



Observatoire ARGA

ARGA Atlas

INTERNATIONAL PROTECTION IN CASES WITH A POLITICAL ELEMENT: ASYLUM, THE UNITED NATIONS, AND INTERNATIONAL MECHANISMS

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Purpose of the document:

To set out, in a systematic way, how international protection is constructed in cases involving a political element beyond and alongside ordinary national criminal procedure, which protection channels exist in asylum law, in UN mechanisms, and in other international human rights formats, and why, in contemporary cases, protection is no longer one-dimensional but instead becomes a multi-track strategy in which the issue is not limited to contesting a criminal accusation, but extends to preventing a person's transfer into a situation of persecution, arbitrary detention, torture, or a manifestly unfair trial. (ohchr.org)

TABLE OF CONTENTS

1. Executive Summary
2. What constitutes a case with a political element in international legal terms
3. Asylum and international protection as the first layer of defense
4. Non-refoulement as a universal barrier to transfer
5. UN mechanisms: treaty bodies, Special Procedures, WGAD, and the Human Rights Council complaint procedure
6. Why international protection cannot be reduced to a single forum
7. A practical model of protection in politically sensitive cases
8. Limits of international mechanisms
9. Conclusion
 - Appendix A. Terminology
 - Appendix B. Matrix of international mechanisms
 - Official Sources

1. EXECUTIVE SUMMARY

In cases with a political element, international protection is not built around one magical instrument. The standard mistake is to look for one supposedly decisive mechanism that will solve everything on its own: asylum, a UN complaint, a submission to a Special Rapporteur, or an extradition challenge. In practice, such cases require parallel work across several planes at once: protection against refoulement, a national asylum procedure, contesting international search measures, applications to treaty bodies, urgent appeals through Special Procedures, and, where detention is involved, recourse to the Working Group on Arbitrary Detention. OHCHR explains that several treaty bodies can receive individual communications where states have accepted that competence, while Special Procedures and WGAD operate distinct communications tracks of their own. (ohchr.org)

International law does not provide one universal definition of a "political case" for every context, but in practice the category covers situations where criminal prosecution is closely intertwined with

political activity, public expression, state-linked corporate conflict, persecution for beliefs, ethno-political context, protest participation, journalism, or human rights work, and where criminal process is used as a tool of intimidation, exemplary pressure, or neutralization of an opponent. That is precisely why, in such matters, protection strategy must be wider than the criminal accusation itself. The issue is not merely whether a charge exists, but whether the charge is functioning as a vehicle for repression. ([ohchr.org](https://www.ohchr.org))

The first and most institutionally developed layer of protection is asylum and refugee protection. The Refugee Convention and UNHCR's Handbook and procedural guidance establish the classic model of protection against return to persecution, while EU law now embeds non-refoulement in the post-2024 asylum framework as well. But protection does not end there. Even where refugee status has not yet been recognized, or where refugee status is not the only useful route, there remain treaty-body complaint mechanisms, Human Rights Council Special Procedures, Working Group on Arbitrary Detention procedures, and the Human Rights Council complaint procedure for broader patterns of violations. ([UNHCR](https://www.unhcr.org))

The core conclusion is that international protection works best in politically sensitive cases as a layered strategy. One mechanism records the risk of torture or refoulement. Another creates an international human rights track. A third challenges arbitrary detention. A fourth strengthens the legal case against transfer. A fifth generates public-law and diplomatic pressure. People usually want one red button labelled "save me." International law, with its usual talent for administrative cruelty, prefers structured complexity. ([ohchr.org](https://www.ohchr.org))

2. WHAT CONSTITUTES A CASE WITH A POLITICAL ELEMENT IN INTERNATIONAL LEGAL TERMS

In international practice, a political element does not necessarily mean that the case is formally classified as a political offense. More often, it means that what looks outwardly like an ordinary criminal case in fact serves a political, repressive, discriminatory, or quasi-political purpose. That is why international mechanisms focus not only on the legal label attached to the charge, but on the wider context: who is being prosecuted, why the proceedings began when they did, whether the case is linked to expression, opposition activity, human rights work, protest, ethnicity, or identity, and whether criminal law is being used as an instrument of pressure rather than as a neutral response to conduct. The structure matters more than the slogan. ([ohchr.org](https://www.ohchr.org))

This logic is especially visible in UN mechanisms dealing with detention and urgent human rights risk. OHCHR describes the Working Group on Arbitrary Detention as a body concerned with arbitrary deprivation of liberty in all its forms, including detention before, during, and after trial, as well as detention without any trial at all. It receives urgent appeals and communications and may adopt opinions on whether detention is arbitrary. In politically sensitive cases, that matters enormously because the issue is often not just prosecution in the abstract, but the strategic use of detention, pre-trial isolation, or international arrest as a tool of coercion. ([ohchr.org](https://www.ohchr.org))

For the defense, this means one simple thing: in cases with a political element, it is not enough to argue narrowly about whether a person committed a particular act. The broader picture must be established. That includes the timing of the prosecution, its connection to political or public activity, selective targeting, repeated pressure, use of in absentia proceedings, risk upon transfer, vulnerability of the person concerned, and the practical impossibility of obtaining protection in the originating jurisdiction. It is that broader context that gives the case international legal significance. ([ohchr.org](https://www.ohchr.org))

3. ASYLUM AND INTERNATIONAL PROTECTION AS THE FIRST LAYER OF DEFENSE

Asylum law remains the first and most developed institutional layer of international protection. The 1951 Refugee Convention and the 1967 Protocol establish the basic model: protection from return to a place where a person faces persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion. UNHCR's Handbook and its procedural materials make clear that refugee status determination is a legal and administrative process, not a discretionary political favor. In other words, international protection is not charity for the unlucky. It is a structured legal response to risk. ([UNHCR](#))

Within EU law, that logic is now embedded in the reworked asylum framework. Regulation (EU) 2024/1347 lays down standards for qualification for international protection and expressly requires respect for the principle of non-refoulement. Regulation (EU) 2024/1348 establishes the common procedural framework for international protection. This matters because the EU system does not treat asylum as a sentimental exception to normal legal order. It treats it as part of the legal architecture of protection against transfer into danger. ([Eur-Lex](#))

For cases with a political element, this means that an international protection claim must be built as evidence and legal reasoning, not as atmosphere. It must identify the history of persecution, the relevant Convention grounds, the individual risk, the connection between political context and criminal proceedings, the absence of internal protection, the impossibility of safe return, and the risk of renewed detention, torture, or further prosecution. A good asylum case does not live on generic claims that "the country is dangerous." It needs a legal anatomy of danger. ([UNHCR](#))

4. NON-REFOULEMENT AS A UNIVERSAL BARRIER TO TRANSFER

Even where a matter does not fit perfectly into classic refugee-status logic, protection often rests on the broader principle of non-refoulement. Article 3 of the Convention against Torture provides that no state party shall expel, return, or extradite a person to another state where there are substantial grounds for believing that he or she would be in danger of torture. OHCHR's materials on treaty complaints and CAT communications confirm that this route is available, subject to the state's acceptance of competence, and is accompanied in practice by interim-protection logic in urgent cases. ([ohchr.org](#))

In the European context, that prohibition is reinforced through Article 19 of the EU Charter and the post-2024 asylum acquis. Non-refoulement therefore operates not only in asylum procedures as such, but also in extradition, removal after a failed asylum claim, transfer to third countries, and other forms of state action that would expose a person to serious harm. It is not a niche refugee-law technicality. It is a universal legal stop signal against transfer into abuse. ([Eur-Lex](#))

This creates an important strategic distinction. An asylum strategy and an anti-refoulement strategy may overlap, but they are not always identical. Sometimes refugee status is not yet recognized, but there is already a strong prohibition against transfer under anti-torture logic. Sometimes, by contrast, the political dimension of the case is best structured through refugee-law categories. A competent defense must be able to work with both layers instead of worshipping one label and ignoring the rest. ([UNHCR](#))

5. UN MECHANISMS: TREATY BODIES, SPECIAL PROCEDURES, WGAD, AND THE HUMAN RIGHTS COUNCIL COMPLAINT PROCEDURE

5.1. Treaty bodies and individual communications

OHCHR states that a number of treaty bodies can receive and consider individual complaints or communications from persons claiming to be victims of treaty violations, provided that the state concerned has accepted that procedure. In politically sensitive cases, the most relevant are usually the Human Rights Committee under the Optional Protocol to the ICCPR and the Committee against Torture under article 22 CAT. The Human Rights Committee's own page confirms that it can consider communications from or on behalf of persons claiming to be victims of Covenant violations, and the CAT page confirms an equivalent individual-communications procedure under the Convention against Torture. (ohchr.org)

These mechanisms matter for several reasons. First, they frame the dispute as one of international legal responsibility rather than mere administrative displeasure. Second, OHCHR's complaints guidance makes clear that interim measures may be requested in order to prevent irreparable harm, particularly in situations involving life or torture risk. In politically sensitive extradition or removal cases, that procedural possibility can be decisive. International law rarely moves quickly, but when it occasionally does, it is usually because the harm would otherwise become irreversible. ([OHCHR Submission](#))

5.2. Special Procedures and communications

The Special Procedures of the Human Rights Council are independent experts and working groups mandated to report and advise on thematic or country-specific human rights issues. OHCHR explains that communications are letters sent by Special Procedures to governments and other actors concerning alleged human rights violations, and the complaints process is expressly described as non-quasi-judicial and non-enforceable. That limitation is real, but it does not make the mechanism useless. It makes it fast, flexible, and politically relevant. In urgent cases, that trade-off is often precisely the point. (ohchr.org)

For cases with a political element, the mandates connected with torture, arbitrary detention, freedom of expression, human rights defenders, and country-specific contexts are especially relevant. The Working Group on Arbitrary Detention and Special Rapporteurs can transmit urgent appeals and allegation letters to governments. OHCHR's communications pages and WGAD materials make clear that these channels are designed to react to alleged violations before the matter calcifies into yet another tragic document archive. (ohchr.org)

5.3. Working Group on Arbitrary Detention

WGAD occupies a special place because many politically sensitive cases are not only about prosecution, but about detention itself. OHCHR describes WGAD as dealing with arbitrary deprivation of liberty in all its forms, including urgent appeals and regular communications that may lead to adopted opinions on the arbitrariness of detention. For the defense, this makes WGAD one of the most useful mechanisms where prosecution has already moved into pre-trial custody, detention after conviction in a politically tainted process, international search measures with detention consequences, or the threat of extradition-related incarceration. (ohchr.org)

5.4. Human Rights Council complaint procedure

There is also the Human Rights Council complaint procedure. OHCHR explains that it addresses communications submitted by individuals, groups, or NGOs claiming to be victims of human rights violations, and the official complaint-procedure materials further indicate that the mechanism addresses consistent patterns of gross and reliably attested violations. This is not the ideal forum for an urgent individual anti-extradition emergency, but it can be highly relevant where an individual case forms part of a broader pattern of state repression. If a person's case is not an isolated abuse but one tile in a wall of abuse, this mechanism may help establish that larger picture. (ohchr.org)

6. WHY INTERNATIONAL PROTECTION CANNOT BE REDUCED TO A SINGLE FORUM

The main strategic mistake in these cases is the attempt to pick one supposedly "main" international mechanism and ignore the rest. But the mechanisms are structurally different. Treaty bodies are closer to a quasi-judicial model, but depend on accepted competence and may move slowly. Special Procedures do not issue binding decisions, but can react faster and create urgent international visibility. WGAD is especially strong in detention cases. Asylum and non-refoulement mechanisms work as direct barriers to transfer. The Human Rights Council complaint procedure is more suitable for broader patterns of gross violations. (ohchr.org)

That is why good international protection in a politically sensitive case looks less like one lawsuit and more like a coordinated architecture. One forum captures the urgent risk. Another frames international responsibility. A third addresses arbitrary detention. A fourth blocks transfer. A fifth supports refugee-status or complementary-protection logic. When these mechanisms operate in parallel, the state has less room to pretend that it is merely dealing with an ordinary criminal case devoid of any human rights dimension. States love that pretense. It saves everyone so much inconvenient thought. (ohchr.org)

7. A PRACTICAL MODEL OF PROTECTION IN POLITICALLY SENSITIVE CASES

A strong practical model is usually built in stages. First, the profile of the case is identified: whether there is an extradition risk, imminent removal, ongoing detention, indicators of arbitrariness, Convention grounds for refugee protection, the existence of a Red Notice or similar international constraints, and the procedural posture of the person concerned. Second, primary and secondary international channels are selected. If transfer is imminent, non-refoulement arguments, interim measures, and urgent appeals move to the front. If the person is already detained or convicted in a politically tainted process, WGAD becomes central. If the state has accepted the competence of a treaty body, a communication to the Human Rights Committee or the Committee against Torture may be prepared. If a broader rights framework is needed, Special Procedures and, where relevant, the Human Rights Council complaint procedure are added. (ohchr.org)

At the center of all of this lies evidentiary discipline. The forms differ from mechanism to mechanism, but the core logic remains the same: chronology, individual risk, the link between prosecution and political or quasi-political context, detention documents, court decisions, medical materials, evidence of public activity, migration status, information about family vulnerability, and sources of threat. UNHCR and OHCHR materials alike assume that individualization of facts and clarity of structure

are essential if a case is to be treated as serious rather than as an emotional signal lost in the international procedural void. Which, to be fair, is already crowded enough. ([UNHCR](#))

8. LIMITS OF INTERNATIONAL MECHANISMS

None of these mechanisms is perfect. Treaty bodies depend on state acceptance of competence and do not always move quickly. Special Procedures are not quasi-judicial and do not have enforcement power. WGAD issues opinions, not binding court judgments. The Human Rights Council complaint procedure is designed for serious patterns and does not replace urgent protection against extradition. Asylum procedures may themselves be lengthy and depend heavily on national administrative and judicial performance. All of this needs to be recognized at the outset rather than discovered later with outrage, as though international law had personally broken a promise. ([ohchr.org](#))

But these limitations do not imply uselessness. They imply the need for combination. If one forum cannot produce a binding outcome, it may still generate an urgent public-law reaction. If another works more slowly, it may create a stronger quasi-judicial record. If asylum proceedings drag on, they may be supplemented by anti-torture or anti-arbitrary-detention mechanisms. In complex cases, international protection gains force precisely through overlapping tracks rather than through elegant reliance on a single institution. ([ohchr.org](#))

9. CONCLUSION

International protection in cases with a political element is no longer a single institution. It is a system of intersecting legal barriers against arbitrary prosecution and dangerous transfer. Asylum protects against persecution and return. Non-refoulement blocks extradition and removal where torture or other grave harm is at stake. Treaty bodies provide a route for framing state responsibility. Special Procedures create a rapid and flexible international rights track. WGAD offers a focused mechanism against arbitrary detention. The Human Rights Council complaint procedure helps elevate systemic patterns of abuse. ([UNHCR](#))

For practice, the lesson is simple: in politically sensitive cases, protection must be architectural. Do not wait for the perfect forum. Build a working system from multiple mechanisms, each performing a distinct function. International law rarely hands anyone clean and beautiful solutions. What it does hand over, grudgingly, are tools. They work best when used as legal technique rather than as incantation. ([ohchr.org](#))

APPENDIX A. TERMINOLOGY

International

A broad category covering refugee protection, subsidiary or complementary protection, anti-refoulement barriers, and other legal mechanisms preventing transfer to a dangerous jurisdiction. ([UNHCR](#))

protection

Individual

A complaint submitted to a treaty body by or on behalf of an individual or group alleging violation of the relevant treaty, where the state concerned has accepted the body's competence. ([ohchr.org](#))

communication

Special Procedures communication
 An urgent appeal or allegation letter sent by UN Special Procedures to a state or another actor. The mechanism is not quasi-judicial and does not produce enforceable judgments, but it can raise urgent individual cases and patterns of violations. ([ohchr.org](https://www.ohchr.org))

WGAD opinion
 A position adopted by the Working Group on Arbitrary Detention concerning a specific case of alleged arbitrary deprivation of liberty. ([ohchr.org](https://www.ohchr.org))

Non-refoulement
 The prohibition on expelling, returning, extraditing, or otherwise transferring a person where there is a real risk of persecution, torture, or other grave harm. ([UNHCR](https://www.unhcr.org))

APPENDIX B. MATRIX OF INTERNATIONAL MECHANISMS

Mechanism	When it is especially useful	Main strength	Main limitation
Asylum international protection	Risk of persecution and inability to return safely	Institutionalized status protection and non-refoulement barrier	Depends on national procedure
Committee against Torture	Torture risk in extradition, removal, or return	Direct Article 3 CAT logic, possible interim-protection pathway	Requires accepted competence
Human Rights Committee	ICCPR violations, including liberty, fair trial, life, torture	Quasi-judicial international track	Requires the Optional Protocol
Special Procedures	Urgent risk, political context, flexible international response	Speed and public-law pressure	No enforceable judgments
WGAD	Arbitrary detention, in absentia arrest, politically motivated deprivation of liberty	Strong specialization on detention	Issues opinions, not court orders
Human Rights Council complaint procedure	Pattern-based serious violations	Useful for broader systemic pressure	Does not replace urgent individual anti-transfer protection

These characteristics follow from the official descriptions of OHCHR, UNHCR, and the post-2024 EU protection framework. ([ohchr.org](https://www.ohchr.org))

OFFICIAL SOURCES

1. **Convention relating to the Status of Refugees** - basic treaty framework for refugee protection and non-refoulement. ([UNHCR](https://www.unhcr.org))
2. **UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status** - practical interpretive guidance on international protection claims. ([UNHCR](https://www.unhcr.org))

3. **UNHCR procedural and handbook materials** - procedural framework for refugee status determination. ([UNHCR](#))
4. **Convention against Torture, Article 3 framework and CAT communications materials** - prohibition on expulsion, return, or extradition where torture risk exists. ([ohchr.org](#))
5. **Regulation (EU) 2024/1347** - EU qualification framework and protection from refoulement. ([Eur-Lex](#))
6. **Regulation (EU) 2024/1348** - EU procedural framework for international protection. ([Eur-Lex](#))
7. **OHCHR, Individual Communications Procedures of Treaty Bodies** - overview of treaty-body complaint mechanisms. ([ohchr.org](#))
8. **Human Rights Committee, individual communications** - Optional Protocol complaint procedure. ([ohchr.org](#))
9. **Committee against Torture, individual communications** - article 22 CAT complaint procedure. ([ohchr.org](#))
10. **Special Procedures of the Human Rights Council / What are communications?** - urgent appeals and communications framework. ([ohchr.org](#))
11. **Working Group on Arbitrary Detention** - mandate, urgent appeals, and opinions. ([ohchr.org](#))
12. **Human Rights Council Complaint Procedure** - procedure for patterns of gross and reliably attested violations. ([ohchr.org](#))