions appear to relate to deficiencies in the asylum procedure for Afghans, who faced a recognition rate as low as 1%. It is unclear whether the 2025 decision also concerned Afghans. In any event, the present applicants are not Afghans or asylum seekers; they have already been granted BIP status. Moreover, the *AIDA Country Report for Bulgaria: Update on 2024 Update* confirms that France continues to return individuals to Bulgaria: 789 requests were made that year, with 46 transfers completed.
- f. The applicants cite a passage from the AIDA report *The Implementation of the Dublin III Regulation in 2024* which, in respect of Denmark, says:

“While establishing that the shortcomings in the Bulgarian asylum system did not meet the threshold of ‘systemic deficiencies’ that would prevent Dublin transfers, the Danish Refugee Appeals Board requires that Denmark seek individual guarantees for reception and accommodation of Dublin transferees based on the vulnerability of the applicant.”

We agree with the respondent that it is not clear whether that includes persons granted status or what vulnerability or level of vulnerability is required. Furthermore, in the absence of other countries imposing such a requirement, we find that an isolated example does not assist the applicants.

- g. Finally, the applicants rely on the *AIDA Dublin Country Report, Belgium* (updated 24 June 2025), which notes that while Belgium lifted its blanket ban on transfers to Bulgaria in April 2023, its administrative court has occasionally declined to uphold transfers where applicants faced a risk of suicide or other severe vulnerabilities. However, the report makes clear that appeals are generally dismissed where individual circumstances do not reach the required level of severity. This case-by-case approach mirrors that taken in this jurisdiction.

101. As the respondent submits, the decisions relied upon by the applicants were taken on their own facts and there is no evidence that they carry wider authority even within their own states. Moreover, the limited number of cases identified, when set against the AIDA data on the volume of take-back requests and transfers to Bulgaria, underscores that the general approach of states such as Germany, France, Denmark and Belgium is that individuals can lawfully be returned to Bulgaria without creating a general risk of a breach of Article 3.

102. Having considered the country evidence and the international caselaw, we shall now consider the three grounds of claim.

Ground 1: Whether the respondent's decisions to certify the applicants' human rights claims as clearly unfounded are unlawful because they are not bound to fail on appeal.

103. Each applicant argues that the treatment they would face upon return to Bulgaria creates a real risk of a breach of their rights under Article 3 ECHR, and it cannot be said, on any rational basis, that a hypothetical immigration judge would be bound to dismiss such a claim on appeal.

The relevant date for considering evidence

104. As indicated above, we were provided with a substantial volume of material by the parties, not all of which was before the respondent when she made her decisions. The parties disagree on the material date for assessing the evidence. The respondent accepts that, because the allegation concerns a risk of breach of Article 3, the Tribunal may consider evidence up to the date of the hearing in respect of FH and AS, who remain within the jurisdiction of the United Kingdom. However, the respondent contends that MA's case, as he has already been removed to Bulgaria, must be assessed solely on the basis of the evidence that was, or ought to have been, before the decision-maker at the date of decision. The applicants, by contrast, submit that the relevant date for all three claims is the date of the hearing.

105. Mr Anderson relied on the case of Saadi v Italy (2009) 49 EHRR 30, at [133], in support of his position:

“With regard to the material date, the existence of the risk must be assessed primarily with reference to those facts which were known or ought to have been known to the Contracting State at the time of expulsion. However, if the applicant has not yet been extradited or deported when the Court examines the case, the relevant time will be that of the proceedings before the Court. This situation typically arises when, as in the present case, deportation or extradition is delayed as a result of an indication by the Court of an interim measure under r.39 of the Rules of Court. Accordingly, while it is true that

historical facts are of interest in so far as they shed light on the current situation and the way it is likely to develop, the present circumstances are decisive.”

106. In Ilias v Hungary (2020) 71 EHRR 6, at [141], the ECtHR said:

“In particular, while it is for the persons seeking asylum to rely on and to substantiate their individual circumstances that the national authorities cannot be aware of, those authorities must carry out of their own motion an up-to-date assessment, notably, of the accessibility and functioning of the receiving country’s asylum system and the safeguards it affords in practice. The assessment must be conducted primarily with reference to the facts which were known to the national authorities at the time of expulsion but it is the duty of those authorities to seek all relevant generally available information to that effect. General deficiencies well documented in authoritative reports, notably of the UNHCR, Council of Europe and EU bodies are in principle considered to have been known. The expelling state cannot merely assume that the asylum-seeker will be treated in the receiving third country in conformity with the Convention standards but, on the contrary, must first verify how the authorities of that country apply their legislation on asylum in practice.” (underlining added)

107. We hesitate to accept, as a general proposition, that in certification cases involving human rights the relevant date is the date of hearing. The Tribunal frequently hears challenges to certification decisions – typically taken under s.94 of the 2002 Act – and it is generally accepted that the Tribunal considers the evidence that was, or ought reasonably to have been, before the decision-maker at the date of decision. The observations of the ECtHR in Ilias do not in our view displace that approach. While we acknowledge that in Saadi the ECtHR stated that the relevant date is the date of proceedings, that was in the context of a claim brought directly under Article 3. In the present cases, the question posed is different: whether the respondent was lawfully entitled to conclude that the applicants’ Article 3 appeals would be bound to fail. Although the case law recognises that the Tribunal is, in substance, asking itself the same question as the respondent, it remains a public law rationality review: see ZT (Kosovo). However, there appears to be little domestic case law on the relevant date in certification reviews.

108. In the Scottish case of FNG v Secretary of State for the Home Department [2009] S.C. 373, the respondent argued that, in a certification case, the court was restricted to reviewing the decision based on the material available at the time of the decision. However, Lord Hodge made obiter observations at [12]-[13] that when the ECHR was invoked, the court was obliged to consider all the materials that would be before an immigration judge. His reasoning was based on the court’s legal duty as a public authority to avert or rectify a violation of an ECHR right. He found support for that position in

comments made by Lord Bingham in R (Razgar) v Secretary of State for the Home Department (No 2) [2004] UKHL 27 at [20]:

“The Secretary of State must exercise his judgment in the first instance. On appeal the adjudicator must exercise his or her own judgment, taking account of any material which may not have been before the Secretary of State. A reviewing court must assess the judgment which would or might be made by an adjudicator on appeal.”

109. We note that the Court of Session grappled with the question in Racheed. Lady Clark considered that the focus should be on the material available to the respondent at the time of the impugned decision: see [17] and [23]. However, Lord Malcolm observed at [25] that while a court should not be bound to accept new information, it was commonplace for judges to consider post-decision evidence in certification challenges. He acknowledged that this was a departure from traditional judicial review procedures but considered it justified, particularly where serious issues were at stake, since to do otherwise would inevitably lead to a fresh application. Indeed, in the earlier HK (Iraq) litigation, for practical reasons and to avoid the need for fresh certification decisions based on new evidence, the parties agreed that the High Court could consider post-decision material (see the judgment of the Court of Appeal (per Sales LJ) in that case: [2017] EWCA Civ 1871 at [5]). For similar reasons of practicality, we proceed on the basis that we will consider the post-decision evidence relied upon by FH and AS.
110. With regard to Mr Ó Ceallaigh’s submission that even in MA’s case, the Tribunal can still rely on post-removal evidence, he relies on the ECtHR’s judgment in Mamatkulov v Turkey (2005) 41 EHRR 25 at [69]:

“In determining whether substantial grounds have been shown for believing that a real risk of treatment contrary to Article 3 exists, the Court will assess the issue in the light of all the material placed before it or, if necessary, material obtained *proprio motu*. Since the nature of the Contracting States’ responsibility under Article 3 in cases of this kind lies in the act of exposing an individual to the risk of ill-treatment, the existence of the risk must be assessed primarily with reference to those facts which were known or ought to have been known to the Contracting State at the time of the extradition; the Court is not precluded, however, from having regard to information which comes to light subsequent to the extradition. This may be of value in confirming or refuting the appreciation that has been made by the Contracting Party of the well-foundedness or otherwise of an applicant’s fears (see *Cruz Varas and Others v. Sweden*, judgment of 20 March 1991, Series A no. 201, pp. 29-30, §§ 75-76, and *Vilvarajah and Others*, cited above, p. 36, § 107).” (underlining added)

111. In light of the distinction drawn in Saadi and Mamatkulov between cases where the applicant has already been removed and those where the

applicant remains within the jurisdiction of the removing state, we are not persuaded that an expelled applicant can rely on precisely the same category of evidence as one who has not been removed. Our reading of [69] in Mamatkulov is that, while there is limited scope to consider evidence emerging after MA's removal to Bulgaria, this is confined to matters that ought reasonably to have been within the respondent's contemplation at the time of removal. For example, we are satisfied that this could include evidence relating to the potential homelessness. We do not accept that the duty to consider post-removal evidence extends to circumstances or events that were not reasonably foreseeable at that point. In any event, we regard it as unrealistic and impractical to consider post-decision evidence in respect of two applicants while disregarding the same evidence for the third. For completeness, even if we were to confine MA's case strictly to material available at the date of decision, our assessment and outcome would be identical; the post-removal account does not alter the conclusion we reach below.

112. We therefore proceed to consider whether an immigration judge, properly directing themselves on the law, would, on the evidence, be bound to reject the applicants' human rights appeals. In doing so, we remind ourselves that we must take each applicant's case at its reasonable height: see EM (Eritrea) at [8]. However, that does not mean that we are bound to uncritically accept the evidence on which the applicants rely if it is seriously flawed, or unreliable, or if there is other relevant material to which the First-tier Tribunal would be bound to give greater weight: see Tabrizagh at [4] and [169].

The Article 3 test

113. The starting point is that, because Bulgaria is an EU Member State and a signatory to the ECHR, there is a significant, though rebuttable, evidential presumption that it will comply with its international obligations: see KRS v United Kingdom (App No 32733/08) (2009) 48 EHRR SE8; EM (Eritrea) at [40]; Elaythamby v Secretary of State for the Home Department [2011] EWCA 2182 (Admin) at [42(i)].
114. However, the parties disagree about the correct test for assessing whether a state has breached a person's rights under Article 3 in a material deprivation case.
115. The applicants contend that evidence of "pushbacks" at the Bulgarian-Turkish border, the mistreatment they allegedly suffered during their initial detentions, extensive homelessness, the coerced signing of return agreements and the Bulgarian government's adoption of a "zero integration" policy demonstrate that, notwithstanding their nominal rights

- to employment, accommodation, benefits and healthcare, the Bulgarian authorities, through action and/or inaction, have breached their obligations under the ECHR. Therefore, they argue that their cases fall within the scope of Limbuela and MSS.
116. The applicants submit that, in such circumstances, the applicable test is that in Soering v United Kingdom (App No 14038/88) (1989) 11 EHRR 439: namely, whether substantial grounds have been shown for believing that the person concerned faces a real risk of inhuman or degrading treatment in the receiving state. In support, they rely on authorities including EM (Eritrea) at [3] and NA (Sudan) v Secretary of State for the Home Department [2017] 3 All ER 885 at [107(1)].
117. The respondent, by contrast, relies on Ainte (material deprivation – Art 3 – AM (Zimbabwe)) [2021] UKUT 203 (IAC). In Ainte, the appellant faced deportation to Somalia, a non-ECHR state, where he claimed he would be left destitute. The Upper Tribunal (Judges Bruce and O’Callaghan) held that there is no jurisprudential distinction between cases resisting removal on health grounds and those based on exposure to non-intentional or naturally occurring harm in the receiving state. In both scenarios, the applicable test was that identified by the ECtHR in Paposhvili. Accordingly, in material deprivation cases, Article 3 would be breached only where the returnee would face conditions resulting in intense suffering or a significant reduction in life expectancy: see [62]. However, in reaching that conclusion, the Tribunal at [34]–[35] declined to follow the approach in MSS (which applied the Soering test), drawing a distinction between returns to ECHR signatory states and non-signatory states. A different constitution of the Upper Tribunal (Judges Kebede, Francis and Stephen Smith) reached the same conclusion in OA (Somalia) CG [2022] UKUT 00033 (IAC) at [106(c)].
118. Having considered the authorities, we are satisfied that, in material deprivation cases, the more stringent Paposhvili standard applies to removals to non-ECHR states, and not to cases where an ECHR signatory state has deliberately, through act or omission, failed to comply with its Convention obligations. Accordingly, on the basis on which the applicants’ advance their case, the applicable test is that in Soering.
119. Nevertheless, we bear in mind that, in SM & Others v Secretary of State for the Home Department [2018] UKUT 429 (IAC), a presidential panel of the Upper Tribunal confirmed at [22] that even where the Soering test applies, the threshold remains high.

The parties’ submissions

120. The applicants contend that the respondent acted unlawfully in certifying their human rights claims as “clearly unfounded” because those claims are not bound to fail. They point to the high threshold to justify certification, asserting that their claims plainly meet the test of arguability when taken at their highest. In light of the objective evidence and their own experiences, the applicants submit that Bulgaria cannot be regarded as a safe third country for BIPs. In particular, they point to systemic barriers to accessing housing, healthcare, and employment, compounded by the “zero integration policy” and widespread hostility towards migrants. They argue that UNHCR has repeatedly highlighted the risk of homelessness and structural exclusion, while reports from the NGOs and Ms da Cunha document severe deprivation, intimidation, and coercion, including the enforced signing of “voluntary” return documents. The applicants argue that these conditions, together with their individual vulnerabilities and MA’s current destitution in Bulgaria, demonstrate a real risk of treatment contrary to Article 3. They further submit that the respondent’s reliance on formal entitlements ignores the practical realities on the ground, which the Supreme Court in EM (Eritrea) held must be central to the inquiry. On this basis, they maintain that no reasonable decision-maker could conclude that their claims are “bound to fail.”
121. The respondent argues that the certification decisions were lawful because the applicants’ claims are manifestly unfounded. She submits that the starting point is the significant evidential presumption that Bulgaria, as an EU Member State and signatory to the ECHR, will comply with its international obligations. That presumption, endorsed in HK (Iraq) and EM (Eritrea), has not been displaced by the material relied upon. The respondent contends that the position in Bulgaria has not materially changed since the domestic courts upheld returns there, and that UNHCR has not recommended suspension of transfers despite monitoring conditions closely. While acknowledging some integration challenges, she argues these fall far short of the high Article 3 threshold, particularly for BIPs who enjoy rights to work, healthcare, and social assistance. The respondent maintains that criticisms from NGOs such as NNK and Ms da Cunha’s report lack objectivity and cannot outweigh more authoritative sources, including AIDA and UNHCR. The applicants’ own accounts are, she says, limited, inconsistent, and undermined by their failure to seek assistance before leaving Bulgaria. In the respondent’s submission, the evidence taken as a whole could not lead a properly directed First-tier Tribunal judge to conclude that removal would breach Article 3, and the claims were therefore correctly certified as clearly unfounded.

The caselaw

122. In Tarakhel, at [94], the ECtHR reiterated that the assessment of the minimum level of severity under Article 3 is relative and depends on all the circumstances of the case, including the physical and mental effects and, in some instances, the sex, age, and state of health of the individual. At [95], the Court confirmed that the Convention does not impose a general obligation on a Contracting State to provide everyone within its jurisdiction with a home or financial assistance to maintain a particular standard of living. However, at [98], it noted that, as established in MSS, a situation of extreme material poverty may nonetheless engage Article 3. At [101], the Court explained that it would adopt the approach taken in MSS and examine the applicant's individual circumstances in light of the overall situation prevailing in the country of return at the relevant time. Finally, at [104], the ECtHR emphasised the rebuttable presumption that a Contracting State will comply with its obligations under Article 3. Beyond these principles, we consider Tarakhel to be confined to its facts, which concerned a family with young children.
123. NA (Sudan) concerned appellants who faced removal to Italy where they had been granted BIP status. They argued that the conditions encountered by asylum seekers and BIPs were so inadequate that there was a significant risk that they would suffer inhuman and degrading treatment. The Court of Appeal took into account that under Italian law, BIPs were entitled to the same rights as Italian citizens. Those returned under the Dublin Convention, were also entitled to state-provided accommodation for six months after their return to Italy: see [27]-[29]. Furthermore, Italy had an obligation under the Qualification Directive not only to provide BIPs with the same rights as Italian citizens, but also to ensure access to integration programmes to help them avail themselves of their rights so as to avoid homelessness and destitution: see [48].
124. At [54]-[56], Underhill LJ (with whom Simon and McFarlane LJ agreed) identified two points that emerged from the reasoning of the ECtHR in MSS. First, he discussed why the general rule that Article 3 did not require a state to provide housing to everyone within its jurisdiction required qualification in the case of the applicant in MSS. That was because (a) of the special vulnerability of refugees as recognised in international law; and (b) Greece had, by transposing the requirements of the Reception Directive into its own law, undertaken positive obligations as regards the treatment of migrants. Secondly, the ECtHR did not proceed on the basis that Greece's failure to comply with the Reception Directive was itself sufficient to constitute a breach of Article 3. Instead, it examined the particular circumstances of the applicant's case to see whether it met the necessary "level of severity."
125. At [73], Underhill LJ considered Hussein v Netherlands and Italy (27725/10) (2013) 57 EHRR SE1. The ECtHR had acknowledged in that case deficiencies

in Italy's asylum programme, but it had also noted that, unlike Greece, it had systems in place to provide facilities and care to asylum seekers and the various shortcomings were insufficient to engage Article 3. Underhill LJ considered that it could not have been the ECtHR's reasoning that there was a real risk of Ms Hussain being homeless, but that did not constitute sufficient hardship. That, he observed, would be inconceivable in the case of a mother with young children. Instead, he found, the ECtHR's conclusion was plainly that "the Italian authorities could be trusted...to find her accommodation which, if not ideal, was sufficient to prevent the kind of inhuman and degrading treatment suffered by the applicant in *MSS*."

126. Similarly, at [78], Underhill LJ looked at Daytbegova v Austria (6198/12) (2013) 57 EHRR SE12 and found that, as in Hussein, the ECtHR had reached its conclusion that the applicant did not face a real risk of inhuman and degrading treatment on return to Italy because while there were deficiencies in the Italian system, the authorities could still be expected to make the necessary arrangements to ensure that the applicant's daughter's healthcare needs were met.
127. At [85], Underhill LJ rejected the respondent's argument that the application of Article 3 differed in the case of a BIP than in the case of an asylum seeker because BIPs are, in essence, entitled to the same rights as nationals, and are therefore in a less vulnerable position. Underhill LJ held that it was implicit that the applicable principles are the same in either case.
128. Mr Ó Ceallaigh argued that it was insufficient for the respondent to merely assert that the applicants had a right to work and accommodation in Bulgaria. The question was whether they could access work and accommodation as a reality and the evidence relied upon by the applicants showed that it was not. He emphasised that, unlike in Italy, Bulgaria provides no accommodation to those returned from third countries. Furthermore, given the "zero integration" policy, he submitted that it had taken no steps to ensure that BIPs can access their rights. It could not therefore be trusted to ensure that arrangements would be put in place to ensure that the applicants would not be exposed to inhuman or degrading treatment.
129. Mr Anderson submitted that cases involving vulnerabilities arising from families with young children are materially different from those concerning single young men. He argued that NA (Sudan) contains no criticism of the approach adopted in Tabrizagh and that, in SM & Others at [29], the Tribunal emphasised that the significant evidential presumption that an EU Member State will comply with its obligations under Article 3 is integral to the analysis of the evidence.

Assessment of the evidence

Accommodation and the risk of homelessness

130. The general principle is that the ECHR does not confer on states the duty to provide everyone within their jurisdiction with a home: see Chapman v United Kingdom (2001) 33 EHRR 18 at [99]; and MSS at [249]. That principle sets the context for the approach to Article 3 in cases involving material deprivation.
131. Against that backdrop, both parties referred the Tribunal to Limbuela as the appropriate starting point for considering Article 3. In Limbuela, the House of Lords considered the cases of three asylum seekers who claimed to have been left destitute and street homeless after they had been refused state support on the basis that they had not claimed asylum as soon as reasonably practicable after their arrival in the United Kingdom. Their claims had been successful before the High Court and upheld by the Court of Appeal. Dismissing the respondent's appeal, the House of Lords found that by withdrawing support to the claimants, the respondent was directly responsible for breaching their rights under Article 3. In his judgment, Lord Bingham acknowledged that in cases that do not involve the deliberate infliction of harm by a state, the threshold to be met is a high one: see [7]. While there was no legal duty to house the homeless, the Article 3 "threshold may be crossed if the applicant with no means and no alternative resources of support, unable to support himself, is, by the deliberate action of the state, denied shelter, food or the most basic necessities of life": *ibid.* At [8], Lord Bingham held that when considering whether to withhold support, the respondent was required
- "on a fair and objective assessment of all relevant facts and circumstances [to consider] whether an individual would face an imminent prospect of serious suffering caused or materially aggravated by a denial of shelter, food or the most basic necessities of life. Many factors may affect that judgment, including age, gender, mental and physical health and condition, any facilities or sources of support available to the applicant, the weather and time of year and the period for which the applicant has already suffered or is likely to continue to suffer privation."
132. Lord Hope also identified as a relevant consideration the extent to which an applicant has explored all avenues of assistance that might be expected to be available: see [59].
133. It is important to note that a key factor in Limbuela was that, in addition to being denied asylum seeker support, the claimants were prohibited from working: see [6], [56]-[60], [66]-[67] and [71]. Consequently, they had no alternative means of supporting themselves.

134. In MSS, the ECtHR held that the living conditions faced by the applicant, an Afghan asylum seeker, amounted to a breach of Article 3. The conditions in that case were stark. The Court found that the applicant had spent months living in extreme poverty, unable to meet his most basic needs; that there were fewer than 1,000 places in reception centres for tens of thousands of asylum seekers; and that an adult male asylum seeker had virtually no chance of being accommodated by the state, with most sleeping rough: see [245] and [254]. Indeed, all those returned to Greece under the Dublin Convention were found to be homeless: see [245]. While the ECtHR reaffirmed that Article 3 does not oblige a state to provide everyone within its jurisdiction with a home, the Greek government had incorporated the EU Reception Directive into domestic law and was therefore under a legal obligation to provide accommodation and decent material conditions to destitute asylum seekers: see [249]–[250]. Importantly, as in Limbuela, asylum seekers were deprived not only of material support from the authorities but also of any realistic ability to work and provide for themselves: see [246]. Although there was a notional entitlement to work for some, there was no genuine prospect of accessing the labour market: see [172]. At [263], the ECtHR concluded that the Greek authorities were responsible, through their inaction, for the applicant’s dire situation over several months. The combination of those conditions, prolonged uncertainty about his future, and the total lack of prospects for improvement amounted to a breach of Article 3.
135. By contrast, as we have already explained, the evidence before us establishes that BIPs have a lawful right to work in Bulgaria. While they may encounter initial difficulties in securing employment – for example, the need to obtain a service address, open a bank account, and surmount language barriers – and while some, perhaps many, may be driven to seek work in the informal economy, the evidence demonstrates that employment opportunities do exist. In particular, the 2025 AIDA report records that many BIPs have been able to find work independently; UNHCR’s *Voices of Refugees* report indicates that many, and likely a majority, of Syrians are employed; and the Migrant Integration Policy Index 2025 rates Bulgaria as “halfway favourable” for labour-market mobility. As we have also noted, the fact that many such jobs are low-paid and menial is not, in itself, unusual for migrant workers, especially where, as the statistics suggest, many refugees and BIPs in Bulgaria previously held manual employment in their home countries.
136. We note that at [172] of MSS the ECtHR did refer to a situation that might be said to be analogous to the applicants’ complaints about the ability of BIPs to find work. In MSS, the applicant had been issued with a “pink card”, a temporary residence permit conferring certain rights, including the possibility of employment after a waiting period. However, the Court found

that, in practice, an asylum seeker could only work if they obtained a tax number, which in turn required proof of a permanent place of residence, effectively excluding the homeless from the labour market. While some of the reports before us refer to a similar “Catch-22” situation in Bulgaria, a First-tier Tribunal judge would have to have regard to the evidence that the law has been amended so that refugees and BIPs can now register a service address, and that there are also opportunities for migrants to seek work in the informal economy.

137. There is some country evidence suggesting that migrants face a risk of homelessness in Bulgaria. UNHCR’s *Protection Brief – Bulgaria: Detentions of Asylum-seekers and Refugees* (September 2024) refers to a serious risk of homelessness, and the 2025 AIDA report notes that Dublin returnees may face possible homelessness on return; however, both sources concern individuals who, unlike the applicants, have been refused international protection. More relevant is UNHCR’s *Universal Periodic Review* (October 2019), which refers to a real risk of homelessness for BIPs after they have to leave a reception centre, and UNHCR Bulgaria’s more recent *Subsidiary Protection in Bulgaria Q&A letter*, which states that barriers to exercising rights mean that BIPs can “potentially” be exposed “to a risk of homelessness.” While considerable weight is to be attached to UNHCR’s views, we bear in mind that the *Universal Periodic Review* is six years old, and the wording of the Q&A letter is carefully phrased. The CLA report refers to a lack of state support and the corrupt practice of “selling addresses” as exposing BIPs to a high risk of homelessness, but it does not acknowledge the recent legal change permitting BIPs to register service addresses, and the only example it cites of a homeless BIP is MA. The BHC report mentions difficulties in registering a residential address but says nothing about homelessness as such. For reasons already given, the evidence of NNK and Ms da Cunha would have to be afforded little weight. None of the reports that refer to a risk of homelessness provide any statistics on its prevalence among the BIP population or on the duration of such circumstances.
138. A further point of relevance is that, despite the applicants’ assertion of a real risk of homelessness for BIPs in Bulgaria, the only verifiable example cited by both NNK and the CLA is MA himself. If this were a widespread problem, it would be reasonable to expect more individuals to be identified.
139. The country evidence shows that BIPs in Bulgaria must vacate reception centres within 14 days of being granted status and secure an external address for registration, which is essential for obtaining identity documents and accessing private housing. Landlords are often reluctant to rent to refugees, and there are no government housing programmes. While access to homeless shelters is legally available, navigating the process requires support. Social assistance is modest, and language barriers and lack of

formal qualifications compound difficulties. However, the UNHCR *Voices of Refugees* report provides useful data: 78% of participants lived in private rented accommodation, with the remainder in state accommodation (8%), registration-reception facilities (4%), or “Other” (4%). Taking into account that the majority of participants held international protection status, this indicates that, despite challenges such as high rental costs, agent fees, and security deposits, most BIPs do succeed in securing housing. As already mentioned, the December 2024 legislative reforms allow municipalities to provide a service address for registration. UNHCR’s *Asylum in Bulgaria Factsheet* says that BIPs can seek assistance from the following organisations for help with, *inter alia*, housing and social assistance: the Bulgarian Red Cross and Caritas. A First-tier Tribunal judge would therefore have to regard the obstacles as significant, but not insurmountable.

140. There is also MA’s evidence regarding his experiences since being returned to Bulgaria in December 2024. MA states that he resumed living homeless in a park in Sofia. He says that he has had no contact or assistance from the Bulgarian authorities, but likewise does not claim to have taken any real steps to seek their help. Moreover, his attempts to seek support from NGOs appear limited:
- a. In his second witness statement, dated 20 February 2025, he recounts that on 28 January 2025 he spoke with CLA, who advised that they could assist him in obtaining a new residence card and recommended that he attend a police station. The police directed him to the immigration office, where he was told to return with an interpreter; however, MA says he did not “feel safe enough to return.”
 - b. In his third statement, dated 27 February 2025, he says that he contacted NNK, who provided him with clothing but informed him that they could do no more because Bulgaria does not offer support for refugees or homeless people. He does not claim that NNK referred him to any other organisations. On 24 February 2025, he returned to the CLA on the advice of his solicitors, but found the office closed that day.
 - c. In his fourth witness statement, dated 7 May 2025, he claims that he approached the Bulgarian Red Cross but perceived from the “body language” of the staff member that they did not want to help him, although they offered Bulgarian language lessons. MA states that he “did not particularly want to know about [the language lessons] because my main priority was to get accommodation and financial support.” He says the conversation lasted about one minute.

- d. On 5 May 2025, he visited Caritas, who explained that they could not provide accommodation but could offer Bulgarian language lessons and assistance with checking employment contracts. As with the Red Cross, MA declined the language lessons.
 - e. In his fifth and final statement, dated 25 November 2025, he says that he approached the Red Cross again but was turned away, without providing details. He adds that mosques have provided him with some assistance.
141. Even taken at its highest, MA's evidence does not suggest that he has made any significant effort to seek assistance or to find work. His decision not to return to the immigration office to renew his residence card, coupled with his refusal of two offers of Bulgarian language lessons, indicates a lack of genuine engagement in improving his circumstances. Language lessons are plainly a sensible first step for anyone seeking accommodation and employment. A First-tier Tribunal judge would also have to consider his evidence in light of the observations of Dr Sarah Dawes, a forensic psychologist who prepared a medico-legal report dated 1 July 2025 for MA. At [1.4] of her report, she writes that MA's "belief that he would be safer and better supported in the United Kingdom appears to have limited his availability and motivation to access available services" in Bulgaria, while at the time of the report MA had not made any attempt to contact the Bulgarian authorities or charities since February 2025, although MA had indicated that this was down to the language barrier and a mistrust of the authorities (see [4.27]).
142. Moreover, in response to a question about whether MA's fear of remaining in Bulgaria has influenced his behaviour, Dr Dawes stated (at [7.21]):

"[MA] appears to hold a subjective fear of remaining in Bulgaria, based on his reported experiences of physical abuse, inhumane detention, lack of medical care, and prolonged homelessness. He describes these events as traumatic and has expressed feelings of fear, abandonment, and hopelessness in relation to the Bulgarian authorities. These experiences have contributed to what appears to be a genuine sense of insecurity and emotional distress, which may explain his avoidance of approaching local services or authorities more recently. After initial failed attempts there were also indications of feelings of shame and humiliation, perceiving that people looked at him with disgust and that there was little point in trying, which may further contribute to recent avoidance. For someone experiencing major depressive disorder this can also impact motivation. While trauma-related responses, including conditioned fear, mistrust and negative cognitions appear to underpin his disengagement, his ongoing desire to return to the UK, where he believes he would receive appropriate care and protection, may also contribute. It is possible that he may consciously or unconsciously avoid accessing services in Bulgaria to preserve the narrative of needing to leave, especially if he

perceives that doing otherwise could weaken his case for relocation. It was my opinion that his behaviour reflects a combination of emotional distress (with this being the primary influence on behaviour) and to a lesser extent strategic reasoning in the context of his situation." (underlining added)

143. Mr Ó Ceallaigh submitted that this aspect of Dr Dawes' report should be disregarded because she does not understand the conditions in Bulgaria. However, for reasons already given, there is substantial country evidence that numerous NGOs provide support to refugees and BIPs in Bulgaria, including the UNHCR-sponsored Compass network, and that many individuals granted international protection, including Syrians, are able to secure work and accommodation. Indeed, MA's evidence is that he has been offered some forms of assistance but has either declined them or failed to pursue them.
144. Accordingly, any First-tier Tribunal judge considering MA's evidence about the difficulties he claims to have faced in establishing himself as a BIP following his removal to Bulgaria, viewed in light of Dr Dawes' report, would be bound to treat it with considerable caution. This is because, consciously or unconsciously, he may have refrained from seeking assistance so as not to jeopardise his prospects of returning to the United Kingdom. That caution applies both to his personal ability to obtain work and accommodation and to the use of his account as general evidence of the position of BIPs in Bulgaria.

Access to healthcare and benefits

145. The country evidence, particularly the 2025 AIDA report, confirms that BIPs have the same formal healthcare entitlements as Bulgarian nationals, subject to a modest insurance contribution. Recent reforms have also reduced previous administrative delays in reinstating third-country returnees in the national database. While practical obstacles remain, such as registration requirements, language barriers, and limited mental health provision, these are mitigated by NGO- and UNHCR-provided support, including Compass centres, and fall far short of constituting a systemic or blanket denial of essential medical care. The Migrant Integration Policy Index 2025 rates Bulgaria's healthcare system as only "slightly unfavourable." NNK refer to a Syrian man returned from Germany who complained of being unable to access healthcare, but they do not clarify whether he had protection status; and although Ms da Cunha asserts that BIPs struggle to access healthcare, for reasons already given, little weight can be attached to her report. Even at its highest, the evidence from NNK and CLA that some GPs refuse to register BIPs and that certain migrants may encounter discrimination does not establish a widespread or systemic failure by Bulgaria to comply with its international obligations.

146. MA's evidence that hospitals require patients either to hold medical insurance or pay privately for treatment is consistent with the country information. However, his inability to afford insurance or private healthcare must be assessed in light of our observations at [144] above.
147. Even if state-provided mental health care is unavailable, Dr Dawes' evidence confirms that organisations such as the Nadja Centre Foundation and the Animus Association Foundation offer free medical and psychological assistance in Bulgaria. This is corroborated by UNHCR's *Asylum in Bulgaria* factsheet, which also notes that mental health and psychosocial support is available through the Bulgarian Red Cross. While language barriers may complicate access, the evidence does not suggest these are insurmountable, and we take into account MA's evidence that he has twice been offered lessons by NGOs.
148. A First-tier Tribunal judge would therefore need to consider that, although structural shortcomings exist within Bulgaria's health system, they affect both nationals and migrants alike and, taken cumulatively, do not create a real risk of inhuman or degrading treatment under Article 3 ECHR for BIPs as a group. Individual cases involving exceptional vulnerability or complex medical needs may justify a different conclusion, but the general position does not meet the Article 3 threshold.
149. Similarly, the country evidence shows that with the exception of certain benefits available to pregnant women and families with children, BIPs have the same right to access to social assistance as Bulgarian nationals. Support in accessing entitlements is provided by several NGOs, including Compass, the Bulgarian Red Cross and Caritas.

Violence and discrimination

150. A further aspect of the applicants' case concerns the violence they claim to have suffered in Bulgaria in the past, as well as the violence MA alleges he encountered following his return. Reliance was also placed on evidence of "pushbacks" at the Bulgarian-Turkish border as indicative of the authorities' disregard of their international obligations.
151. The evidence of all three applicants is that, upon arrival in Bulgaria, they were detained, stripped, and beaten by Bulgarian officials. Nevertheless, each was subsequently granted BIP status and released from detention. However, with the exception of the evidence of NNK and Ms da Cunha, which should be afforded little weight, the country evidence does not establish that BIPs returned from third countries face a real risk of harm as a result of systemic state deficiencies. Moreover, the applicants' own evidence undermines their case.

152. AS states that, when returned by Germany in 2023, he received no more than a “very derogatory look” from officials before being questioned, photographed, and released. MA says that he was taken to a room where his travel document was scanned and then released from the airport. While he claims that, on arrival in Sofia, he was arrested and detained for two days, nothing further appears to have resulted from that. Accordingly, even taking their evidence at its highest, it does not support the contention that BIPs face a real risk of treatment contrary to Article 3 on return.
153. MA also claims to have suffered violence act at the hands of locals while sleeping rough since his return: he says that someone threw an unknown substance in his face which caused pain and a man urinated on him. However, as unpleasant as these encounters may have been, aberrations are insufficient to outweigh the strong presumption that Bulgaria complies with its international obligation and it was not argued on the applicants’ behalf that suggested that these events reached the level of severity required to engage Article 3. And while MA complains that his view is that the Bulgarian police are racist, that in itself is insufficient to meet the Article 3 threshold, and we also note that the Migrant Integration Policy Index 2025 says that Bulgaria has one of the strongest equality bodies in Europe, which suggests that there may be avenues of redress.

The applicants’ evidence

154. A hypothetical First-tier Tribunal judge considering the evidence referred to above will need to consider in the round the previous experience of the applicants, which is a factor to be taken into account when examining the foreseeable consequences of their return to Bulgaria: see EM (Eritrea) at [70]. We therefore summarise below each applicant’s claim taken at its highest.

(a) FH

155. FH is a 33-year-old man. His evidence is that, on his first attempt to enter Bulgaria, he was violently pushed back into Turkey. On his second attempt, he was detained, stripped, and beaten by the Bulgarian authorities. However, he was subsequently transferred to three different centres where he reports no ill-treatment and was granted BIP status. He then claims that he travelled to Sofia, where he slept in a park, in a mosque, or on the street. He states that he was unaware of his immigration status and, after approximately 20 days, used money sent by his brother in Syria to pay an agent to facilitate his journey to the United Kingdom. Taken at its highest, his evidence indicates that it was never his intention to remain in Bulgaria, and he does not claim to have made any effort to obtain support, employment, or accommodation while in Sofia. He asserts that he feels

anxious, eats only one meal a day, and has thoughts of self-harm and suicide, although no medico-legal report has been disclosed on his behalf.

(b) AS

156. As at the date of the hearing, AS was 27 years old. At its highest, his evidence is that, on arrival in Bulgaria, he was detained, stripped, and beaten. He states that he was held in poor conditions in a prison for a month, during which he developed breathing difficulties and suffered further beatings by guards. He was then transferred to Harmanli refugee camp. He told officials that he did not wish to remain in Bulgaria, but after approximately two and a half months he was issued with a residence card and informed that he had to leave. Following this, he travelled to Sofia, where he lived in a park. He sought assistance from the Red Cross, who took his details but did not contact him again, although he did not pursue the matter further or seek the assistance of any other organisations. He claims that he looked for work but was unable to find any due to the language barrier. He does not explain how long he remained in Sofia, but it does not appear from the chronology that he was there for long. However, as soon as he obtained a Bulgarian travel document, he left the country for Germany and claimed asylum there. He was subsequently returned to Bulgaria under the Dublin Convention and does not allege any mistreatment by officials on arrival. He resumed living rough in the same park and, four months later, left Bulgaria again, this time for the United Kingdom. He does not claim to have looked for work or accommodation or sought assistance from any organisations during that time.
157. The First-tier Tribunal judge would also have to take into account medical evidence, including a medico-legal report dated 10 November 2025, written by Dr Soumitra Burman-Roy, a consultant psychiatrist, which concludes that AS meets the diagnostic criteria for PTSD and a severe depressive episode. He has been prescribed sertraline and also suffers from back pain and asthma, for which he uses an inhaler. Dr Burman-Roy attributes AS's psychiatric conditions primarily to his experiences in Bulgaria and his detention at Harmondsworth IRC. His current mental distress is exacerbated by the ongoing uncertainty about his immigration status and his fear of deportation, compounded by the minimal treatment received to date. While therapy may offer limited benefit, it could provide some stability and coping strategies; however, AS requires long-term specialist care. Dr Burman-Roy opines that, if forcibly returned to Bulgaria, AS's mental health would likely deteriorate rapidly, with significant difficulty in reintegration and accessing healthcare. He assesses a moderate to high risk of suicide, noting AS's stated intention to end his life rather than face deportation due to profound fear of renewed trauma.

(c) MA

158. As at the date of the hearing, MA was 28 years old. At its highest, his evidence is that, although he was mistreated on first arriving in Bulgaria, he was subsequently granted BIP status. He claims that he was then left homeless in Sofia. However, he immediately destroyed the official paperwork he was given and took no steps to seek assistance from the state or NGOs, or otherwise to obtain employment or accommodation. Instead, he made plans to leave the country approximately 25 days after he left the reception centre.
159. On being returned to Bulgaria in December 2024, he experienced no difficulty with officials at the airport and, while he says he was detained for two days by the police on arrival in Sofia, he does not allege any mistreatment by the state. Although he claims to be fearful of the police, whom he describes as racist, he does not assert that he has been attacked by them. He states that he has resumed street homelessness since December 2024, although, as we have already discussed, a First-tier Tribunal judge would be bound to treat his evidence regarding his failure to obtain any state or NGO support with considerable caution. He is plainly aware that NGOs exist to assist migrants: his solicitors have informed him of them, he has visited some, yet he has even declined offers of language lessons and the opportunity to obtain new immigration papers. Furthermore, taken at its highest, his evidence suggests only that he may have experienced two acts of random violence from locals.
160. Dr Dawes' report states that MA meets the diagnostic criteria for PTSD, major depressive disorder and anxiety. She considers his current psychological distress clinically significant and states that he requires urgent psychological and medical support, noting that his condition could improve if he felt safe and supported in the United Kingdom. While difficult to quantify the precise extent of the deterioration of his mental health since his return to Bulgaria, she says that it appears to have had a notable and harmful impact on his psychological state. Dr Dawes states that while MA had reported suffering from anxiety and sleep problems when detained pending his removal to Bulgaria, following a triage it was not felt that he required ongoing support from the mental health team. He is said to have been diagnosed as being epileptic in Syria, but had been unable to access any medication since leaving the country. While he claimed to have been tortured in Bulgaria, there was no visible scarring. Other than that, he was "reported to be a fit and healthy man": see [4.19]. He claimed that his last seizure had taken place a year earlier. However, Dr Dawes also observes at [6.6] that MA "demonstrates notable psychological resilience" and at [7.4] that, although he reports suicidal ideation, he has not acted on these thoughts. While the country evidence indicates that psychiatric care is

generally available only privately in Bulgaria (see CLA's report), Dr Dawes notes at [7.17] that "organisations such as the Nadja Centre Foundation and the Animus Association Foundation are noted to provide free medical and psychological care in Bulgaria". He has made no effort to obtain medical assistance since returning to Bulgaria.

Conclusion on Ground 1

161. A hypothetical First-tier Tribunal judge considering the applicants' appeals would be required to have regard to the principles set out at [107] of NA (Sudan). The core question is whether substantial grounds have been shown for believing that the individual faces a real risk of torture or inhuman or degrading treatment in the receiving country applying the Soering test. Whether that threshold is met is a relative assessment, requiring consideration of all the circumstances, including the nature, duration and effects of the anticipated treatment, and the individual's characteristics. The treatment must reach a minimum level of severity; a mere reduction in living standards or breach of EU Directives is insufficient: see Tarakhel. The starting point is a significant evidential presumption that Member States comply with their ECHR obligations, but this presumption is rebuttable and does not require proof of systemic deficiencies: see EM (Eritrea); Tarakhel.
162. In our judgment, while we accept that there is a risk that, at least initially, the applicants might experience street homelessness on return to Bulgaria, a First-tier Tribunal judge properly directing themselves on the law would be bound to conclude that the evidence relied upon falls far short of rebutting the strong evidential presumption that Bulgaria will comply with its international obligations towards BIPs. In particular, the evidence shows that although there may be difficulties in accessing the labour market and securing accommodation, and notwithstanding the government's "zero integration" policy, there are NGOs providing assistance to BIPs in navigating the system, and the majority of BIPs are able to find work and accommodation. There is little evidence that BIPs returned from third countries face prolonged homelessness. MA's account of his own circumstances cannot, without more, be treated as representative of the general position. In that light, and taking into account the individual characteristics of the applicants' cases, the claims of FH and MA would be bound to fail on appeal.
163. FH's claim is by far the weakest. He is a young, healthy man. At its highest, he made no attempt to integrate himself in the short time he was in Bulgaria after he was granted BIP status, and there are no obvious reasons why he cannot avail himself of the many organisation who provide assistance to migrants in finding housing and employment.

164. MA also made no attempt to integrate during the short period he remained in Bulgaria following the grant of BIP status; indeed, he destroyed the residence papers issued to him. Although he has been diagnosed with PTSD, depression and anxiety, and claims to suffer from epilepsy, he has not experienced a seizure since returning to Bulgaria – even without medication, which he has not taken since leaving Syria – and has made no effort to obtain medical assistance there. Dr Dawes’ report does not suggest that his mental health has deteriorated to a degree capable of meeting the high threshold under Article 3. While MA asserts that he has been left homeless and destitute, the evidence shows only minimal attempts to seek help from NGOs, and that he has declined assistance when offered. He remains a young man who can reasonably be expected to engage with available support to secure accommodation and employment, at which point he would be able to fund his healthcare.
165. However, having regard to his individual circumstances, we are satisfied that AS’s claim cannot be said to be bound to fail. He is a young man and although he too appears to have taken only limited steps to integrate during his time in Bulgaria, there is evidence that in the United Kingdom he has been prescribed sertraline for mental health conditions including PTSD and depression and an inhaler for asthma (in contrast to MA, who at the time of his removal was not receiving any medication or treatment). Dr Burman-Roy’s opinion is that, if forcibly returned to Bulgaria, AS’s mental health would likely deteriorate rapidly, with significant difficulty in reintegration and accessing healthcare, and an increased risk of suicide. It is not inconceivable that a First-tier Tribunal judge might conclude that, if AS were left street homeless on return and unable to access his medication, this could have a serious impact on his physical and mental health, further impairing his ability to integrate and seek the medical assistance that is available to him.

Ground 2: Whether the respondent has acted unlawfully in declaring the applicants’ asylum claims inadmissible

166. The applicants submit that the respondent acted unlawfully in declaring their asylum claims inadmissible because Bulgaria does not meet the definition of a “safe third country” under s.80B(4)(b)(ii) of the 2002 Act. They contend that, notwithstanding their subsidiary protection status, there is a real risk of onward removal to Syria in breach of Article 3 ECHR. In support, they rely on recent reports from UNHCR, NGOs and media sources documenting coercive practices by Bulgarian authorities, such as pressuring asylum seekers to sign “voluntary” return agreements, the misuse of immigration detention, and interrogations aimed at facilitating returns to Syria. They argue that these practices, coupled with systemic deficiencies

and the absence of effective safeguards, demonstrate a foreseeable risk of refoulement.

167. Ms Elliot made submissions on the issue of refoulement on behalf of the respondent. The respondent's position is that the claim is unarguable. She relies on the significant evidential presumption that Bulgaria, as an EU Member State and ECHR signatory, complies with its international obligations, and on the High Court's finding in HK (Iraq) that there was no risk of refoulement. The respondent asks the Tribunal to place great weight on the fact that UNHCR has not reinstated its previous recommendation against returns to Bulgaria and continues to monitor conditions there. She contends that the applicants' evidence is based principally on the reports of NNK and Ms da Cunha, which is anecdotal, lacking objectivity, and does not establish a widespread or systemic practice of refoulement. The respondent further notes that MA has not been refouled, and that protective mechanisms, including access to legal remedies and Rule 39 interim measures, remain available to BIPs.

The relevant date for considering evidence

168. As with Ground 1, the parties disagreed on whether the relevant date for consideration of the evidence in respect of the inadmissibility challenge was the date of decision or the date of hearing. Mr Ó Ceallaigh again relied on the case of Saadi to argue that the relevant date is the latter.
169. Mr Anderson submitted that in challenges to admissibility decisions, the court looks at the evidence available at the date of decision. This, he said, was the approach taken by the Divisional Court in AAA (Syria) v Secretary of State for the Home Department [2023] HRLR 4 at [42]. By contrast, Mr Ó Ceallaigh directed the Tribunal to AAA (Syria) v Secretary of State for the Home Department [2023] 1 WLR 3103 to show that the Court of Appeal considered evidence post-dating the admissibility decisions, including three witness statements from a UNHCR legal officer: see [135], [467]. However, at [132] Underhill LJ made clear that the relevant date for the purposes of the appeal was the date of the hearings before the Divisional Court, which took place in September and October 2022, and not the dates of the individual admissibility decisions, which were made on 5 July 2022. This was because the Court of Appeal was concerned with the lawfulness of the respondent's policy (namely, the policy of transferring asylum seekers to Rwanda for their claims to be processed) and thus with the risk to the cohort as a whole to whom that policy was intended to apply. On that basis, Underhill LJ concluded that, as at the relevant date, the evidence showed that the Rwandan system for determining refugee status was not reliably fair and effective: see [263]. Underhill LJ's view on the relevant date differed from that of the Master of the Rolls only in that Sir Geoffrey Vos considered that

the Divisional Court's assessment of the generic issues was taken in respect of the position as at 5 July 2022, although both agreed that the point made no practical difference: see [105]. Accordingly, the evidence referred to by Mr Ó Ceallaigh at [135] and [467] in fact pre-dates the relevant date identified by Underhill LJ.

170. The Court of Appeal's decision in AAA was subsequently upheld by the Supreme Court. While the Supreme Court did not address the question of the relevant date, it likewise did not hold that the Court of Appeal had erred in considering that challenges to individual inadmissibility decisions are to be determined by reference to the position at the date of decision.
171. We are therefore satisfied that in cases where an applicant challenges an admissibility decision rather than an overarching policy, the relevant date is the date of decision. We would, however, emphasise that the evidence arising after the respondent's decisions does not differ materially from that available at the time of decision. Accordingly, our finding on the relevant date has not made any significant difference to our conclusion on Ground 2.

The Article 3 test

172. The parties are in agreement that the Tribunal must apply the test in Soering: see EM (Eritrea) at [3]. This is a question for the Tribunal to determine for itself, rather than by reviewing the respondent's decision: see the judgment of the Supreme Court (per Lord Reed P and Lord Lloyd-Jones) in AAA at [71].
173. In claims arising from a risk of refoulement, an applicant must show that they will not have access to an adequate or effective asylum procedure in the third country in the sense that their claim would not be considered at all or would not be determined properly such that there would be a real risk of direct or indirect arbitrary refoulement: see the Supreme Court in AAA at [24]; MSS at [286].
174. As with Ground 1, the starting point is that, because Bulgaria is an EU Member State and a signatory to the ECHR, there is a significant, though rebuttable, evidential presumption that its asylum procedure complies with its international obligations.
175. To rebut this presumption, the applicants must adduce a cogent and reliable body of evidence demonstrating that Bulgaria's asylum system is, on a systemic and significant scale, failing to comply with its international obligations: see EM (Eritrea) at [66]; Medhanye v Secretary of State for the Home Department [2011] EWHC 3012 (Admin) at [12]. Individual aberrations will not suffice; the presumption remains intact so long as the

system ordinarily provides a standard of protection consistent with international law requirements: see AI at [69], citing NS (Afghanistan) v Secretary of State for the Home Department [2013] QB 102 at [83]–[85].

Assessment of the evidence

176. In assessing the evidence concerning Bulgaria’s asylum system, we remind ourselves that the required evaluation must be rigorous: see Ilias at [127]. While we highlight below what we consider to be the most significant material, we have taken into account all of the country evidence referred to earlier in this judgment.
177. We accept the respondent’s submission that the starting point is the judgment of the High Court in HK (Iraq). In that case, Garnham J addressed two issues: first, whether the decision to certify the claimants’ human rights claims was unlawful; and second, whether Bulgaria’s asylum procedure was so fundamentally flawed that the claimants faced a real risk of refoulement. Both grounds were rejected. At [125]–[132], Garnham J found no substance in the assertion that Bulgaria’s asylum system suffered from significant flaws and dismissed the claims of inadequate access to legal assistance and interpreter services. That judgment was upheld on appeal.
178. The applicants, however, submit that the judgments in HK (Iraq) offer limited assistance in determining whether Bulgaria is currently safe on the basis that their cases are factually distinct and that significant time has passed since those decisions. We reject the assertion that HK (Iraq) should not be followed merely because the claimants in that case were asylum seekers rather than individuals with BIP status. As the respondent observes, the High Court undertook a broad assessment of Bulgaria’s asylum procedures, including access to legal advice. We also reject the suggestion that the applicants are in a weaker position than those who have not yet been granted protection status. By granting the applicants BIP status, Bulgaria has accepted responsibility for them under its international obligations. The finding that Bulgaria had an adequate procedure for processing protection claims remains, in our view, a relevant starting point when assessing other aspects of its system, including the support and protections available to those who, like the applicants, have successfully obtained a form of status. Likewise, we find no merit in the argument that HK (Iraq) can be disregarded because it concerned returnees under the Dublin Convention. The applicants have advanced no rational basis for concluding that removal outside the Dublin Convention framework would materially affect the treatment of returnees within Bulgaria’s protection system. Our starting point, therefore, is that as at 2017 there was no real risk of refoulement arising from the operation of Bulgaria’s asylum procedures.

179. As to the applicants' claim that HK (Iraq) is now outdated, it remains necessary for us to examine the evidence relied upon by both parties. Having done so, we are satisfied that the applicants have fallen far short of establishing any real risk of refoulement on return to Bulgaria.
180. At the heart of the applicants' refoulement case lies their assertion that the Bulgarian authorities have coerced Syrians into signing so-called "voluntary" return agreements. The principal evidence advanced in support of this allegation comprises Ms da Cunha's report and NNK's publications *The Bulgarian Trap*, which she co-authored, and *EU States Crack Down on Asylum Seekers After Al-Assad's Fall*. Ms da Cunha's report postdates the most recent decision under challenge in these proceedings.
181. The applicants also rely on two articles: one published in *The Guardian* on 18 December 2024, entitled "*Bulgaria trying to force out Syrian asylum seekers after the fall of Assad*", and another in *Syria Direct* on 24 September 2025 (and therefore post-dates the impugned decisions), entitled "*How Bulgaria is quietly disposing of its Syrian refugees*". However, both articles appear to draw primarily on NNK's report. Indeed, *The Guardian* cites only a single Syrian man at the Harmanli reception centre, who claimed that he had been beaten by immigration officers, told he "must go back to Syria", and compelled to sign a document whose contents were unknown to him due to the absence of a translator. *Syria Direct* quotes a Syrian man who asserts that he was given an ultimatum: "either agree to a so-called voluntary return, or spend up to 18 months in detention." He claims that he was unaware of what papers he subsequently signed, and he was removed to Syria. However, unlike the applicants, this individual did not hold BIP status. Instead, the article reports that he had twice been refused asylum and had remained in Bulgaria unlawfully until his arrest for lacking documentation. A graph featured in the same article shows a steep increase in assisted voluntary returns, assisted forced returns, and non-assisted voluntary returns to Syria from December 2024 onwards, but we are unable to draw any meaningful conclusions from this in relation to individuals granted BIP status.
182. So far as we are aware, the only other source referring to Syrian asylum seekers being required to sign an unidentified document is the CLA report, which itself relies exclusively on NNK's account.
183. As we have explained already, the evidence of NNK must be approached with caution. That is especially the case where, save for *The Guardian* and *Syria Direct* each having spoken to a single person, there is no evidence from other independent sources. If this was a serious, systemic issue, we would expect it to have been identified by other organisations. Even at its highest, their evidence is that they do not know for sure what the documents were that the Syrian asylum seekers were forced to sign. Furthermore, there is

very little evidence that BIPs have been compelled to sign such documents or that BIPs have otherwise had their status revoked on a systematic basis. While postdating the impugned decisions, we would note that, in her report, Ms da Cunha refers to just two cases.

184. The first case concerns a man who had secured employment at a restaurant. He told NNK that he was arbitrarily arrested at his workplace and taken to a detention centre without being given any reasons. He believed this was due to a false allegation of illegal working made by a housemate who disliked him. According to the man, officials threatened him with further detention unless he agreed to return to Syria. In our view, if the man is right, and the arrest followed a false allegation, this case appears to be an isolated incident rather than evidence of the authorities routinely targeting BIPs.
185. The second involves a man whom Ms da Cunha says “escaped” – a term which, in our view, is pejorative and unsuited to an objective expert report in this context – to Belgium after being granted protection in Bulgaria. He was subsequently returned to Bulgaria under the Dublin Convention. Quoting from *The Bulgarian Trap*, she states that the man claimed that, upon his return to Bulgaria, he was detained by the police and forced to sign a document he did not understand, later discovering that he had unknowingly agreed to return to Syria. According to this individual, he was told that he faced deportation because “he broke the law of the European Union by moving to other European countries illegally.”
186. However, we note that it is not asserted that either man has been removed to Syria, and only the second had been returned to Bulgaria from another country. In the circumstances, we agree with the respondent that Ms da Cunha’s conclusion that the coercion of individuals, let alone BIPs in particular, to sign return agreements is “widely reported”, “seems to be widespread” or is “a very common practice” is a significant overstatement.
187. We also note that MA does not claim to have been forced to sign a voluntary return agreement since his return to Bulgaria in December 2024. Similarly, AS also does not claim to have been coerced into signing such a document when he was returned to Bulgaria from Germany in 2023, although we bear in mind that this was prior to the fall of the Assad regime. Even if the Bulgarian authorities were to rescind a person’s BIP status on the basis of a change in country conditions in Syria or for some other reason, there appear to be legal avenues available to challenge such a decision. According to the *AIDA Country Report, Bulgaria: Update on 2024*, cases can be brought before a Regional Administrative Court, with decisions subject to appeal to the Supreme Administrative Court. The report states that legal aid may be granted by the court and that courts have the power to revoke administrative decisions and issue mandatory instructions to the SAR on

how a case must be determined. Although this is mentioned in the context of Bulgaria's asylum procedures, in the case referred to above concerning the man who, despite having been granted BIP status, faced deportation to Syria following his return from Belgium, Ms da Cunha's report acknowledges that he remains in Bulgaria pending the outcome of his appeal. In addition, organisations such as the CLA provide legal assistance to migrants before administrative authorities, as well as before national and European courts.

188. There is also the possibility of obtaining a Rule 39 indication from the ECtHR. While post-decision evidence, we again note that, in her report, Ms da Cunha refers to assisting a 20-year-old Syrian woman (who is not said to be a BIP) who was deported from Germany to Bulgaria and subsequently refouled to Syria, including by submitting a request for interim measures before the ECtHR. As the respondent observes, Ms da Cunha does not suggest that the interim-measures procedure failed to operate as intended. We are therefore satisfied that, in addition to national avenues of redress, a person may apply to the ECtHR to challenge a removal decision they believe would violate their human rights.
189. Mr Ó Ceallaigh queried whether, in practice, a person who does not speak Bulgarian, does not understand what they have signed, and lacks access to legal representation could obtain a Rule 39 indication. We find that to be too speculative. As the cases of the woman returned from Germany and the man whose BIP status was revoked following his return from Belgium demonstrate, it is possible for Syrians to obtain legal assistance in Bulgaria with the aid of NGOs. Furthermore, the applicants, who have already benefited from legal support in the United Kingdom, are likely to be better placed than most to know their rights and secure assistance in making an application to the appropriate court.
190. By comparison, in MSS, the ECtHR found at [357] that, in Greece, legal remedies were illusory owing to systemic deficiencies in the asylum procedure and reception conditions. Those deficiencies included the practical impossibility for applicants to obtain meaningful examination of their claims (see [299]-[300]) and a lack of communication between the authorities and applicants that rendered it doubtful they would be able to appeal any adverse decision, particularly given an ineffective legal aid system and domestic judicial review proceedings that were too lengthy and slow to constitute an effective remedy (see [318]-[320]). By contrast, the material before us in relation to Bulgaria does not disclose comparable systemic failings, and we see no reason to conclude that the applicants would be unable to enforce their legal rights.
191. Finally, we attach significant weight to the fact that, despite maintaining a presence in Bulgaria and actively monitoring conditions there, UNHCR has

not stated in any of its reports that Syrian returnees face a real risk of refoulement contrary to Bulgaria's international obligations, nor has it renewed its previous recommendation against returns to Bulgaria.

Conclusion on Ground 2

192. Having considered all of the evidence before us, we find that the applicants have failed to adduce a reliable body of evidence demonstrating that the Bulgarian authorities operate a system of coerced signing of voluntary return agreements – whether in respect of Syrians generally or BIPs in particular – capable of rebutting the strong evidential presumption that Bulgaria will comply with its international non-refoulement obligations. We therefore conclude that the applicants have not established that they face a real risk of refoulement upon return to Bulgaria.

Ground 3: Whether the respondent has acted unlawfully in failing to make adequate enquiries contrary to her Tameside duty.

193. As this is a straightforward public law challenge, we have reached our findings on this ground by reference to the evidence that was, or ought reasonably to have been, available to the respondent at the dates of the impugned decisions.

194. The applicants contend that the respondent acted unlawfully by failing to make adequate enquiries before making her inadmissibility and certification decisions. They submit that the respondent relied on the formal legal framework said to protect BIPs rather than engaging with “on-the-ground” material indicating systemic difficulties – among them border violence and detention practices, homelessness, barriers to housing, banking, healthcare and language, and concerns documented by UNHCR and NGOs. On their case, the Tameside duty required the respondent to take proactive steps to inform herself of the true conditions in Bulgaria where the evidence raised a real question as to safety and onward removal. They argue that it was not sufficient to rely on an evidential presumption of compliance.

195. The respondent disputes any breach of the Tameside duty. She argues that the applicants failed to adduce a reliable body of evidence capable of displacing the significant evidential presumption that Bulgaria complies with its international obligations, including protection against refoulement. In those circumstances, she submits, Tameside did not require further enquiries of her own – particularly where the applicants did not identify what specific additional enquiries should have been undertaken. While the applicants relied on R (Gashi) v Secretary of State for the Home Department [1999] Imm AR 415 as illustrating circumstances in which further inquiry

may be required, the respondent contends that the case turned on its own unusual facts and does not establish any broader principle applicable here.

196. In Tarakhel, the ECtHR held that Switzerland was required to obtain assurances from the Italian authorities regarding the applicants' accommodation before effecting their removal under the Dublin Convention. The Court did not suggest that such assurances are required in all cases. Rather, given the evidence that a substantial number of asylum seekers in Italy might be left without accommodation or housed in overcrowded facilities, assurances were necessary in respect of the applicants in that case, who were a family with young children and had particular vulnerabilities: see [115] and [122]. As we have already explained, Tarakhel is, in our judgment, confined to its facts.
197. We also consider Gashi to be distinguishable. Gashi concerned a challenge to removal to Germany for the processing of a Kosovan Albanian's asylum claim. The evidence showed that while Kosovan Albanians were universally (or near-universally) granted refugee status in the United Kingdom, in Germany only a small percentage were recognised; Germany therefore returned a markedly higher proportion of Kosovan asylum seekers to Kosovo than other countries, including the United Kingdom. The Court of Appeal held that the disparity was so significant that the respondent was under a legal duty to make enquiries of the German authorities to satisfy herself that there was not a real risk of refoulement contrary to the Refugee Convention.
198. The respondent also relies on AI, where Ms D Gill (sitting as a Deputy High Court Judge) declined to follow Gashi in a case alleging a significant disparity in asylum grant rates for non-Arab Darfuris between the United Kingdom and France: see [169]-[174]. In AI, the respondent submitted that Gashi was out of date, predating the Dublin arrangements; in any event, the judge concluded that the claimant's statistical material was unreliable. By contrast with the clear evidential disparity in Gashi, the material before us does not demonstrate any similarly clear indication of systemic non-compliance by Bulgaria with its international obligations towards BIPs, for the reasons already given.
199. In Gashi, the statistics available to the respondent were unequivocal. Here, there are no such clear factors obliging the respondent to make enquiries of the Bulgarian authorities. The applicants place particular reliance on evidence of "pushbacks" – a practice extensively documented in the material before us, involving the forcible return of migrants across the Turkish border, accompanied in some reported cases by beatings, theft, degradation and, occasionally, fatalities. Such conduct is very likely to be unlawful and deserves the strongest condemnation. However, its existence does not

impose a duty of enquiry in respect of individuals who have been admitted to Bulgaria, recognised as requiring international protection, and whom the Bulgarian authorities have expressly agreed to readmit. Similarly, detention practices directed at new arrivals or irregular migrants have limited relevance to BIPs, who are lawfully present in Bulgaria, notwithstanding the practical obstacles they may encounter. While Mr Ó Ceallaigh suggested that these practices indicate a generally harsh approach to migrants, the evidence before us does not demonstrate, to the requisite standard, that Bulgaria's treatment of BIPs creates, as a general proposition, a real risk of breach of their legal rights.

200. A further distinction is that in Gashi the enquiries required of the respondent were clear and specific: she was expected to ascertain the reason for Germany's significantly lower grant rate for Kosovan asylum seekers. In the present cases, the applicants have not identified any enquiries the respondent ought to have made of the Bulgarian authorities. Tameside requires a public authority to take reasonable steps to acquaint itself with the information necessary to answer the legal question correctly; it does not impose a duty to conduct exhaustive or indeterminate investigations. If the applicants' position is that the respondent must undertake wide-ranging enquiries into the entirety of Bulgaria's refugee system – from border pushbacks to the circumstances of BIPs returned from third countries – such a requirement is neither supported by law nor practicable. If the suggested enquiries are intended to be more narrowly focused, for example on the risk of homelessness for returnees with BIP status, then, for the reasons already discussed, we do not consider that the evidence before us is sufficient to displace the presumption that Bulgaria will comply with its international obligations, nor therefore to engage the Tameside duty.
201. The exception might have been AS. However, given that our findings identified above at [165] are primarily based on Dr Burmam-Roy's report, and this post-dates the respondent's decisions by several months, we find that the respondent was not under a duty to make enquiries in respect of the reception conditions he would face on return based on the evidence available to her at the material time.

Conclusion on Ground 3

202. Accordingly, on the facts of these cases, we find that the respondent was not under a duty to make further enquiries of the Bulgarian authorities.

Conclusion

203. For the reasons given above, the claims brought by FH and MA are dismissed.

204. AS's claim is allowed on Ground 1, but dismissed in respect of Grounds 2 and 3.

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