

(English version)

**Question for written answer E-004673/25
to the Commission**

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(24 November 2025)

Subject: Fake asylum seekers: the EU is held hostage by a legal interpretation that opens the gates to illegal immigration and the collapse of its borders

The exaggerated interpretation of Article 46 of Directive 2013/32/EU by the Court of Justice of the European Union and by Member States' courts is undermining the authority of return decisions by imposing an automatic suspensive effect, even on applications that are manifestly unfounded. This abuse creates a perverse incentive for illegal immigration, blocks national systems and completely discredits European asylum policy. The result of such interpretation is chaos at the borders, impunity for those not entitled to protection and a total collapse of law enforcement.

1. Does the Commission acknowledge that this indiscriminate application of the suspensive effect is destroying the enforcement of returns and paralysing accelerated procedures?
2. Does it really consider that Article 46 adequately safeguards the 'non-refoulement' principle without compromising judicial effectiveness, or does it admit that urgent legal clarification is needed to stop this anarchy until new regulations are applicable?
3. With the entry into force of the Asylum Procedures Regulation, in July 2026, does the new Article 68 effectively limit the suspensive effect to cases involving a real and proven risk of persecution or serious harm, or does the Commission have any other initiatives to accelerate the processes so that the suspensive effect of appeals doesn't become yet another factor blocking returns?

Supporter ⁽¹⁾

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Answer given by Mr Brunner on behalf of the European Commission
(6 February 2026)

In line with the Treaty on the Functioning of the European Union, the Court of Justice of the European Union (CJEU) is the only institution with the authority to give binding interpretations of EU law. The Commission does not comment on the rulings of the CJEU.

Article 46 of Directive 2013/32/EU ⁽¹⁾ aims to guarantee the right to an effective judicial remedy for applicants for international protection, while safeguarding the principle of non-refoulement, which is enshrined in the Charter of Fundamental Rights of the European Union. These safeguards serve to uphold fundamental rights and binding principles of international law, in line with EU values.

The Asylum Procedure Regulation ⁽²⁾, which will be fully applicable from 12 June 2026, introduces new provisions, including Article 68 on the suspensive effect of appeal, which aims to streamline asylum procedures and address the current challenges, by identifying categories of decisions where the automatic suspensive effect is limited ⁽³⁾. In line with its competences, the Commission will monitor the implementation of the Asylum Procedure Regulation once it enters into application.

¹ This question is supported by a Member other than the authors: Erik Kaliňák (NI).

⁽¹⁾ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast); OJ L 180, 29.6.2013.

⁽²⁾ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU; OJ L, 2024/1348, 22.5.2024.

⁽³⁾ Negative decisions on the merits issued in an accelerated procedure or border procedure (except for unaccompanied minors); inadmissibility decisions (except if the decision is taken at the border and the applicant is an unaccompanied minor); decisions rejecting an application as implicitly withdrawn; decisions withdrawing international protection on the basis of exclusion grounds (refugees), danger to security (refugees), conviction for a particularly serious crime and danger to community (refugees), exclusion grounds (beneficiaries of subsidiary protection).