



JURISPRUDENCE COLLECTION

2023 - 2025 // VOLUME II

Equal Legal Aid



JURISPRUDENCE COLLECTION VOLUME II

Collection of decisions, translations: ELA's team



Cover picture: © Régis Defurnaux, 2021

"The photo was taken in the Presevo camp in Serbia. Ibrahim, 28, fled Afghanistan on foot via Uzbekistan, using a network of smugglers and spending 4,000 euros. He was attacked at the border with Iran, where two of his companions were shot dead. He arrived in Lesbos in an 8-metre dinghy with 40 people on board and spent 7 months in the Lesbos camp before moving on to Athens (the smugglers are there and run the networks from Athens, especially male prostitution, which is hardly mentioned). After 10 days in Macedonia, he arrives in Serbia. He is a shoemaker and wants to go to Europe to "help people walk better."*

**His name has been changed.*

Copyright © 2026 Equal Legal Aid

Reproduction is permitted, provided that appropriate reference is made to the source.

EQUAL LEGAL AID

Telephone: +30 2310511761

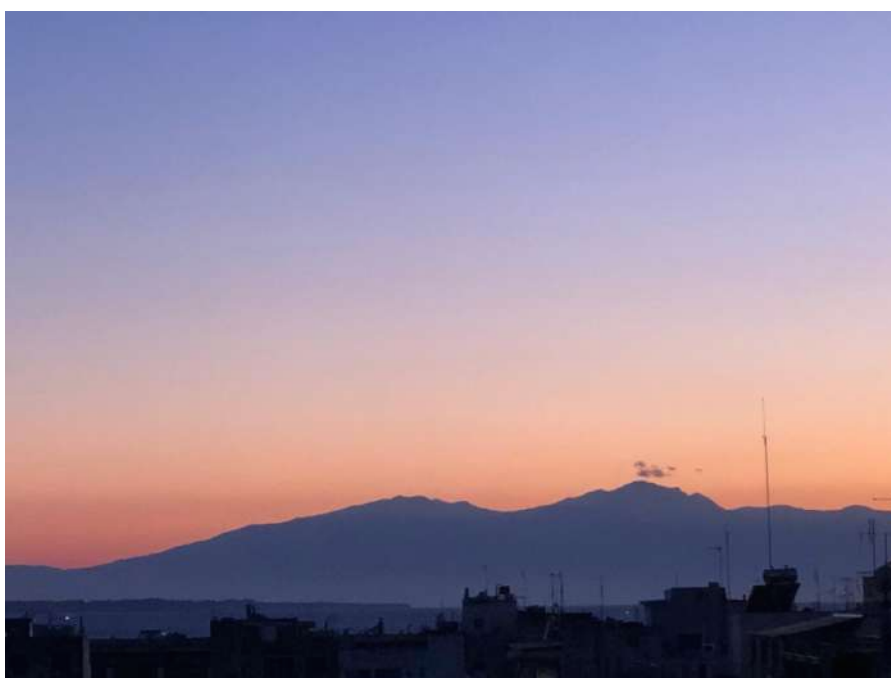
E-mail: contact@equallegalaid.org

Web: www.equallegalaid.org/

Equal Legal Aid (ELA) is a non-profit organization that provides information, legal advice, and individual assistance to asylum seekers and refugees in their procedures within the European Union. Based in Northern Greece, ELA offers high-quality pro bono legal services to displaced persons through a combination of outreach activities, including legal clinics and a dedicated helpline, as well as in-person consultations at its offices in Thessaloniki.

The team delivers comprehensive legal assistance at all stages of the asylum procedure, from registration to final decision, including representation in appeals before asylum authorities and administrative courts. This support covers a wide range of procedures, including border and fast-track border procedures, accelerated procedures for applicants from countries with low recognition rates, admissibility procedures, and the regular asylum procedure.

Since its establishment in 2020, ELA has provided long-term legal support to more than 1,800 asylum seekers from 54 different countries. The majority of people supported by the organization have been subject to restrictive procedural frameworks, such as border and admissibility procedures, which often limit their effective access to rights and remedies as guaranteed under EU and Greek asylum law.



View of Olympus Mount, from Thessaloniki
Photo credit: © ELA Team

TABLE OF CONTENT

Index of cases related to keywords	10
Pictograms	14
List of acronyms and abbreviations	15
Introduction	16
Annulment Decisions	31
AΔ192/2023	32
1st application - Eligibility - Application for annulment - China - Single woman - Persecution due to religion - (Non) Legitimate justification - Application rejected	
AΔ497/2023	34
1st application - Eligibility - Application for annulment - Iraq - Kurdish - Family with minor children - Persecution due to religion - Gender-based violence - Child with physical disability - Non-legitimate justification - Application accepted	
AΔ550/2023	35
1st application - Eligibility - Application for annulment - China - Single woman - Persecution due to religion - (Non) Legitimate justification - Application accepted	
AΔ587/2023	38
1st application - Eligibility - Application for annulment - Pakistan - Safe country of origin - Single mother with minor child - Gender-based violence - Persecution on grounds of particular social group - (Non) Legitimate justification - Application accepted	
AΔ82/2023	39
Residence permit for exceptional reasons - Application for annulment - Sudan - Single man - Physical disability - Serious illness - Humanitarian and security crisis in the country of origin - Absence of health care system in the country of origin - Retroactive effect of legislation - Application accepted	
AΔ1/2024	42
Residence permit for exceptional reasons - Application for annulment - Pakistan - Family with minor children - Links with Greece - Best interest of the child - School attendance - Retroactive effect of legislation - Application accepted	
AΔ11/2024	45
1st application - Eligibility - Application for annulment - Guinea - Single man - Arrived in Greece as Unaccompanied minor - Physical disability - Absence of health care system in the country of origin - Lack of a support network in the country of origin - Persecution due to membership to a particular social group - (Non) Legitimate justification - Application rejected	
AΔ56/2024	48
1st application - Eligibility - Application for annulment - Turkiye - Single man - Turkish citizen of Kurdish origin - Persecution on Grounds of Political Opinion - Persecution due to race - Non-compliance with a previous annulment decision - (Non) Legitimate justification - Application accepted	
AΔ222/2024	51
1st application - Eligibility - Application for annulment - Cameroon - Single man - Persecution due to membership in a particular social group - LGBTQIA+ - Right to an effective remedy - Violation of the right to a prior hearing - Application accepted	
AΔ748/2024	54
Subsequent asylum application - Admissibility - Application for annulment - Ivory Coast - Single woman - Serious illness - Female Genital Mutilation - Gender-based violence - Persecution due to membership in a particular social group - SGBV - Absence of health care system in the country of origin - (Non) Legitimate justification - Application rejected	
AΔ6/2025	56
1st application - Eligibility - Application for annulment - Iran - Single man - Right to an effective remedy - Unlawful notification by email - Out of time appeal - Free Legal Assistance provided by lawyers of the Asylum Service Registry - Violation of a substantial procedural requirement - Application accepted	
AΔ91/2025	58
1st application - Eligibility - Application for annulment - Afghanistan - Single man - Persecution due to religion - Persecution due to membership in a particular social group - Ethnic minority - Exclusion from International Protection - Risk of a new persecution in case of return to the country of origin - Annulment of a return decision - Principle of non-refoulement - Application rejected	
AΔ213/2025	62
Subsequent asylum application - Eligibility - Application for annulment - Democratic Republic of Congo - Single man - Mental health issues - Victim of torture - Persecution due to membership in a particular social group - LGBTQIA+ - (Non) Legitimate justification - Application accepted	

AΔ206/2025	65
1st application - Eligibility - Application for annulment - Iran - Single man - Persecution due to political opinion - (Non) Legitimate justification - Application rejected	
AΔ677/2025	68
1st application - Eligibility - Application for annulment - Mali - Single man - Serious illness - Absence of health care system in the country of origin - Persecution due to membership to a particular social group - Violation of a substantive legal provision - (Non) Legitimate justification - Application accepted	
AΔ267/2025	70
1st application - Eligibility - Application for annulment - Democratic Republic of Congo - Single woman - Gender-based violence - Victim of trafficking - Serious illness - Mental health issues - The State could provide protection - (Non) Legitimate justification - Application accepted	
AΔ307/2025	73
Subsequent asylum application - Admissibility - Application for annulment - Syria - Family with minor children - Türkiye as a safe third country - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted	
AΔ314/2025	75
1st application - Admissibility - Application for annulment - Afghanistan - Single father with minor child - Türkiye as a safe third country - Single member Appeals Committee - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted	
AΔ370/2025	76
1st application - Eligibility - Application for annulment - China - Single woman - Persecution due to religion - (Non) Legitimate justification - Application accepted	
AΔ381/2025	78
Subsequent asylum application - Admissibility - Application for annulment - Democratic Republic of Congo - Single man - Persecution due to political opinion - New and substantial evidence - Single member Appeals Committee - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted	
AΔ406/2025	80
1st application - Admissibility - Application for annulment - Syria - Single man - Türkiye as a safe third country - Single member Appeals Committee - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted	
Interim Measures	82
NΔ26/2023	83
Residence permit for exceptional reasons - Interim measures - Pakistan - Family with minor children - Employment - Links with Greece - School attendance - Application accepted	
NΔ28/2023	84
Residence permit for exceptional reasons - Interim measures - Sudan - Single man - Serious illness - Risk of interruption of medical treatment - Application accepted	
NΔ105/2023	85
1st application - Eligibility - Interim measures - Guinea - Single man - Serious illness - Physical disability - Risk of interruption of medical treatment - Links with Greece - School attendance - Employment - Maintain stable living conditions - Risk of harm - Application accepted	
NΔ111/2023	86
1st Application - Eligibility - Interim Measures- Afghanistan - Single man - Türkiye as a safe third country - Türkiye not accepting readmissions from Greece - Harm from staying in Greece without legal documents for a long period of time - Risk of Harm - Application accepted	
NΔ204/2023	87
Subsequent asylum application - Eligibility - Interim measures - Cameroon - Mental health issues - Single man - Links in Greece - Employment - Risk of harm - Application accepted	
NΔ212/2023	88
Second subsequent asylum application - Eligibility - Interim measures - Algeria - Safe country of origin - Single man - Serious illness - Risk of interruption of medical treatment - Risk of harm - Application accepted	
NΔ266/2023	89
1st application - Eligibility - Interim measures - Burkina Faso - Single man - Harm from staying in Greece without legal documents for a long period of time - Links in Greece - Employment - Risk of harm - Application accepted	
NΔ271/2023	91
Subsequent asylum application - Admissibility - Interim measures - Ghana - Safe country of origin - Single mother with minor child - Mental health issues - Gender-based violence - Risk of interruption of medical treatment - Best interest of the child - Risk of harm - Application accepted	
NΔ332/2023	92
Subsequent asylum application - Admissibility- Interim measures - Democratic Republic of Congo - Single man - Mental health issues - Links with Greece - Risk of harm - Application accepted	

NΔ422/2023	93
1st application - Admissibility - Interim measures - Afghanistan - Family with minor children - Mental health issues - School attendance - Türkiye as a safe third country - Application rejected	
NΔ456/2023	95
1st application - Eligibility - Interim measures - Sierra Leone - Single mother with minor child - Gender-based violence - Female Genital Mutilation - Risk of harm - Application accepted	
NΔ457/2023	96
1st application - Admissibility - Interim measures - Afghanistan - Türkiye as a safe third country - Family with minor children - Best interest of the child - School attendance - Risk of harm - Application accepted	
NΔ466/2023	97
1st application - Eligibility - Interim measures - Somalia - Single man - Serious illness - Maintain family unity - Links in Greece - Risk of harm - Application accepted	
NΔ502/2023	99
1st application - Admissibility - Interim measures - Somalia - Türkiye as a safe third country - Family with minor children - Maintain family unity - Best interest of the child - Harm from staying in Greece without legal documents for a long period of time - Risk of harm - Application accepted	
NΔ589/2023	100
1st application - Admissibility- Interim measures - Afghanistan - Family with minor children - Mental health issues- Türkiye safe third country - Harm from staying in Greece without legal documents for a long period of time - School attendance - Best interest of the child - Risk of harm - Application accepted	
NΔ629/2023	101
1st application - Eligibility - Interim measures - Somalia - Couple - Gender-based violence - Female Genital Mutilation - Serious illness - Risk of interruption of medical treatment - No procedural damage if the applicants are not present in the hearing of the application for annulment - Application rejected	
NΔ2/2024	103
1st application - Admissibility - Interim measures - Syria of Kurdish origin - Single woman - Türkiye as a safe country - Risk of harm - Application accepted	
NΔ35/2024	104
1st application - Eligibility - Interim measures - Afghanistan - Single man - Harm from staying in Greece without legal documents for a long period of time - Links with Greece - Application accepted	
NΔ37/2024	105
1st application - Eligibility - Interim measures - Sierra Leone - Couple - Mental health issues - Risk of interruption of medical treatment - Risk of harm - Application accepted	
NΔ38/2024	106
1st application - Eligibility - Interim measures - Iran - Single man - Mental health issues - Links with Greece - Risk of interruption of medical treatment - Application accepted	
NΔ39/2024	108
Subsequent asylum application - Eligibility - Interim measures - Democratic Republic of Congo - Couple - Father with minor child - LGBTQIA+ - Victim of Torture - Mental health issues - Links with Greece - Maintain family unity - Best interest of the child - Application accepted	
NΔ59/2024	109
1st application - Admissibility - Interim measures - Syria - Single man - Türkiye as a safe third country - Harm from staying in Greece without legal documents for a long period of time - Application accepted	
NΔ64/2024	111
1st application - Admissibility - Interim measures - Syria - Single man - Türkiye as a safe third country - Harm from staying in Greece without legal documents for a long period of time - Application accepted	
NΔ65/2024	112
1st application - Eligibility - Interim measures - Iran - Single man - Credibility of annulment claims - Application accepted	
NΔ71/2024	113
1st application - Eligibility - Interim measures - Iran of Kurdish ethnic origin - Single man - Credibility of annulment claims - Risk of harm - Application accepted	
NΔ81/2024	115
1st application - Eligibility - Interim measures - Guinea - Single man - LGBTQIA+ - Application rejected of annulment claims - Risk of harm - Application accepted	
NΔ110/2024	116
1st application - Eligibility - Interim measures - Democratic Republic of Congo - Single woman - Gender based violence - Mental health issues - Maintain stable living conditions - Application accepted	
NΔ172/2024	117
1st application - Eligibility - Interim measures - Haiti - Single man - Mental health issues - Risk of interruption of medical treatment- Links with Greece - No procedural damage if the applicants not present in the hearing of the application for annulment - Application rejected	

ND179/2024	119
1st application - Eligibility - Interim measures - Eritrea - Single woman - Gender-based violence - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted	
ND183/2024	120
1st application - Admissibility - Interim measures - Syria of Kurdish origin - Single man - Türkiye as a safe country - Harm from staying in Greece without legal documents for a long period of time - Risk of harm - Application accepted	
ND189/2024	122
1st application - Admissibility - Interim measures - Afghanistan - Single woman - Türkiye as a safe third country - Maintain family unity - Risk of harm - Application accepted	
ND195/2024	123
1st application - Eligibility - Interim measures - Ethiopia - Single man - Mental health issues - Maintain stable living conditions - Application accepted	
ND205/2024	124
1st application - Eligibility - Interim measures - Eritrea - Single woman - Wrong Nationality Assessment - Credibility of annulment claims - Mental Health Issues - Risk of interruption of medical treatment - Risk of harm - Application accepted	
ND250/2024	125
1st application - Eligibility - Interim measures - Iran - Single man - Mental health issues - Maintain stable living conditions - Employment - Application rejected	
ND299/2024	126
1st application - Eligibility - Interim measures - Sudan - Single man - Mental health issues - Risk of interruption of medical treatment - Application accepted	
ND322/2024	127
1st application - Eligibility - Interim measures - Uganda - Single woman - Gender-based violence - Victim of human trafficking - Risk of harm - Application accepted	
ND323/2024	128
1st application - Eligibility - Interim measures - Sierra Leone - Single woman - Pregnant woman - Risk of harm - Application accepted	
ND340/2024	129
1st application - Eligibility - Interim measures - Eritrea - Single woman - Wrong Nationality assessment - Credibility of annulment claims - Gender-based violence - Risk of harm - Application accepted	
ND 341/2024	130
1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted	
ND342/2024	132
1st application - Eligibility - Interim measures - Sierra Leone - Single man - LGBTQIA+ - Serious illness - Risk of interruption of medical treatment - Mental health issues - Risk of harm - Application accepted	
ND378/2024	133
1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted	
ND402/2024	134
1st application - Eligibility - Interim measures - Ghana - Safe country of origin - Single mother with minor child - Best interest of the child - Gender-based violence - Victim of human trafficking - Maintain stable living conditions - Maintain family unity - Application accepted	
ND426/2024	136
1st application - Eligibility - Interim measures - Gambia - Safe country of origin - Couple - Risk of interruption of medical treatment - Mental health issues - Serious illness - Gender-based violence - Maintain family unity - Application accepted	
ND572/2024	137
1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted	
ND590/2024	139
1st application - Eligibility - Interim measures - Sierra Leone - Single woman - Female Genital Mutilation - Links with Greece - Application rejected	
ND591/2024	140
1st application - Eligibility - Interim measures - Sierra Leone - Single man - Links with Greece - School attendance - Application accepted	
ND47/2025	141
1st application - Eligibility - Interim measures - Guinea - Single man - Serious illness - Physical disability - Risk of interruption of medical treatment - Links with Greece - School attendance - Employment - Maintain stable living conditions - Risk of harm - Application accepted	

NΔ71/2025	143
1st application - Eligibility - Interim measures - Sierra Leone - Single woman - Female Genital Mutilation - Risk of harm - Application accepted	
NΔ72/2025	144
1st application - Eligibility - Interim measures - Democratic Republic of Congo - Single woman - Gender-based violence - Victim of human trafficking - Maintain stable living conditions - Risk of harm - Application accepted	
NΔ74/2025	146
1st application - Eligibility - Interim measures - Democratic Republic of Congo - Single man - Mental health issues - Risk of interruption of medical treatment - Risk of harm - Application accepted	
NΔ78/2025	147
Subsequent asylum application - Admissibility - Interim measures - Somalia - Single Man - Risk of harm - Application accepted	
NΔ88/2025	149
1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted	
NΔ114/2025	150
1st application - Eligibility - Interim measures - Iraq - Single man - Unlawful notification by email - Out of time appeal - Risk of harm - Application accepted	
NΔ115/2025	151
1st application - Eligibility - Interim measures - Guinea - Single woman - Gender-based violence - Mental health issues - Risk of interruption of medical treatment - Risk of harm - Application accepted	
NΔ117/2025	152
1st application - Eligibility - Interim measures - Uganda - Single woman - LGBTQIA+ - Gender-based violence - Reasons not unrelated to international protection status - Risk of harm - Application accepted	
NΔ169/2025	154
1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted	
NΔ171/2025	155
1st application - Eligibility - Interim measures - Cameroon - Single man - LGBTQIA+ - No readmissions in the country of origin - Links with Greece - Harm from staying in Greece without legal documents for a long period of time - Application rejected	
NΔ412/2025	157
1st application - Eligibility - Interim measures - Iraq - Single man - Physical disability - Serious illness - Risk of interruption of medical treatment - Maintain stable living conditions - Application accepted	
NΔ483/2025	158
1st application - Eligibility - Interim measures - Stateless - Bidoon - Kuwait - Single man - Wrong Nationality Assessment - Iraq - Mental health issues - No procedural damage if the applicants are not present in the hearing of the application for annulment - Application rejected	
NΔ850/2025	159
1st application - Eligibility - Interim measures - Sierra Leone - Single man - Couple - Family with minor children - Maintain family unity- Maintain stable living conditions - Best interest of the child - Risk of harm - Application accepted	
European court of human rights	161
A.A.H. and Others v. Greece	162
1st application - Admissibility - ECtHR Rule 39 - ECtHR - Afghanistan - Türkiye safe third country - Family with minor children - Harm from staying in Greece without legal documents for a long period of time - School attendance - mental health issues - Best interest of the child - Application accepted	
S.S. v. Greece	163
1st application - Eligibility - ECtHR Rule 39 - ECtHR - Sierra Leone - Single man - LGBTQIA+ - Serious illness - Risk of interruption of medical treatment - Mental health issues - Application accepted	
Appeals Authorities	164
Protocol No: 306432/2023	165
1st application - Eligibility - Appeal on first instance - Somalia - Single woman - Gender-based violence - Risk of exposure to inhuman and degrading conditions - Lack of a support network in the country of origin - Subsidiary Protection granted	
Protocol No: IP/283864/ 2023	166
1st application - Eligibility - Appeal on first instance - Democratic Republic of Congo - Single woman - Mental health issues - Absence of health care system in the country of origin - Risk of exposure to inhuman and degrading conditions - Subsidiary Protection granted	

Protocol No. IP/15213/2024	166
1st application - Eligibility - Appeal on first instance - Eritrea - Single Male - Wrong Nationality Assessment - Benefit of the doubt - Risk of exposure to inhuman and degrading conditions - Subsidiary Protection granted	
Protocol No. IP/76725/2024	167
1st application - Admissibility - Appeal on first instance - Afghanistan - Single Male - Türkiye as a safe third country - Risk of harm - Residence in Greece exceeding one year - Accepted: Remittal for new examination - Eligibility - Refugee Status granted	
Protocol No. IP/81746/2024	168
Subsequent asylum application - Admissibility - Appeal on first instance - Somalia - Single man - Türkiye as a safe third country - Türkiye not accepting readmissions from Greece - New and substantial evidence - Accepted: Remittal for new examination	
Protocol No. IP/94488/2025	170
Subsequent asylum application - Eligibility - Appeal on first instance - Somalia - Single man - Persecution due to membership in a particular social group - Ethnic minority - Application rejected	
Protocol No. IP/88371/2025	171
1st application - Eligibility - Appeal on first instance - Morocco - Safe country of origin - Single male - Physical disability - Lack of a support network in the country of origin - Risk of serious harm - Subsidiary Protection granted	
Protocol No. IP/247273/2025	172
1st application - Eligibility - Appeal on first instance - Cameroon - Single mother with minor child - Gender-based violence - Persecution due to membership in a particular social group - SGBV - Risk of serious harm - Refugee Status granted	
Ombudsman Complaints	173
1st Letter on Nationality Assessment	174
Ombudsman's intervention - Wrong Nationality Assessment - 1st Letter of the Greek Ombudsman on the subject - Subject of complaint to the Greek Ombudsman: Access to data in the administrative file relating to nationality verification	
2nd Letter on Nationality Assessment	176
Ombudsman's intervention - Wrong Nationality Assessment - Response of Lesbos C.C.A.C. Subject: Access to data in the administrative file relating to nationality assessment	
3rd Letter on Nationality Assessment	177
Ombudsman's intervention - Wrong Nationality Assessment - 2nd Letter of the Ombudsman after having received more complaints	
4th Letter on Nationality Assessment	179
Ombudsman's intervention - Wrong Nationality Assessment - New response from Lesbos C.C.A.C. Subject: Access to data in the administrative file relating to nationality verification. from the Assistant Ombudsman	
5th Letter on Nationality Assessment	179
Ombudsman's intervention - Wrong Nationality Assessment - 3rd Letter of the Ombudsman Subject: Access to administrative documents of the nationality verification procedure.	
6th Letter on Nationality Assessment	181
Ombudsman's intervention - Wrong Nationality Assessment - 4th letter of the Ombudsman Subject: Nationality verification procedure in Lesbos C.C.A.C.	
7th Letter on Nationality Assessment	182
Ombudsman's intervention - Wrong Nationality Assessment - 5th letter of the Ombudsman Subject: Access to administrative documents of the nationality verification process	
1st Letter on Authorisation	184
Ombudsman's intervention - 1st Letter of the Ombudsman on the subject - Subject of complaint to the Ombudsman: Denial of access to elements of the administrative file to the legal representative due to the non-acceptance of a simple authorisation bearing a certified signature by the lawyer himself.	
2nd Letter on Authorisation	186
Ombudsman's intervention- 1st Response of Thessaloniki Asylum Unit of Safe Countries Subject: "Reply concerning case no. [...] of a citizen of Ghana"	
3rd Letter on Authorisation	187
Ombudsman's intervention - 2nd Response of Thessaloniki Asylum Unit of Safe Countries - SUBJECT: "Supplementary letter concerning Case No [...] of a third-country national of a citizen of Ghana"	
4th Letter on Authorisation	188
Ombudsman's intervention - Answer of Thessaloniki Regional Asylum Office SUBJECT: Ombudsman's document No 350858/18482 dated 12.04.2024	
Annexes	190
Simplified overview of the asylum procedure in mainland Greece	197

INDEX OF CASES RELATED TO KEYWORDS

1st application: 32, 34, 35, 38, 45, 48, 51, 56, 58, 65, 68, 70, 75, 76, 80, 85, 86, 89, 93, 95, 96, 97, 99, 100, 101, 103, 104, 105, 106, 109, 111, 112, 113, 115, 116, 117, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 137, 139, 140, 141, 143, 144, 146, 149, 150, 151, 152, 154, 155, 157, 158, 159, 162, 163, 165, 166, 167, 171, 172

Absence of health care system in the country of origin: 39, 45, 54, 68, 166

Accepted: remittal for new examination: 167, 168

Admissibility: 54, 73, 75, 78, 80, 91, 92, 93, 96, 99, 100, 103, 109, 111, 120, 122, 147, 162, 167, 168

Afghanistan: 58, 75, 86, 93, 96, 100, 104, 122, 162, 167

Algeria: 88

Annulment of a return decision: 58

Appeal on first instance: 165, 166, 166, 167, 168, 170, 171, 172

Application accepted: 34, 35, 38, 39, 42, 48, 51, 56, 62, 68, 70, 73, 75, 76, 78, 80, 83, 84, 85, 86, 87, 88, 89, 91, 92, 95, 96, 97, 99, 100, 103, 104, 105, 106, 108, 109, 111, 112, 113, 115, 116, 119, 120, 122, 123, 124, 126, 127, 128, 129, 130, 132, 133, 134, 136, 137, 140, 141, 143, 144, 146, 147, 149, 150, 151, 152, 154, 157, 159, 162, 163

Application for annulment: 32, 34, 35, 38, 39, 42, 45, 48, 51, 54, 56, 58, 62, 65, 68, 70, 73, 75, 76, 78, 80

Application rejected: 32, 45, 54, 58, 65, 93, 101, 115, 117, 125, 139, 155, 158, 170

Arrived in Greece as unaccompanied minor: 45

Benefit of the doubt: 166

Best interest of the child: 42, 91, 96, 99, 100, 108, 134, 159, 162

Bidoon: 158

Burkina Faso: 89

Cameroon: 51, 87, 155, 172

Child with physical disability: 34

China: 32, 35, 76

Couple: 101, 105, 108, 136, 159

Credibility of annulment claims: 112, 113, 119, 124, 129, 130, 133, 137, 149, 154

Democratic Republic of Congo: 62, 70, 78, 92, 108, 116, 144, 146, 166

ECtHR: 162, 163

ECtHR Rule 39: 162, 163

Eligibility: 32, 34, 35, 38, 45, 48, 51, 56, 58, 62, 65, 68, 70, 76, 85, 86, 87, 88, 89, 95, 97, 101, 104, 105, 106, 108, 112, 113, 115, 116, 117, 119, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 136, 137, 139, 140, 141, 143, 144, 146, 149, 150, 151, 152, 154, 155, 157, 158, 159, 163, 165, 166, 166, 167, 170, 171, 172

Employment: 83, 85, 87, 89, 125, 141

Eritrea: 119, 124, 129, 130, 133, 137, 149, 154, 166

Ethiopia: 123

Ethnic minority: 58, 170

Exclusion from International Protection: 58

Family with minor children: 34, 42, 73, 83, 93, 96, 99, 100, 159, 162

Father with minor child: 108

Female Genital Mutilation: 54, 95, 101, 139, 143

Free Legal Assistance provided by lawyers of the Asylum Service Registry: 56

Gambia: 136

Ghana: 91, 134

Guinea: 45, 85, 115, 141, 151

Haiti: 117

Harm from staying in Greece without legal documents for a long period of time: 86, 89, 99, 100, 104, 109, 111, 120, 155, 162

Humanitarian and security crisis in the country of origin: 39

Interim measures: 83, 84, 85, 86, 87, 88, 89, 91, 92, 93, 95, 96, 97, 99, 100, 101, 103, 104, 105, 106, 108, 109, 111, 112, 113, 115, 116, 117, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 130, 132, 133, 134, 136, 137, 139, 140, 141, 143, 144, 146, 147, 149, 150, 151, 152, 154, 155, 157, 158, 159

Iran: 56, 65, 106, 112, 125

Iran of Kurdish ethnic origin: 113

Iraq: 34, 150, 157, 158

Ivory Coast: 54

Kurdish: 34

Kuwait: 158

Lack of a support network in the country of origin: 45, 165, 171

(Non) Legitimate justification: 32, 34, 35, 38, 45, 48, 54, 62, 65, 68, 70, 73, 75, 76, 78, 80

LGBTQIA+: 51, 62, 108, 115, 132, 152, 155, 163

Links with Greece: 42, 83, 85, 87, 89, 92, 97, 104, 106, 108, 117, 139, 140, 141, 155

Maintain family unity: 97, 99, 108, 122, 134, 136, 159

Maintain stable living conditions: 85, 116, 123, 125, 134, 141, 144, 157, 159

Mali: 68

Mental health issues: 62, 70, 87, 91, 92, 93, 100, 105, 106, 108, 116, 117, 123, 124, 125, 126, 132, 136, 146, 151, 158, 162, 163, 166

Morocco: 171

New and substantial evidence: 78, 168

No procedural damage if the applicants are not present in the hearing of the application for annulment: 101, 117, 158

No readmissions in the country of origin: 155

Non-compliance with a previous annulment decision: 48

Ombudsman's intervention: 174, 176, 177, 179, 179, 181, 182, 184, 186, 187

Out of time appeal: 56, 150

Pakistan: 38, 42, 83

Persecution due to membership in a particular social group: 38, 45, 51, 54, 58, 62, 68, 170, 172

Persecution due to political opinion: 48, 65, 78

Persecution due to race: 48

Persecution due to religion: 32, 34, 35, 58, 76

Physical disability: 39, 45, 85, 141, 157, 171

Pregnant woman: 128

Preliminary question before the Council of State: 73, 75, 78, 80

Principle of non-refoulement: 58

Reasons not unrelated to international protection status: 152

Refugee Status granted: 167, 172

Residence in Greece exceeding one year: 167

Residence permit for exceptional reasons: 39, 42, 83, 84

Retroactive effect of legislation: 39, 42

Right to an effective remedy: 51, 56

Risk of a new persecution in case of return to the country of origin: 58

Risk of exposure to inhuman and degrading conditions: 165, 166, 166

Risk of harm: 85, 86, 87, 88, 89, 91, 92, 95, 96, 97, 99, 100, 103, 105, 113, 115, 119, 120, 122, 124, 127, 128, 129, 130, 132, 133, 137, 141, 143, 144, 146, 147, 149, 150, 151, 152, 154, 159, 167

Risk of interruption of medical treatment: 84, 85, 88, 91, 101, 105, 106, 117, 124, 126, 132, 136, 141, 146, 151, 157, 163

Risk of serious harm: 171, 172

Safe country of origin: 38, 88, 91, 134, 136, 171

School attendance: 42, 83, 85, 93, 96, 100, 140, 141, 162

Second subsequent asylum application: 88

Serious illness: 39, 54, 68, 70, 84, 85, 88, 97, 101, 132, 136, 141, 157, 163

Sexual and Gender-Based Violence: 34, 38, 54, 70, 91, 95, 101, 116, 119, 127, 129, 134, 136, 144, 151, 152, 165, 172

Sierra Leone: 95, 105, 128, 132, 139, 143, 159, 163

Single father with minor child: 75

Single man: 39, 45, 48, 51, 56, 58, 62, 65, 68, 78, 80, 84, 85, 86, 87, 88, 89, 92, 97, 104, 106, 109, 111, 112, 113, 115, 117, 123, 125, 126, 130, 132, 133, 137, 140, 141, 146, 149, 150, 154, 155, 157, 158, 159, 163, 166, 167, 168, 170, 171

Single member Appeals Committee: 75, 78, 80

Single mother with minor child: 38, 91, 134, 172

Single woman: 32, 35, 54, 70, 76, 103, 116, 119, 122, 124, 127, 128, 129, 139, 143, 144, 151, 152, 165, 166

Somalia: 97, 99, 101, 147, 165, 168, 170

Statelessness: 158

Subsequent asylum application: 54, 62, 73, 78, 87, 91, 92, 108, 147, 168, 170

Subsidiary Protection granted: 165, 166, 166, 171

Sudan: 39, 84, 126

Syria: 73, 80, 109, 111, 150

Syrian of Kurdish origin: 103, 120

The State could provide protection: 70

Turkish citizen of Kurdish origin: 48

Türkiye: 48, 171

Türkiye as a safe third country: 73, 75, 80, 86, 93, 96, 99, 100, 103, 109, 111, 120, 122, 162, 167, 168

Türkiye not accepting readmissions from Greece: 86, 168

Uganda: 127, 152

Unlawful notification by email: 56, 150

Victim of human trafficking: 70, 127, 134, 144

Victim of torture: 62, 108

Violation of a substantial procedural requirement: 56

Violation of a substantive legal provision: 68

Violation of the right to a prior hearing: 51

Wrong nationality assessment: 119, 124, 129, 130, 133, 137, 149, 154, 158, 166, 174, 176, 177, 179, 179, 181, 182

PICTOGRAMS

In this jurisprudence collection, each case is accompanied by one or more pictograms that visually highlight its main characteristics and legal issues.



Sexual and gender based violence



Persecution due to religion



Persecution due to armed conflicts



Political persecution



Access to Justice



Health



Family



LGBTQIA+



Victim of torture



Safe Third Country

LIST OF ACRONYMS AND ABBREVIATIONS

APD: Asylum Procedure Directive: 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)

CJUE: Court of Justice of the European Union

CoS: Council of State

ECHR: European Convention on Human Rights

ECtHR: European Court of Human Rights

EU: European Union

EUAA: European Union Agency for Asylum

JMD: Joint Ministerial Decision

MOMA: Ministry of Migration and Asylum

NGOs: Non-Governmental Organisations

QD: Qualification Directive: Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

RIC: Reception and Identification Centres

INTRODUCTION

Equal Legal Aid (ELA) is a non-profit organisation which provides pro bono legal assistance and representation to asylum seekers during their asylum procedures in Northern Greece. Since its inception in September 2020, ELA has provided individual legal assistance and representation to **2,171 people**. Representation is provided at all stages of the asylum procedure, including appeals and applications before administrative courts. To address the challenges posed by the isolation of applicants in remote facilities, ELA also operates a hotline, through which **2,949** people have received legal advice on asylum procedures since January 2022.¹

1. Foreword

Following our first Jurisprudence collection,² this second edition³ is designed as a **practical dissemination tool** for asylum professionals in Europe, and aims to make the legal strategies developed within ELA and the concrete results before the courts accessible to as many people as possible, both in Greece and beyond.

Since 2020, lawyers collaborating with ELA have filed **157** first appeals before the Appeals Authority, **123** requests for annulment and **102** requests for provisional measures before the Administrative Courts of Athens and Thessaloniki. Much of this work, however, remains **inaccessible to our peers**: the majority of cases are still pending before the competent courts, while others are not published or otherwise available to practitioners. As a modest contribution to **building a more favourable jurisprudence and advancing the rights of asylum seekers**, we aim to make the decisions from our cases available to a wider audience. Therefore, the collection will be available in both Greek and English to ensure broader access and impact.

This collection contains decisions of the Greek Appeals Committees, the Administrative Courts of Thessaloniki and Athens, the Greek Ombudsman and Interim Measures before the European Court of Human Rights, issued between March 2023 and December 2025 in cases represented by lawyers collaborating with ELA. Only **relevant excerpts** are included here; the full decisions are available upon request.

For ease of reference, the decisions are listed in chronological order on page 4, with reference to the country of origin, the outcome of the procedure and the key elements addressed in the decision (using keywords). The collection can also be navigated through a **thematic index** on page 10, allowing readers to browse decisions by **keywords**. Additionally, all decisions are grouped into **10 categories**, each represented by a dedicated **pictogram** that reflects the core aspects of the asylum claims, making the collection easier to scan and explore at a glance.

The study of this collection reveals serious legal shortcomings and systemic gaps in the effective protection of asylum seekers in Greece. Behind legal terms and abstract concepts are human lives, many of which are at risk. Negative decisions can have grave and often devastating consequences for people's lives: an unfounded rejection can lead to deportation, forced or illegal return to so-called "safe" countries, and cause irreversible harm to the dignity, integrity, health and, in some cases, survival of those seeking asylum.

However, one reassuring note is that the individuals whose cases are presented herein had at least the opportunity to be heard, which is not guaranteed in the Greek context, where access to asylum and justice is severely compromised. Upholding the basic human rights of asylum seekers in Greece is a daily struggle for the individuals themselves and the practitioners who support them as they navigate a complex (and often costly) system designed to fail them.

¹ Data extracted from ELA's database on 27/05/2026.

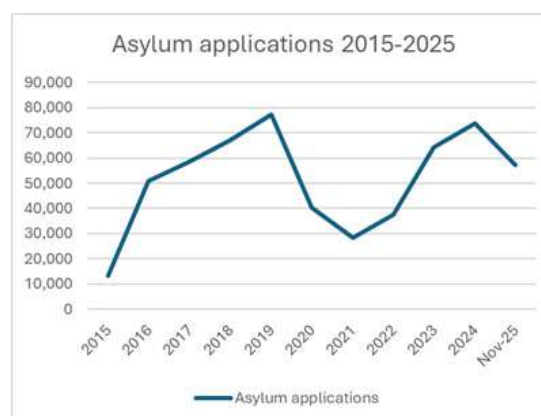
² Our first jurisprudence collection was published in July 2023 and includes 32 decisions on applications for annulment and interim measures issued by the Administrative Courts of First Instance of Athens and Thessaloniki, from November 2021 to March 2023.

³ The second jurisprudence collection includes 21 decisions on applications for annulment, 60 decisions on requests for interim measures issued by the Administrative Courts of First Instance of Athens, Thessaloniki and Piraeus, 9 decisions from the Independent Appeals Committees, 2 decisions on interim measures before the ECtHR, and 11 letters sent to/or by the Greek Ombudsman. Between March 2023 and December 2025, 21 applications for annulment have been examined by the Administrative Courts of First Instance, with 16 rulings resulting in positive decisions and 5 in rejection of the application. There are still 71 cases awaiting a hearing or the issuance of a decision. Regarding applications for provisional measures, the collection includes 60 decisions from the same period, with 52 being positive and 8 negative, resulting in an overall success rate of 85%.

2. An overview of migration flows in Greece and some of the procedural obstacles encountered

Over the course of a decade, from 2015 to 2025, significant fluctuations have been observed in the number of asylum applications submitted in Greece. These variations in migratory flows are influenced both by armed conflicts, wars and climate change, as well as by restrictive migration policies and procedural barriers to the provision of international protection.

Applications surged dramatically between 2015 (13,185) and 2019 (77,227),⁴ during the wider European so-called “refugee crisis”, reflecting the urgent need for safety and protection among people fleeing war and persecution, particularly from Syria, Afghanistan, and other conflict zones. Rather than reflecting lower protection needs, the sharp drop in 2020–21 is predominantly the result of border closures, deterrence measures and limited access to asylum during the pandemic. One significant factor contributing to this decline was the initial “asylum ban” imposed by the Greek Ministry of Migration and Asylum in March 2020, which involved suspending asylum applications on the grounds of the instrumentalisation of individuals crossing the border from Türkiye.



From 2022 onwards, applications began to rise again, reaching 73,684 in 2024, the second-highest level of the decade, due to numerous conflicts across the globe, with devastating consequences for affected populations. 2025 was on track to reach similar levels, and in July 2025, the current Minister of Migration and Asylum imposed another illegal “asylum ban” for people coming from Libya. Despite increasingly restrictive measures, 61,629 people had reached Greece by December 2025 seeking international protection, showing that the need to survive outweighs any deterrent measures.

Overall, the number of forcibly displaced people constantly increases, making effective access to asylum more urgent than ever. Yet, despite a robust legal framework and claims of effective management and compliance with EU standards, the Greek government’s «solution» to increased protection needs is one of violent repression and punishment. This “solution” entails the deprivation of rights, the undermining of procedural safeguards, and the disregard of European and international obligations. As a result, the fluctuations observed in the number of asylum applications reflect the way in which pushbacks, externalisation policies and the systematic weakening of support structures undermine in practice the right of access to the international protection procedure. Beyond excluding people from asylum, these policies entail serious risks to life and physical integrity, leading to the loss of human lives both at sea and at land borders.

In recent years, successive legal reforms have made the asylum procedure increasingly complex and restrictive. As a result, many applicants are denied effective access to international protection and exposed to extreme and inhumane living conditions in facilities that resemble places of detention rather than reception centres. These reforms have created a system in which large numbers of people are unable to effectively exercise their rights, remain trapped in prolonged legal uncertainty, and, in some cases, are entirely prevented from having their asylum claims meaningfully examined.

Lack of procedural safeguards for vulnerable applicants

Timely and effective identification of vulnerabilities is crucial, as it triggers States’ obligations to provide specific procedural guarantees. Under EU law, authorities must take all necessary measures to create the conditions for effective access to asylum procedures and to enhance applicants’ ability to exercise their rights and comply with their obligations.⁵

Some legally recognised vulnerabilities⁶ are apparent and do not require an individual assessment. Exa-

⁴ Greek MoMA [Data and Statistics](#) and Annexe 1.

⁵ Article 72 of law 4939/2022, transposing the Asylum Procedures Directive (2013/32/EU).

⁶ Article 1 of Greek Law no. 4939/2022 provides an indicative list of vulnerable persons including: “minors, accompanied or not, direct relatives of shipwreck victims (parents, siblings, children and spouses), persons with disabilities, elderly persons, pregnant women, single-parent families with minor children, victims of trafficking, persons with serious illnesses, persons with cognitive or mental disabilities and persons having suffered torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation.”

mples include single-parent families, pregnant women, people with physical disabilities, unaccompanied and separated minors, and elderly people. However, many vulnerabilities are not immediately identifiable and require thorough assessments and a conducive environment. This apply to vulnerabilities that are not visible or easily disclosed, as it is most often the case with survivors of gender-based violence, human trafficking, or torture.

Even when asylum seekers are subjected to a vulnerability assessment, its quality is often questionable, as assessments are frequently conducted inadequately or with significant delays. Available data from the Ministry of Migration and Asylum reveal a lack of consistency in the identification and recording of vulnerabilities at the stage of lodging asylum applications.⁷ Notably, data on serious medical conditions have only been systematically collected since 2024. At the same time, chronic understaffing and the absence of effective referral mechanisms to specialised services outside reception facilities leave many applicants without access to adequate medical and psychological care. As a result, their specific needs are frequently overlooked, while the failure to identify and document vulnerabilities in a timely and accurate manner also leads to the denial of essential procedural safeguards and prevents applicants from gathering the evidence necessary to substantiate both their vulnerabilities and their substantive asylum claims.

The failure to ensure timely identification of vulnerabilities, the lack of appropriate care, and the inability to obtain the necessary medical documentation often result in the erroneous rejection of asylum applications. This collection comprises **23 decisions**, including annulment applications, applications for interim measures, and decisions of the Appeals Committees concerning survivors of gender-based violence, several of which illustrate these shortcomings in a particularly clear and compelling manner.

Flawed interview procedures

The personal interview forms the cornerstone of the asylum procedure. It is a complex yet decisive stage that provides applicants with the opportunity to present the reasons underlying their request for international protection. The quality and impartiality of the interview, together with the careful and sensitive handling of issues relating to traumatic personal experiences, are crucial to ensuring that asylum decisions are fair, well-founded, and consistent with international protection standards. In practice, though, the quality and conduct of the personal interview are critically influenced by material and human factors.

Following the introduction of preventative measures in response to the COVID-19 pandemic, digitalisation initiatives have intensified under the pretext of enhancing the efficiency and quality of asylum processes. In practice, these measures have mainly been implemented due to a lack of transport services for applicants living in remote areas far from asylum offices. Currently, nearly all interviews are conducted remotely, except when a vulnerability assessment indicates an inability to conduct a remote interview, which is rare. Applicants typically connect from designated spaces within reception facilities, while caseworkers and interpreters participate online. However, these arrangements often result in technical shortcomings, such as unstable internet connections, which interrupt the flow and coherence of the interview and ultimately compromise its substantive quality. At the same time, significant concerns arise regarding the overall quality of the interview process, particularly regarding the ability to ensure meaningful communication, properly assess credibility, and handle traumatic experiences with the necessary sensitivity.

Whilst many asylum applications are rejected as unfounded on grounds of alleged lack of credibility, a substantial number of the judicial decisions included in this Collection demonstrate that such rejections frequently lack lawful and sufficient reasoning. The most commonly cited grounds for rejection concern alleged inconsistencies in applicants' statements or an asserted lack of detail in their accounts. Even where applicants' claims align with general country-of-origin information, they are often dismissed as not amounting to "personally lived experience", revealing an entrenched culture of distrust towards asylum seekers. At the same time, interview records show that the questions posed are largely standardised and generic; clarifying or probing questions are rarely asked by case officers. In practice, these approaches deny applicants a meaningful opportunity to present their claims clearly and fully.

The "safe" countries concepts

Additional procedural obstacles are imposed on asylum seekers based on their country of origin or the countries they have transited through before reaching Greece. These obstacles further erode the prospect of a fair procedure.

⁷ Greek MoMA [Data and Statistics](#) and Annexe 8.

Safe third country

Since 2016, Greece has implemented and expanded the “safe third country” concept.⁸ From 2021 onwards, Türkiye is considered a safe third country for asylum seekers originating from five countries, namely: Afghanistan, Syria, Pakistan, Bangladesh, and Somalia. In practice, applicants from those countries who entered Greece via Türkiye are subject to an additional procedure, known as the admissibility procedure, which determines whether they may have an in-merit examination of their asylum claim. In 2022, Albania and North Macedonia were also designated safe third countries for all nationalities.⁹

These provisions undermine the obligation to conduct an individualised assessment to determine whether the reasons for fleeing their country of origin qualify for international protection, thereby contravening the Qualification Directive. Additionally, the examination of the “safety” of the third country is rather superficial and, in many cases, predetermined. It is important to note that these admissibility procedures are applied to nationalities that account for the largest contingent of asylum seekers in Greece, for whom recognition rates are high. An estimation based on the nationalities of asylum applicants suggests that over 50% of asylum applications submitted each year between 2022 and the first half of 2025 have been affected by this procedure.¹⁰

From 2022 until June 2025, approximately 10,000 inadmissible decisions were issued at the first instance, with over half of them (5,704) also rejected at the appeal stage.¹¹ This is despite the fact that Türkiye has not been accepting readmissions since 2020, meaning that none of the applicants rejected on admissibility grounds have ever been “legally” returned. This has led to a Kafkaesque situation, as rejected asylum seekers are stuck in a legal limbo, without their asylum claim related to their countries of origin ever being heard.

In 2023, NGOs¹² operating in Greece lodged an application for annulment against the decision designating Türkiye as a safe third country before the Greek Council of State. Subsequently, the latter submitted a preliminary question to the CJEU on the interpretation of the Asylum Procedure Directive.¹³ In March 2025, the said Joint Ministerial Decision was annulled, and just one month later, in April 2025, the Ministry (re)designated Türkiye as a “safe third country” for the five specific countries, without providing any new reasoning. Despite this latest development, inadmissible decisions on the grounds of “safe third country” have sharply decreased in 2025, with only 357 decisions issued at first instance and 66 at second instance as of June 2025.

In the present collection, there are **ten decisions** on applications for interim measures concerning applicants from Afghanistan, Syria, and Somalia, initially rejected at both first and second instance as inadmissible. Nine decisions are positive, and one is negative. There are also **three positive decisions** on the application for annulment, which annulled the rejection decisions and returned the files to the Appeals Authority for a new, legitimate justification based on the above ruling of the Council of State. The remaining applications for annulment are all still pending before the Administrative Courts. Lastly, **two decisions** of the Appeals Authority are included, both issued after an initial inadmissibility decision. The first decision grants refugee status to an Afghan applicant, and the second concerns a Somali applicant, whose appeal was deemed admissible and who was summoned for an interview. The latter case is pending before the Administrative Court of Thessaloniki following a rejection on the merits.

Safe countries of origin

As of December 2024, eighteen countries were included in the list of “safe countries of origin”: Egypt, Albania, Algeria, Angola, Armenia, Georgia, Gambia, Ghana, India, Morocco, Moldova, Bangladesh, Benin, Nepal, Pakistan, Senegal, Togo, Tunisia.¹⁴ All applicants from so-called safe countries of origin are examined under an accelerated procedure,¹⁵ subject to shorter deadlines and weaker procedural guarantees. Whilst no data on the number of applications made every year by nationals of safe countries of

⁸ Following the 2016 EU-Türkiye agreement, Türkiye was designated a safe third country only for applicants coming from Syria and only on the applications submitted to the Aegean Islands. Article 91 L 4939/2022; [JMD 42799/2021](#). See also RSA & PRO ASYL, [The Concept of “Safe Third Country”: Legal Standards & Implementation in the Greek Asylum System](#), February 2024.

⁹ [JMD 458568/15.12.2021](#)

¹⁰ Greek MoMA [Data and Statistics](#) and Annexe 7. Between 2022 and 2023, 52% of asylum applicants were from Afghanistan, Syria, Pakistan, Somalia and Bangladesh. This figure increased to 57% in 2024, and reached a share of 44% in the first half of 2025.

¹¹ Greek MoMA [Data and Statistics](#) and Annexe 3 and 4. At first instance, 3,601 in 2022, 3,454 in 2023, 2,143 in 2024, and 357 in the first half of 2025. At second instance, 2,708 in 2022, 1,237 in 2021, 1,693 in 2024 and 66 in 2025.

¹² [Greek Council for Refugees](#) (GCR) and [Refugee Support Aegean](#) (RSA)

¹³ CJEU, [C-134/23](#) Elliniko Symvoulio gia tous Prosfyges, Opinion of Advocate General, 13 June 2024.

¹⁴ According to Article 92 L 4939/2022 every year the respective Ministries are updating the [list of safe countries of origin](#). The list was mainly expanded in 2021 when Egypt, Benin, Nepal were added and Ukraine, which was previously considered a safe country of origin, was excluded from the list. The list of 2022 and 2023 contained the same countries with the exception of Moldova and Angola which were added in 2024.

¹⁵ Article 88 L 4939/2022.

origin is available, between 2022 and 2025, 44% of appeals before the Appeals Authority were rejected on this ground.¹⁶

According to the Greek law a country shall be considered a “safe country of origin” if, on the basis of legislation and its application within the framework of a democratic system and the general political circumstances, it can be clearly demonstrated that people in these countries do not suffer from persecution, generally and permanently, nor torture, inhuman or degrading treatment or punishment, nor a threat resulting from the use of generalised violence in situations of international or internal armed conflict.

To designate a country as a “safe country of origin”, the authorities must take into account inter alia the extent to which protection is provided against persecution or ill-treatment through the examination of the relevant legal and regulatory provisions of the country and the manner of their application; compliance with the European Convention on Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR), namely as regards non-derogable rights as defined in Article 15(2) ECHR, the Convention against Torture and the Convention on the Rights of the Child; respect of the non-refoulement principle in line with the Refugee Convention; and provision of a system of effective remedies against the violation of these rights.¹⁷

A country may be designated as a “safe country of origin” for a particular applicant only if, after an individual examination of the application, it is demonstrated that the applicant: (a) has the nationality of that country or is a stateless person and was previously a habitual resident in that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her qualification as a beneficiary of international protection.

In practice, assessments conducted during accelerated procedures rarely examine each claim in depth. Broadly speaking, a person from a so-called safe country is presumed not to have a well-founded claim to asylum in the absence of proof to the contrary. Therefore, the burden of proof is increased, as the applicant must rebut this presumption. Additionally, deadlines are drastically shorter, leaving applicants less time to prepare and substantiate their claims and appeals. Furthermore, labelling a country as ‘safe’ from the outset can bias decision-makers, either consciously or unconsciously, leading to asylum claims being examined less thoroughly, as highlighted by the [European Council on Refugees and Exiles \(ECRE\)](#).

In the collection at hand, there is one positive decision on an application for annulment from an applicant from Pakistan, initially rejected on the basis that Pakistan is a safe country of origin. Five positive decisions on applications for interim measures are also included, concerning applicants from safe countries, namely Pakistan, Algeria, Ghana and Gambia. Applications for annulment in these cases are still pending. Finally, the collection presents one decision from the Appeals Authority, granting subsidiary protection to an applicant from Morocco.

It is of particular concern that special (or derogatory) procedures -such as accelerated, border or admissibility procedures- have become the norm in the Greek asylum framework. These exceptional, less protective procedures now affect nationals of more than 20 countries,¹⁸ or of all countries, if they have entered Greece via Northern Macedonia or Albania. In this context, the regular asylum procedure has gradually become the exception, as it is applied only to applicants of certain nationalities, such as applicants from Iran, Iraq, Palestine, Yemen, Sudan, or the Democratic Republic of the Congo, who may nevertheless be excluded from the regular procedure if their initial registration took place at the border and they have not been identified as vulnerable. In 2024, 67% of asylum applications were examined either under the admissibility procedure or under fast-track procedures for applicants originating from so-called safe countries of origin.¹⁹

Arbitrary nationality determination

Since 2023, alarming civil society reports have shown that the Greek authorities and/or Frontex are wrongfully declaring applicants’ nationalities during the first registration. This has been observed for Palestinians, registered as Syrians, stateless people belonging to the Bedoon ethnic group, registered as

¹⁶ Greek MoMA [Data and Statistics](#). At first instance, 8,324 negative decisions were issued in substance under the accelerated procedure in 2022; 5,167 in 2023; 7,050 in 2024 and 3,542 in the first half of 2025, most of these decisions were on the grounds of the safe country of origin (see Annexe 3). In the second instance, 4,700 cases were rejected in substance as manifestly unfounded on the grounds of safe country of origin in 2022; 3,442 in 2023; 3,674 in 2024 and 1,402 in the first half of 2025 (see Annexe 4).

¹⁷ Article 92 (4) of L. 4939/2022.

¹⁸ 18 countries considered as safe countries of origin (Egypt, Albania, Algeria, Angola, Armenia, Georgia, Gambia, Ghana, India, Morocco, Moldova, Bangladesh, Benin, Nepal, Pakistan, Senegal, Togo, Tunisia.) and 5 more countries (Afghanistan, Syria, Somalia, Pakistan and Bangladesh) for which Türkiye is considered a safe third country. Pakistan and Bangladesh are included in both lists.

¹⁹ Greek MoMA [Data and Statistics](#) and Annexe 7.

Iraqis, people from Yemen registered as Somalis, etc. Although widespread, the practice seems to target in particular Eritrean nationals, misclassified as Ethiopian during their initial screening.²⁰ In such cases, individuals are effectively denied protection, as their claims are assessed on the basis of conditions in an assumed country of origin that do not reflect their actual experiences of persecution or risk.

Nationality is one of the key elements required to substantiate an application for international protection, and applicants have a duty to cooperate with the asylum administration in this regard.²¹ According to the EUAA's Practical Guide on Nationality, since nationality is a material fact, relevant evidence must be collected for the purpose of assessing the credibility of the claim. If applicants have fulfilled their duty to substantiate their claim and their nationality remains indeterminate, *"the examination of their need for international protection may be determined in a manner similar to that of a stateless person"*. Only the applicant's lack of cooperation in establishing their nationality could justify the conclusion that *"their nationality claim has not been sufficiently substantiated"*. In any case, the registration authority's assessment cannot constitute a declaration of the applicant's nationality, as *"it is only for the competent authorities of the person's country of origin to officially declare one person's nationality"*.

While European Union law and Greek law lay down the general principles governing registration and asylum procedures, they do not define how nationality is to be established in cases where relevant documentation cannot be produced or where the claims put forward are insufficiently substantiated. This regulatory gap permits the application of fragmented and inconsistent practices, which may result in serious adverse effects on applicants' rights.

In practice, the nationality determination procedure is inconsistently applied and poorly documented, leading to the arbitrary assignment of a "declared" and an "estimated" nationality that overrides the applicant's own statement. There are no transcript records of the screening interviews, and the "estimated nationality" is presented as a final designation without providing a mechanism for legal contestation during this early stage of the procedure. Applicants whose declared and estimated nationalities do not match are rejected as *"uncredible"* after a short asylum interview; a decision that is very difficult to overturn on appeal. The direct consequence of this is that their genuine asylum claims have never been properly heard.

The collection at hand includes **eight positive decisions** on applications for interim measures, along with several letters submitted to the Greek Ombudsman addressing these issues. The applications for annulment for these cases are still pending before the Administrative Courts. **One decision** from the Appeals Authority, which recognises Eritrea as the applicant's country of origin and grants subsidiary protection.

Notification of decisions by email

In recent years, Greece - like other EU countries - has shifted toward digitalising asylum procedures, a trend clearly accelerated during the COVID-19 pandemic due to serious gaps in interpretation and legal services in reception facilities. However, the turn to digitalisation has proven to deepen systemic access issues. The unlawful practice of email notifications and its consequences on access to legal remedies is a clear example.

In January 2025, a pivotal ruling by the Thessaloniki Administrative Court, included in the present collection,²² reaffirmed that decisions on international protection applications for asylum seekers residing in reception facilities must be delivered in person, not by email. Although Greek asylum law allows electronic notification as a default method, it explicitly requires in-person delivery in these settings to ensure applicants are properly informed and can exercise their right to appeal.²³

This failure to provide effective notification undermines procedural safeguards and creates serious barriers to the exercise of legal remedies. By prioritising efficiency over fairness, email notifications overlook the particular vulnerabilities of asylum seekers, many of whom face technological, linguistic, and psychological barriers. This digital-first approach risks excluding the most marginalised people and contradicts EU legal obligations to provide special procedural guarantees to vulnerable applicants. While the new Asylum Procedure Regulation further normalises electronic communication, the rising number of late appeal rejections observed in Greece shows that current digital practices hinder rather than streamline access to justice.²⁴

²⁰ Greek MoMA [Data and Statistics](#). It is worth noting that Eritrean nationals have a recognition rate of over 88% (2022: 98.2%, 2023: 76.7%, and 2024: 89.6%).

²¹ Article 4 Qualification Directive.

²² Administrative Court of Thessaloniki of First Instance Decision no. 6/2025.

²³ Article 87(3) and (4) of Law no. 4939/2022.

²⁴ Greek MoMA [Data and Statistics](#). Rejections of appeals on formal grounds, specifically late submission, have risen sharply in recent years, highlighting growing procedural barriers for asylum seekers. In 2022, 1,096 appeals were dismissed as out of time; this number rose to 1,523 in 2023 and 1,526 in 2024. Alarming, 984 such rejections occurred in just the first half of 2025—a 50% out of total inadmissible appeals. (Annexe 5)

Subsequent applications

Following the expansion of the “safe third country” and “safe country of origin” concepts, there has been a surge in subsequent applications submitted in Greece. Between 2020 and 2022, the number of subsequent applications increased by 221%. Since then, numbers have stabilised at a much higher level than before 2021.²⁵

A subsequent application is an application for international protection submitted after a final decision has been taken on a previous application for international protection and is lodged before the Regional Asylum Offices. The applicant must then present new evidence or information that could affect the overall assessment of their application for international protection.²⁶ Subsequent applications are examined in two steps. First, a preliminary admissibility procedure is conducted to assess whether the presented elements are new. This may include a second admissibility procedure if the applicant is subject to the “safe third country” admissibility procedure. Subsequent applications will be assessed on the merits during a second phase, only if considered admissible.

New elements may pertain to facts that had not yet occurred, or that could not be presented during the examination of the previous application at first instance or on appeal due to circumstances beyond the control of the applicant. In practice, the Asylum Service appears to disregard these elements in breach of a Council of State decision,²⁷ which ruled that when evidence is crucial, it must be taken into consideration even if it is not newly emerged. Despite this, both the Asylum Service and the Appeals Authority generally fail to apply the Council of State’s jurisprudence and the EUAA’s guidance on subsequent applications. The outcome of this approach is that subsequent applications have consistently faced high rejection rates (over 60%) at both the first and second instance.²⁸

Moreover, additional financial obstacles are hindering rejected applicants from submitting a subsequent application. Since a 2021 reform, applicants were required to pay a fee of €100 per person from the second subsequent application onwards.²⁹ At the time of drafting this analysis, the fee required per person for a second subsequent application was raised to the extreme amount of €300(!).³⁰ Despite this financial barrier, subsequent applications - whether first or multiple - have become a common practice, particularly when previous claims were rejected as inadmissible under the safe third country concept or dismissed as manifestly unfounded under the accelerated procedure for applicants originating from a safe country of origin. **Twelve decisions** included in the collection concern subsequent applications.

In conclusion, the evolution of migration flows in Greece, combined with an increasingly restrictive and fragmented asylum framework, has produced a system in which procedural obstacles routinely obstruct the right to seek international protection. The barriers faced by asylum seekers are deeply embedded, and additional obstacles continue to accumulate over time. These practices not only contravene Greece’s obligations under EU and international law but also leave thousands in prolonged uncertainty, without a meaningful opportunity for their claims to be heard. The evidence demonstrates a systemic erosion of procedural safeguards that demands urgent reform to ensure fairness, accountability, and genuine access to protection. Against this backdrop, the following section examines the legal remedies available to challenge these violations and the extent to which they offer an effective pathway to justice.

3. An overview of legal remedies

This section provides a concise overview of remedies, including: second-instance appeals, applications for annulment and requests for provisional measures before the administrative courts. It examines how, despite being designed to safeguard the right to effective judicial protection, these mechanisms are often undermined in practice by systemic weaknesses and structural deficiencies that limit their effectiveness.

²⁵ Greek MoMA [Data and Statistics](#). In 2022, 37,362 total applications were submitted, of which 22% (8,265) are subsequent applications. In 2020, 2,711 subsequent applications were submitted, 5,802 in 2021. (Annexe 2)

²⁶ Article 94 Law 4939/2022.

²⁷ Council of State 3376/2001.

²⁸ Greek MoMA [Data and Statistics](#). In 2022, 8,265 subsequent applications were submitted, with 4,144 (50%) rejected as inadmissible and 2,708 rejected again at the second instance. In 2023, there were 6,321 subsequent applications and 4,257 (67%) rejected and 2,131 rejected again at the second instance. In 2024, 4,487 subsequent applications were filed, with 3,037 (65%) rejected and 1,693 rejected again at the second instance. In the first half of 2025, 3,574 subsequent applications were lodged, with 1,965 rejected (55%) and 649 rejected again at the second instance. (Annexe 2, 3 and 4)

²⁹ Article 94 §10 L 4939/2022, and JMD no. 472687/2021.

³⁰ Article 34, L 5226/2025.

Appeal before the Appeals Authority

In theory, rejected applicants can appeal a decision rejecting their asylum application at first instance.³¹ But the extremely high rate of second-instance rejections³² (over 90%), with more than a third being deemed inadmissible, renders this process ineffective. This extremely high rejection rate is deeply concerning and calls into question the effectiveness of second-instance examinations.

Multiple factors could explain this high rejection rate, such as the Appeal Committee's heavy case-load, time pressure in issuing decisions, and the lack of specialisation in international protection law. For instance, the Appeals Authority issued 13,304 decisions in 2024, meaning that each committee issued approximately 54 decisions per month. Additionally, under the guise of expediting administrative procedures, there is a very tight timeline. Decisions must be issued within 7 days or a maximum of 30 days, depending on the procedure applied for the examination of the asylum application —e.g. border, accelerated or regular. Failure to meet these deadlines may result in the dismissal of the appointed judges of the Appeals Committee for non-compliance.³³

Moreover, judges are not required to specialise in international protection law, with the result that most appointed judges lack the necessary expertise. As of 2025, a new order was adopted, which added this requirement for the election of the judges of the Appeals Committees.³⁴ It remains to be seen in practice whether this positive change will affect the quality of judgments.

These factors, alone or in combination, may directly impact the quality of case reviews and recognition rates. For example, we have observed in numerous cases references to outdated country-of-origin information or second-instance decisions essentially replicating the initial ruling. These decisions were made without proper consideration of the legal arguments raised and without an additional interview, even when the initial rejection was based on insufficient or inconsistent information to support a claim for international protection.

In 2025, two significant judicial developments occurred regarding the appeals procedure:

- First, the single-member composition of the Appeals Committee, whose jurisdiction had been considerably expanded to examine appeals outside the regular procedure, was ruled unconstitutional. This structure had long been criticised by the legal community as problematic and incompatible with fair-hearing guarantees.
- The second development concerned the unreasonable requirement that applicants appear in person before the Appeals Authority on the day their appeal was examined, despite the procedure being file-based and not involving a personal interview. In practice, this requirement functions as an additional obstacle: failure to appear results in the automatic rejection of the appeal as unfounded.

The Appeals Authority¹

Applications for international protection are initially examined by the Regional Asylum Offices and Independent Asylum Units under the Greek Asylum Service. If a negative decision is issued at first instance, applicants may file an appeal before the Appeals Authority, which consists of the Independent Appeals Committees and conducts a second-instance review of the application.

The Appeals Authority is a quasi-judicial body consisting of 20 Independent Appeals Committees, each composed of administrative judges sitting in panels of one or three members, based exclusively in Athens. The Appeals Committees conduct a full and ex nunc examination of the asylum application, and have the power to carry out their own assessment of evidence and elements of the file. After assessing both the factual circumstances and the applicable legal framework, it issues a reasoned decision either granting refugee or subsidiary protection status or rejecting the appeal.

As a general rule, appeals are examined solely on the basis of the information and documents contained in the applicant's file, while oral hearings are held only in exceptional cases under the limited conditions prescribed by law. More precisely, the Independent Appeals Committee is required to summon the appellant for an oral hearing only when:

- (a) the appeal challenges a decision revoking international protection status;
- (b) issues or doubts arise regarding the completeness of the interview conducted at first instance; and
- (c) the appellant invokes serious new evidence relating to substantial subsequent claims.²

¹ The Appeals Authority was established by Article 3 of Law 3907/2011 and operates in accordance with Article 30(2) of Law 4686/2020 and the [Regulation on the Operation of the Appeals Authority](#).

² Article 102, Law 4939/2022.

³¹ Articles 97 to 113 of Law 4939/2022.

³² Greek MoMA [data and statistics](#) and Annexe 4: in 2022, 6,043 out of 17,317 second-instance decisions (35%) were rejected as inadmissible. In 2023, 5,030 out of 13,086 decisions (38%) were rejected on the same grounds. Similarly, in 2024, 4,533 out of 13,304 decisions (35%) were deemed inadmissible. In just the first half of 2025, 1,970 out of 5,885 decisions (33%) have already been rejected as inadmissible.

³³ Article 2, [JMD 139974/2024](#) Government Gazette issue B 2756/15.05.2024, "A member's term is not renewed if, based on the publication statistics of case (b) of paragraph 6 of Article 5 of Law 4375/2016, it is shown that in a percentage greater than or equal to five percent (5%) of all the cases assigned to them during their term, the period that elapsed from the hearing of the case until the issuance of the decision exceeds sixty (60) days."

³⁴ Article 1, [JMD 139974/2024](#) Government Gazette issue B 2756/15.05.2024.

Since the 2019 reform of the Appeals Authority,³⁵ Appeals Committees are composed exclusively of administrative judges who sit in panels of one or three members. The one member committees had extensive jurisdiction over almost all procedures, except for the regular procedure, and on all appeals of cases involving applicants residing on the islands of Samos, Chios, Lesbos, Leros, and Kos.³⁶

A recent ruling by the Greek Council of State has highlighted an important deficiency in the second-instance process before the Appeals Authority. The CoS found that since the Appeals Committees are administrative bodies, composed of judges, they should not operate under a single-member composition, as it violates the Greek Constitution.³⁷ This issue remained unaddressed from the last reform of the Authority in 2019 until it was challenged in October 2022, that is to say, for 3 years.³⁸ This ruling therefore confirms that thousands of decisions were issued in breach of the right to a meaningful and effective remedy.

It is important to add that since 2022, several cases have been adjourned in anticipation of the outcome of the Council of State's decision. Although the Council acknowledged this as a serious administrative deficiency, it denied retroactive effect to its ruling in order to avoid burdening the administration, to the detriment of the applicants who had been examined under this procedure. As a result, hundreds of cases of rejected asylum seekers are left without genuine access to justice, in violation of their fundamental right to an effective remedy.

Obligation to appear in person before the Appeals Committee

The procedure before the Appeals Committees is primarily written, and applicants are rarely summoned for an oral hearing. Yet, it is required that appellants appear in person before the Appeals Committee on the day their appeal is examined.³⁹ This is merely to verify their presence in the territory. An exception is made for applicants residing in a RIS accommodation centre, who can instead provide a certificate from the accommodation centre's management, issued no more than three days prior to the hearing. Alternatively, those subject to geographical restrictions who are required to reside at a specific location should submit a signed declaration, authenticated by the police or an official local authority, and issued within three days prior to the hearing. Failure to comply with the above results in the appeal being rejected as "manifestly unfounded", implying that the applicant has implicitly withdrawn their request.

Clearly, these provisions impose an unnecessary burden and an unfair "penalty". Rejecting an appeal on the merits without examining its substance raises serious concerns about the remedy's effectiveness and the principle of non-refoulement. It is all the more worrying that such rejections are extremely common.⁴⁰

In July 2025, the CJEU⁴¹ ruled that this practice contradicts the Asylum Procedures Directive,⁴² following a preliminary request from the Administrative Court of First Instance of Thessaloniki.⁴³ More precisely, the Court of Thessaloniki submitted a preliminary request to the CJEU on whether the rejection of that appeal as "manifestly unfounded", without a full and ex nunc examination of both facts and points of law due to the appellant's absence before the Appeals Committee on the day of the examination of the appeal complies with the right to an effective remedy as outlined in the Asylum Procedures Directive. The CJEU ruled that the Directive, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, prohibits national legislation from providing that, if an applicant for international protection does not appear in person before the competent court during the examination of their appeal (when the sole purpose of that appearance is to verify their presence in the territory and not to be heard), the appeal is automatically considered to have been improperly lodged and is rejected as manifestly unfounded without examining its substance.

³⁵ Law No. 4636/2019, Article 116, which amended Article 5, § 4 of Law No. 4375/2016.

³⁶ Article 14 of the [Regulation on the Operation of the Appeals Authority](#).

³⁷ Article 89(2) of the Greek Constitution.

³⁸ In decision 1150/2025, the Plenary of the Council of State, in the context of a pilot trial, ruled that the operation of the Independent Appeals Committees under a single-member composition, as provided by Article 5(7) of Law 4375/2016 (as this provision was replaced by Article 116(2) of Law 4636/2019 and subsequently amended by Article 30(2) of Law 4686/2020), is unconstitutional, as it contravenes Article 89(2) of the Constitution. According to the reasoning of the Plenary, Article 89(2) of the Constitution does not permit the assignment of duties of a single-member administrative body to a judicial officer, even when such a body exercises disciplinary, supervisory, or adjudicatory powers. So far thousands of decisions have been issued by single members Appeals Committees and hundred cases are pending before the Administrative Courts.

³⁹ Articles 102(2) and 83(3) of Law 4939/2022.

⁴⁰ Greek MoMA [data and statistics](#). For 2022, 1,790 cases were rejected as manifestly unfounded; this figure decreased to 1,599 in 2023, 1,599 in 2024, and 747 in the first half of 2025. (Annexe 4)

⁴¹ Court of Justice of the European Union - C.J.E.U. - Judgment of the Court (First Chamber) in [Case no. C-610/23](#) of 3 July 2025.

⁴² Asylum Procedures Directive 2013/32/EU.

⁴³ Administrative Court of first Instance of Thessaloniki, [Decision No 560/2023](#), 19 December 2023.

In sum, the system continues to prioritise administrative efficiency over fundamental rights, leaving the effectiveness of second-instance remedies gravely compromised. The above mentioned rulings further expose deep-seated institutional flaws that have long denied thousands of applicants fair treatment. Overall, the appeals procedure against a rejection decision remains insufficient in ensuring asylum seekers' right to a genuine and effective remedy. Extremely high rejection rates, limited scrutiny of first-instance decisions, insufficiently specialised adjudicators, and heavy procedural burdens collectively undermine applicants' right to a meaningful review.

Applications for annulment

Once a negative second-instance decision is issued, applicants immediately lose their legal status as asylum seekers. Their documents (asylum seeker cards) are cancelled, and they are denied access to essential rights and public services, including residence, housing, employment, and healthcare. The only available legal remedy after the second instance rejection decision is the application for annulment.

With over 10,000 rejection decisions issued annually by the Appeals Authority,⁴⁴ the demand for legal assistance in filing applications for annulment is extremely high. At the same time, the number of annulment applications has dropped sharply from 1,521 in 2021 to just 423 in 2024.⁴⁵ This sharp decline reflects both limited access to legal assistance and the collapse of NGO-provided legal aid services.⁴⁶

The Administrative Court, through the application for annulment, has jurisdiction only to examine the legality of the decision rejecting the asylum application. One of the primary concerns regarding the legality of second-instance rejection decisions is the absence of lawful and sufficient reasoning in the contested decision. Inadequate justifications are often observed when assessing the applicant's credibility or the sources relied upon to evaluate the declared risk of persecution. For instance, decisions often contain vague references to an applicant's alleged unreliability, mentioning gaps, ambiguities, or inconsistencies without clarifying how these undermine credibility.

It is particularly difficult for the Court to determine whether the administration lawfully assessed an application, as the underlying procedure is often flawed. The administrative file may contain only fragments of the applicant's personal and medical history, or vague indications

Applications for annulment before the Administrative Courts of First Instance

A negative decision of the Appeals Committee may be challenged before the three-member Administrative Courts of First Instance with an application for annulment within 30 days of its notification.¹ The Administrative Courts of First Instance of Athens and Thessaloniki have exclusive jurisdiction over second-instance decisions issued by the Independent Appeals Committees.² The jurisdiction of each court depends on the authority that issued the initial rejection decision. Therefore, the Administrative Court of Athens has jurisdiction over cases in which the first-instance rejection decision was issued by any of the sixteen Regional Offices and Independent Asylum Units located in Central and Southern Greece, as well as the Aegean Islands.³ The Administrative Court of First Instance in Thessaloniki has jurisdiction over decisions issued by the eight Regional Offices and Independent Asylum Units located in Northern Greece and the Ionian Islands.

The Administrative Court of First Instance, adjudicating the application for annulment, has jurisdiction only to examine the legality of the decision rejecting the asylum application. The Court does not have the judicial power to carry out a substantive assessment of whether the applicant qualifies for international protection. Through an application for annulment, applicants may raise only narrowly defined legal arguments challenging the legality of the contested decision.⁴ These include, exclusively:

- whether the act was issued by the competent administrative authority;
- whether there is a violation of essential procedural requirements;
- whether there is a breach of a substantive provision of law
- and whether an abuse of power has occurred, where a lawful act is clearly used for a purpose other than the intended one.

The Court can not substitute its own judgment for that of the administration or replace the contested decision. When an application for annulment is upheld, the court annuls the decision and remits the case to the competent Appeals Committee for a new lawful decision to be issued.

¹ Article 115 of Law 4939/2022 in contrast to the general regulation of Article 46 of Presidential Decree 18/1989. This time limit has been introduced through an exceptional arrangement when the general time limit for applying for annulment of enforceable administrative acts is 60 days, starting from the date of their publication, notification or full knowledge of them.

² Article 57 of Law 4689/2020 transferred jurisdiction to the three-member Administrative Courts of First Instance, while also redefining the local jurisdiction.

³ Specifically, the Athens Administrative Court of First Instance is competent to hear all international protection cases in which the first instance rejection decision has been issued by the Asylum Service, the Regional Asylum Offices and the Autonomous Asylum Units located within the Regions of Thessaly, Central Greece, Western Greece, Peloponnese, North Aegean, South Aegean, Crete and Attica.

⁴ Article 48 of Presidential Decree 18/1989.

⁴⁴ Greek MoMA [data and statistics](#) and Annexe 2 and 4. For example, there were 15,758 second-instance rejections in 2022, 11,764 in 2023, 12,266 in 2024, and 5,455 in just the first half of 2025.

⁴⁵ According to data from the General Committee of the Administrative Courts as of 3 September 2025. In 2020, 1,472 applications for annulment were filed, followed by 1,521 in 2021 and 1,329 in 2022. From 2023 onward, however, the numbers dropped steeply: 653 applications in 2023, 423 in 2024, and just 317 by September 2025. (Annexe 6)

⁴⁶ According to data from the General Committee of the Administrative Courts as of 3 September 2025. See Annexe 6.

of the persecution faced in the country of origin. In such circumstances, a rejection may appear formally reasoned, yet the deficiencies in the administrative process hinder a proper examination of applicants' accounts.

Many of these shortcomings, identified during the examination of the application for annulment, could have been avoided if the competent administrative authorities had conducted a more thorough assessment of each case and if applicants had been properly informed about the procedure and its requirements, including being given the opportunity to prepare for their asylum interview(s). In practice, applicants often do not receive procedural information and frequently lack the necessary supporting documentation to substantiate their claims.

In several cases, the Court has approved legal arguments citing that the mere inability to recall dates or times often attributable to cultural attitudes, educational background, mental maturity, psychological condition or past trauma, cannot, in itself, justify a finding of unreliability. In this sense, the Court has ruled that when the overall credibility of the applicant is affected by substantial temporal inconsistencies, the rejecting decision should expressly refer to specific contradictions or failure to answer specific questions. In such cases, the Appeals Committees should ensure that applicants are called for a supplementary interview whenever the initial questioning proves inadequate to elicit a comprehensive account of critical incidents. However, in our experience, this is rarely the case.

Other decisions have been annulled due to breaches of substantive law, such as violations of the applicant's right to a prior hearing before the Appeals Committee, particularly where the Committee fails to summon the applicant for the mandatory interview and rejects the application as unfounded. Further breaches have concerned the unlawful notification of decisions by email to applicants residing in reception facilities, which effectively prevented them from lodging an appeal within the prescribed time limit.

Last but not least, several procedural obstacles result in over half of the applications for annulment being rejected as inadmissible,⁴⁷ with less than half examined on the merits. This means that, once again, applicants are denied fair and effective judicial review due to procedural barriers, without a substantial examination of their application.

However, when annulment applications are actually examined on their merits, the vast majority are approved, revealing deep flaws in the system: positive decisions reached 85% in 2020, 87% in 2021, 55% in 2022, 67% in 2023, 76% in 2024, and 64% in 2025. These consistently high success rates confirm serious shortcomings in the refugee status determination process and highlight the Appeals Authority's persistent pattern of unjust or ill-founded rejections.⁴⁸

Safeguards of provisional measures

A second-instance rejection decision is a negative act that, in itself, is not subject to suspension of execution. This means that at this stage, rejected applicants may be at risk of being forcibly returned to their country of origin or readmitted to a designated "safe" third country. Alternatively, they may be detained for an extended period while their application for annulment is pending.

To protect the applicant from these bleak outcomes, it is necessary to request interim measures from the Administrative Court in addition to filing an annulment application. By making this request, the applicant is effectively asking the Court to order the administration to refrain from enforcing removal until a final judgment on the annulment application has been delivered.

Application for provisional measures

An application for provisional measures can be lodged in addition to the application for annulment. The application is submitted before the competent Administrative Court of the First Instance adjudicating on the application for annulment. The application for interim measures is examined by the presiding judge-rapporteur of the competent three-member administrative court, sitting in a single-member chamber.

The core argument in support of interim protection is that return to the country of origin would cause irreparable harm, harm that cannot be restored if the application for annulment is ultimately upheld. Grounds typically invoked in support of an application for interim measures include: family composition and maintenance of family links; the best interest of the child (including school attendance); and documented medical or psychological conditions. Given the protracted nature of annulment proceedings, applicants

⁴⁷ According to data from the General Committee of the Administrative Courts as of 3 September 2025, the total negative inadmissible decisions were: 31% in 2020, 58% in 2021, 66% in 2022, 43% in 2023, 47% in 2024 and 67% so far in 2025. (Annexe 6)

⁴⁸ According to data from the General Committee of the Administrative Courts as of 3 September 2025 Annexe 6.

may also face additional harm if they are left without documentation enabling access to basic rights and services. Finally, another central consideration in granting interim measures is that the annulment application is not manifestly unfounded.

Length of the procedure

Another important issue affecting the effectiveness of the annulment proceedings is the considerable delays in the processing of cases by the competent Courts in Athens and Thessaloniki.

Based on a sample of ELA's cases,⁴⁹ significant disparities have been noticed in the time taken to deliver decisions between the two administrative courts of first instance. In Thessaloniki, the average time to issue a decision after an application for annulment is filed is 463 days, compared to 626 days in Athens, which is almost twice as long. This delay in Athens can be attributed partly to the court's substantially heavier caseload and partly to the frequent *ex officio* adjournments of hearings. In one instance represented by ELA before the Athens court, the hearing was postponed eight times, finally taking place 1,303 days after the submission. By contrast, in Thessaloniki, most cases are heard during their initial listing, and if adjournments occur, these rarely exceed two. At the end of 2025, there were 1,243 asylum cases pending before the two Administrative Courts.⁵⁰

Regarding applications for provisional measures, there is again a striking disparity between the two courts, both in the time taken to schedule hearings and in the time required to deliver decisions. In a sample of 76 applications examined by ELA, we observed that in Thessaloniki, the average time to issue a decision was 31 days from filing, compared to 113 days in Athens. Notably, in some cases in Athens, it took over 200 days after the hearing for a decision to be issued. This is particularly problematic given that provisional measures are intended as an emergency procedure. The very length of these procedures defeats in practice the purpose of temporary judicial protection: while their applications for provisional measures are pending, applicants remain without legal documents and are exposed to the risk of arrest, detention, and deportation.

These conclusions were recently corroborated by a much larger study conducted by civil society organisations, examining a sample of 662 applications submitted to both courts.⁵¹ The study revealed systematic delays - well above legal limits - in the adjudication of both applications for annulment and interim measures, seriously hindering access to justice for applicants for international protection. These delays in obtaining urgent judicial protection have led legal aid organisations such as ELA to refer cases to the European Court of Human Rights (ECtHR) in order to secure actual interim measures in particularly vulnerable cases, and to ensure access to basic rights while their applications are still pending.

In conclusion, while applications for annulment and provisional measures constitute the only judicial safeguards available after a second-instance rejection, their effectiveness is severely undermined by structural and procedural barriers. The narrow scope of judicial review, the persistent lack of lawful reasoning in administrative decisions, limited access to legal aid, and the high rate of inadmissibility rulings all restrict applicants' ability to obtain meaningful redress. At the same time, long delays, especially before the Administrative Court of Athens, undermine the protective purpose of both annulment proceedings and interim measures, often leaving applicants undocumented, at risk of detention, and vulnerable to removal while their cases remain pending. Although courts frequently annul decisions at the merits stage, the overall system fails to provide timely and effective judicial protection. Ultimately, these shortcomings reveal a remedy framework that is formally available but largely inaccessible in practice, offering asylum seekers only limited safeguards against unjust or unlawful rejections.

⁴⁹ Equal Legal Aid has filed 115 applications for annulment in both courts. The sample mentioned above comprised the analysis of 38 applications for annulment before the Administrative Court of First Instance of Athens and 41 before the Administrative Court of First Instance of Thessaloniki, submitted between June 2021 and April 2025. Additionally, 39 applications for provisional measures with the Administrative Court of First Instance of Athens and 37 with the Administrative Court of First Instance of Thessaloniki, submitted between June 2021 and April 2025, were analysed.

⁵⁰ Greek MoMA [data and statistics](#).

⁵¹ Annulment decisions review, joint study from civil society organisations, members of the Legal Aid Working Group (LAWG), published in September 2025. The study involved analysing a sample of 662 appeals lodged before the Courts of Athens and Thessaloniki in asylum cases. The majority of cases included in the sample were submitted by civil society organisations such as the Greek Council for Refugees (GCR), METAdrasi, HIAS Greece, Equal Rights Beyond Borders, SolidarityNow, Equal Legal Aid (ELA), ARSIS, Refugee Legal Support (RLS) and Refugee Support in the Aegean (RSA). Note of the Legal Aid Working Group (LAWG) on Asylum, [Ακυρωτικός έλεγχος ασύλου, πέντε χρόνια μετά τη μεταφορά της αρμοδιότητας στα διοικητικά πρωτοδικεία](#), September 2025.

4. Systemic Shortcomings and Procedural Barriers to Free Legal Aid

Legal aid at first instance

Under EU law, there is no obligation for state funded free legal aid at first instance. Applicants for international protection can consult a lawyer at their own expense and initiative.

In Greece, several non-profit organisations provide information and free legal assistance to asylum seekers across the country. These services are available based on capacity and financial resources, but their spatial distribution throughout the country displays significant regional disparities. Overall, the services provided, although vital, remain extremely limited and insufficient to meet needs.

Recent cuts to international financial aid have worsened the situation, significantly impacting the non-profit sector in Greece, with many organisations experiencing financial difficulties. Consequently, the remaining legal aid providers cannot meet the increasing needs. This has led to an unprecedented scarcity of legal services. Coupled with the growing complexity of procedures, frequent legislative changes and the physical isolation of asylum seekers in camps far from city centres, the limited availability of asylum lawyers is an especially pressing issue.

State-funded legal aid at the appeals stage

According to the Asylum Procedure Directive, state-funded legal aid is mandatory at the appeal stage.

In Greece, representation at the appeal stage is provided by lawyers appointed to a registry administered by the Asylum Service.⁵² Each year, more than 10,000 appeals are filed before the Appeals Authority, but state-funded legal aid reaches only about 60% of applicants, leaving many without free legal representation.⁵³

Furthermore, ELA has observed patterns of malpractice that significantly hinder the exercise of the right to legal aid. Instances include applicants not being clearly informed that an application for legal aid has been made on their behalf through the Registry, and not being able to contact the lawyer appointed to their case.

Additional practical obstacles further undermine the effectiveness of this service. Lawyers from the registry are often informed of their appointment at the last minute, leaving them with very little time to prepare the appeal, which frequently results in incomplete or outdated filings.⁵⁴ Interpretation support is limited or entirely absent, making effective communication with clients nearly impossible. Moreover, long delays in payment by the Ministry of Migration and Asylum frequently lead some lawyers to abstain from their duties.⁵⁵

State-funded legal aid during the application for annulment

Applicants who have received a second-instance decision may, in principle, access state-funded legal aid to file an application for annulment under the provisions applicable to low-income citizens.⁵⁶ Each court maintains a list of lawyers willing to provide free legal assistance to such applicants, with the state subsequently reimbursing the fees. This list is separate from the Asylum Service's Registry of Lawyers, and most of the lawyers it includes are not specialised in international protection.

In practice, this legal aid system remains difficult to access. Firstly, asylum seekers are not automatically entitled to free legal aid. Applicants should apply for the state-funded legal aid by filing an application in

⁵² Article 76(3), Greek Law 4939/2022.

⁵³ Greek MoMA [data and statistics](#) and Annexe 2. In 2022, out of 16,830 appeals, 9,031 applicants (54%) received legal aid. In 2023, 10,973 appeals were filed, with 6,892 applicants (63%) assisted. In 2024 and 2025, 67% of applicants received free legal aid. The number of appeals rose to 12,029, and 8,080 applicants (67%) obtained free legal aid. By June 2025, 6,019 appeals had been submitted, with 4,029 applicants (67%) supported.

⁵⁴ Greek MoMA [data and statistics](#). There has been a notable increase in appeals rejected due to late submission. In 2022, 6% of appeals were rejected on these grounds, rising to 12% in 2023, 11% in 2024, and reaching an alarming 17% in just the first half of 2025. (see Annexe 5). Additionally, the Asylum Service's practice of notifying decisions by email, implemented to expedite procedures, has raised serious concerns regarding compliance with legal safeguards and its impact on asylum seekers' access to legal remedies. For a more detailed analysis of this issue see: [ELA, In refugee camps, notifications must be made in person Greek court rules](#).

⁵⁵ [Decision of the Plenary of the Bar Associations of Greece regarding the Asylum Registry lawyers' abstain from duties](#).

⁵⁶ Article 76(3) Law 4939/2022. In the event of an appeal before a court, applicants may receive free legal aid, under the terms and conditions of Law 3226/2004 (Government Gazette A' 24), which applies accordingly. Free legal assistance and support are provided to applicants who are demonstrably present on the territory of the country.

Greek before the registry of the Administrative Court of First Instance that is competent to hear the case (i.e., the Administrative Court of First Instance of Athens or Thessaloniki), even if they are staying in a remote accommodation centre hundreds of kilometres away from Athens or Thessaloniki.

Moreover, foreign nationals are eligible for state-funded legal aid only if they can demonstrate financial hardship by submitting supporting documents, such as tax records or proof of unemployment, under the same criteria that apply to Greek citizens. However, many asylum seekers have lived in Greece for less than a year and have neither filed tax returns nor held formal employment. Even those who have worked often do so in undeclared, low-paid jobs, leaving them without the necessary documentation. In practice, this step almost always requires assistance from a lawyer or another intermediary, further complicating access to legal remedies. In other words, the social barriers that prevent asylum seekers from obtaining such documentation turn into grounds for rejecting the request for legal aid. ELA has submitted over a hundred applications for free legal aid before the Administrative Courts.

Decisions on applications for legal aid are examined by the Presidents of various chambers of the two Administrative Courts of First Instance, rather than exclusively by the chambers responsible for asylum cases. As a result, these applications are assessed by judges unfamiliar with the living conditions and the specific circumstances of asylum seekers. Rejections typically occur because the applicant is unable to provide sufficient evidence of financial hardship. Despite these obstacles, around 75% of legal aid decisions are positive.⁵⁷

Recently, we have observed how the Administrative Court of Thessaloniki has begun examining whether the application of annulment is not “manifestly unjust or pointless”, examining in this way the merits of the application per se, despite lacking the expertise to do so.⁵⁸

If granted legal aid, foreign nationals cannot choose their lawyer. The Court appoints instead one from the general list of lawyers who are not specialised in migration and asylum law. This lack of expertise, combined with limited access to interpretation services, further undermines effective representation. In this context, State-appointed lawyers often struggle to collect the necessary evidence and background information within the 30-day deadline. As a result, legal remedies are frequently submitted late or without adequate legal reasoning, leading to rejection on procedural grounds. Consequently, access to an effective remedy is significantly impaired.

State-funded legal aid covers only a small proportion of annulment and interim measures cases. Although the percentage of applicants receiving support has increased in recent years, this rise is largely due to a significant decrease in the overall number of applications. For example, in 2020, there were 1,472 applications for annulment, of which only 209 applicants (14%) received legal aid. By September 2025, 317 new applications had been submitted, with 100 applicants (31%) receiving support.⁵⁹

Additionally, applicants seeking representation through State-funded legal aid often experience long processing times and notable disparities between the two Administrative Courts of First Instance. In Thessaloniki, the average waiting time from filing the application to the issuance of a decision is 6 days, whereas in Athens it is 18 days.⁶⁰ Although this period may not be considered excessive in a general judicial context, within the highly precarious living conditions of asylum seekers it becomes a factor that further exacerbates the risks they already face. During this time, applicants remain in a state of legal uncertainty and without documentation, exposed to a constant risk of arrest, detention, and removal from reception facilities, which in turn intensifies their persistent precarity.

Although Greek law provides for free legal aid at both the appeal stage and in annulment applications, systemic shortcomings severely undermine its effectiveness. Limited lawyer capacity and expertise, late appointments, lack of interpretation, documentation hurdles and slow processing

⁵⁷ In ELA's cases submitted in both courts from 2021 to 2025, only 9 out of 101 applications have been rejected, 8 in Thessaloniki and 1 in Athens. See Annexe 6: in 2020 71% of applications for free legal aid was positive; in 2021, 65%; in 2022, 66%; in 2023 86%; in 2024, 87% and in 2025 75%.

⁵⁸ According to article 194 para. 4 of the Code of the Civil Procedures “4. The benefit of legal aid is granted only provided that the lawsuit is not manifestly unjust or pointless.” And according to article 195 of the Code of the Civil Procedures “Under the conditions of Article 194, the benefit of legal aid may be granted to foreign nationals and to persons who demonstrably have no nationality.” The Council of State interprets article 194 par. 4, as follows: “Manifestly unjust or unreasonable” means that the legal remedy is clearly inadmissible, unfounded, or futile for the applicant seeking the exemption. (see, Council of State, 2954/2020, 1070-1071/2019, 2718, 2333/2018, 1517/2018 seven members, 188/2016, 3784/2012, 303/2004 seven members, 3283/2000, 2896/1999, 1160/1989 Plenary).

⁵⁹ According to the data provided by the General Committee of the Administrative Courts, see Annexe 6. In 2021, 277 out of 1,521 applicants (18%) were supported, and in 2022, 289 out of 1,329 (22%). In 2023, the number of applications fell by half to 653, with 129 (20%) supported. The decline continued in 2024, when only 423 applications were submitted, although 192 of them (45%) benefited from legal aid.

⁶⁰ From June 2022 to February 2025, ELA has filed 101 applications for legal aid, of which 70 were filed with the Administrative Court of First Instance of Thessaloniki and 31 with the Administrative Court of First Instance of Athens. See also the Annulment decisions review, joint study from civil society organisations, members of the Legal Aid Working Group (LAWG), published in September 2025.

prevent asylum seekers from securing timely, high-quality legal representation. In the absence of effective free legal aid, asylum seekers must rely on private lawyers or NGOs. However, the cost of judicial proceedings is prohibitive for most. The minimum combined cost of court fees for filing an application for annulment and provisional measures, along with representation, starts at about €690. Additional fees related to case complexity and incidental expenses typically raise the total cost to over €1,000, creating a significant barrier to meaningful judicial review.⁶¹

With NGO-based legal services collapsing, access to justice in Greece is largely theoretical, leaving vulnerable people exposed to systematic rights violations.

5. The collapse of the NGOs sector in Greece: an urgent call for support

When government support recedes, civil society becomes essential in ensuring displaced people can access safety, protection and justice.

Addressing the needs of asylum seekers in Greece has been a major struggle since the so-called “refugee crisis” in 2016. Yet civil society in Greece continues to shrink as the need grows. Funding cuts, restrictive policies, ongoing humanitarian crises, rising xenophobic policies, heightened scrutiny, and the threat of criminalisation have severely weakened the few remaining organisations providing legal assistance to asylum seekers.

The situation will be further exacerbated, as in September 2025, Greece enacted a new law on returns that significantly alters its migration framework.⁶² It allows for prolonged detention, reduces procedural safeguards, and expands criminal liability for migrants on account of illegal stay, imposing a minimum sentence of two years and a fine of €5,000. It further entrenches a system that fails to protect and actively harms vulnerable individuals. In practice, this framework exposes applicants to further legal uncertainty and rights violations, especially within facilities that lack protection safeguards or access to psychosocial support. Such measures not only violate Greece’s obligations under the EU asylum acquis and the European Convention on Human Rights, but also illustrate a broader policy shift from protection to punishment and deterrence.

In Northern Greece, where more than 10,000 asylum seekers reside, only five non-profit organisations remain active in providing legal assistance, together employing around ten lawyers, of whom half can handle administrative court cases. With such limited capacity, only a small fraction of rejected applicants can pursue an application for annulment, leaving most without meaningful representation. Despite these constraints, Equal Legal Aid and other organisations continue to file well-documented applications, fulfilling both a professional duty to applicants and a broader advocacy role in exposing systemic flaws within an already fragile judicial process.

At this critical moment, ethical, practical and financial support is urgently needed to sustain these life-changing services, uphold a rights-based framework, and ensure that governments remain accountable to those seeking safety and justice.

⁶¹ Indicative list of legal representation fees during application for annulment before the Greek administrative Courts: submission of a provisional measures request 50.00€; submission of an annulment requests 150.00€. Additional fees to the Bar associations (without VAT): pleading before the Court during the hearing 203.00€; submission of a memo 85.00€; submission of a provisional measures request 85.00€; submission of an annulment request 117.00€. Cost of the bailiff notification: 43.40€ (mandatory). Average cost of a notarized power of attorney: 60.00€.

⁶² [Law 5626/2025](#).

ANNULMENT DECISIONS

1st application - Eligibility - Application for annulment - China - Single woman - Persecution due to religion - (Non) Legitimate justification - Application rejected

Administrative Court of First Instance of Thessaloniki

11th (Three-Member) Chamber

Annulment Proceedings

Decision No: AΔ192/2023

Publication date: 23.02.2023

Judge Rapporteur: Vasiliki E. Tzouvara

(...)

2. (...) with the present application, the applicant, a citizen of China, lawfully seeks the annulment of decision no. 24594/14-1-2022 issued by the 11th Independent Appeals Committee of the Ministry of Migration and Asylum, by which her appeal dated 13-10-2021 against decision no. 9043/5-3-2020 of the Thessaloniki Regional Asylum Office, and ultimately, her request for international protection, was rejected. By the same decision, the applicant was ordered to voluntarily depart the country within fifteen (15) days from its notification. (...)

5. (...) from the above provisions, it is inferred that a foreign national who wishes to be placed under the special protective status of a refugee is required to present to the Administration, with at least basic clarity, the specific factual circumstances that objectively justify a fear of persecution due to race, religion, nationality, social group, or political opinion. In cases where the applicant has not submitted, during the administrative procedure, any claims that are substantial in the above sense, but instead presents general, vague, or manifestly unfounded claims, or where specific factual circumstances are invoked but do not constitute grounds for inclusion under the protective status of the Geneva Convention, no detailed reasoning is required for the rejection of the asylum request (Council of State 633/2013, 4750, 288/2012, 5093/2011, etc.).

6. (...), in the present case, from the data in the file, the following emerges: With her application dated 15-12-2016 to the Regional Asylum Office of Thessaloniki, the applicant, a Chinese citizen, requested international protection, stating that she left her country of origin, because in her country "there is no freedom of religion, she was reported to the authorities because of the religion she practises, she secretly left the country and if she returns, she risks being arrested. Moreover, her life is in danger". (...). Asked to explain in detail the reasons why she was forced to leave her country of origin, the applicant quoted the following: "In China, I had embraced the doctrine of Almighty God, but unfortunately, in China, there is no freedom to choose one's religion. In May 2015, the authorities arrested me. In September 2016, again they nearly arrested me, but I escaped and left the country and came here to Greece".

7. (...) in the present application for annulment, it is argued that the contested decision failed to grant the applicant refugee status without proper legal reasoning. Specifically, the applicant claims that she has already been persecuted in her country of origin. Therefore, regardless of whether criminal prosecution is currently pending against her there, if she were to return to her country, she would face renewed persecution as a follower of a banned religious denomination, in light of information from international sources regarding the situation in China and the treatment of members of religious communities. It is argued that the Appeals Committee, with the challenged decision, while not characterising the applicant as unreliable, unlawfully assessed that if she had suffered ill-treatment, she would not return to her Religious duties, because this is linked to the intensity of the spiritual experience; and that it was unlawfully accepted by the Committee that only high-ranking officials of the church are at risk of arrest and imprisonment by the authorities of her country of origin, while she, as she stated in her interviews, held a position of responsibility in the hierarchy of her church and had increased duties, a fact that puts her at risk of arrest. Regarding the Committee's judgment regarding her ability to obtain a passport and leave her country of origin, the applicant claims that even if no criminal charges have been brought against her, the police could, due to her religious beliefs, uncontrollably arrest, torture and arbitrarily detain her for a long period. In addition, it is submitted that the Committee accepted as credible the claim that the applicant was arrested and detained by the police authorities of her country of origin; it even accepted the applicant's description of what she suffered during her arbitrary detention, however, it unlawfully considered that there is no objective fear of persecution for the applicant. The above arguments are rejected as unfounded. This is because, in principle, the conditions generally prevailing in the country of origin of the applicant for international protection are not sufficient for the recognition of refugee status as long as there is no established fear of individual persecution (see Athens Administrative Court of Appeals 626/2020, 1214/2019, 2454/2018, cf. Council of State 1078/2012), while, in addition, any infringement of the right to freedom of religion does not constitute an act of persecution, unless the person concerned, in light of his / her situation, faces, due to the exercise of the said freedom in the country origin, a real risk, among other things, of being prosecuted or subjected to inhuman or degrading treatment or punishment by the State authorities (cf. CJEU judgement

of 5 September 2012, Y and Z, C-71/11 and C-99/ 11, EU: C:2012:518, pp. 57 – 72). In the present case, as appears from the entire content of the contested decision, when examining the applicant's request for the granting of international protection, what she stated before the authorities during the recording of her application and her oral interviews regarding her situation and personal circumstances in her country of origin, was taken into account; i.e. what she narrated about the reasons why she joined the doctrine in question; her knowledge of the teachings of the faith of the doctrine in question; how she carried out her religious duties and activities (participation in small groups of a local nature, without contacts with high-ranking officials or connections with other churches); her descriptions of the two incidents that occurred in May 2015 and September 2016, with the country's police authorities; the continuation of the applicant's religious activity, despite her alleged intense insecurity; the inability of the police authorities to locate her despite her known residence and work; as well as, according to her, an active role in her church; as well as her departure from China by plane, with a valid passport and visa, without being hindered. These incidents were evaluated in the contested decision both in light of the information available to the Administration regarding the relevant legal regime in force in China; the practices applied to those that are considered to be illegal religious organisations, such as the Church of Almighty God which the applicant belongs to, as accepted by the contested decision; also the treatment of members, ordinary or leaders, of these organisations; as well as in light of the specific circumstances that the applicant stated above concerning her person and the situations that she claims that she experienced; and based on the above, the Committee lawfully considered the applicant credible only in terms of her claim that she is a simple member of the church of Almighty God. This is because, from all of the above information and, in particular, from the descriptions of the applicant regarding the exercise of her religious duties, which are not detailed; taking into account the position invoked by the applicant within the church, as a spiritual guide; as well as and from the fact that, according to her claims, the authorities of her country, while arresting her, released her, and subsequently, searched for her unofficially, without succeeding in arresting her, while they did not prevent her from leaving the country, it follows that the applicant was not a high-ranking member of the church of the doctrine in question. Furthermore, the judgment of the Appeals Committee that the applicant's fear was not well-founded and justified was lawfully based on all of the aforementioned findings; namely that no arrest warrant was ever issued or criminal proceedings brought against her; that the applicant is not officially wanted by the Chinese authorities for her participation in the said doctrine, despite her arrest in the year 2015, and for this reason she managed to leave her country by air with a passport and an entry visa; that, despite her arrest and detention by the police authorities, the latter released her, without preasing charges, a fact that contradicts the intensity and degree of prosecution invoked by the applicant; that the incident invoked by her of the attempted arrest, is described by herself in general terms and without reference to specific details, while her alleged escape from the police authorities does not seem particularly plausible, given the fact that the applicant was a simple member of her church and was not a founding or top executive of the doctrine in question; and the fact that, despite being brought to the police station and her alleged ill-treatment, the applicant soon returned to her religious duties. Thus, it does not appear from the above that there is an imminent and significant risk of persecution of the applicant in her country of origin. The invocation by the applicant of the above sources regarding the treatment of the members of said doctrine in China is not sufficient in itself to establish a real risk, since the Appeals Committee, taking into account the individual situation of the applicant and evaluating her relevant statements in light of all the relevant circumstances of the case, as mentioned above, concluded with legitimate reasoning that there is, in this case, no reasonable degree of probability of prosecution of the applicant in her country of origin. Furthermore, as stated above, the applicant's claim that the Appeals Committee unlawfully failed to recognize her as a refugee, despite allegedly accepting her assertion of arbitrary arrest, detention, and mistreatment by the police authorities, is to be rejected as based on a false premise. This is because, as is evident from the contested decision itself, the Committee only accepted the fact of her arrest and brief detention due to her possible presence in a "suspicious" residence, and not due to any personal targeting. This is consistent with the fact that she was not held any longer and, more importantly, that no criminal prosecution was initiated against her. In view of the above, the conclusion of the contested decision that the applicant is not at risk of being persecuted in her country of origin due to her religious beliefs and, therefore, there is no ground for her recognition as a refugee, is legally and sufficiently reasoned, as it is based on what has been set out in the preceding paragraph of this judgment. Following these, and since, according to those above, the rejection of the applicant's request for international protection is based on the relevant provisions of the law and is legitimately justified. The opposing arguments are rejected as unfounded.

(...)

The application is rejected.

1st application - Eligibility - Application for annulment - Iraq - Kurdish - Family with minor children - Persecution due to religion - Gender-based violence - Child with physical disability - Non-legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment Proceedings
Decision No: AΔ497/2023
Publication date: 29.06.2023
Judge Rapporteur: Stergios G. Kofinis
(...)

2. (...), with the present application, the annulment of decision no. 106491/23.2.2022 of the 7th Independent Appeals Committee of the Ministry of Migration and Asylum, in a three-member formation, is lawfully sought. By this decision, the applicants' appeal dated 4.10.2021 against decision no. 34019/4.11.2020 of the Thessaloniki Regional Asylum Office (RAO) was rejected, as was their request for international protection. Furthermore, a return measure was imposed on them, and a deadline of 10 days from the notification of the decision was set for their voluntary departure from Greece. (...)

5. (...), from the data in the administrative file the following emerges: The first applicant, born in the year 1979, and the second applicant, born in the year 1983, as admitted citizens of Iraq (of Kurdish origin), submitted, on 19.3.2018, to the Regional Asylum Office of Lesbos an application for international protection for themselves and their three minor children, (...), (...) and (...), who were born in Iraq in 2006, 2009 and 2014 respectively. When registering their applications, the applicants stated that they left their country of origin for religious reasons and, in particular, because of the problems they faced from the second applicant's family due to the first applicant's opposition to Islam.

Subsequently, their applications were referred to be examined under the regular procedure, given that the first applicant was found to be the parent of a minor child with a severe disability (specifically, it was established that the applicants' child (...) is deaf from birth). (...).

6. (...) firstly, with the present application, the applicants argue that the contested decision lacks lawful and sufficient reasoning regarding the rejection of their request for recognition of refugee status. Specifically, they claim, reiterating the account they had presented during their oral interviews, that both of them face a well-founded and justified fear of persecution as victims of the code of honor that prevails in Iraqi society. Additionally, they claim that the first applicant is at risk due to being an atheist, and the second applicant due to being a woman and a victim of domestic violence. They specifically argue that the contested decision did not take into account that: a) the first applicant does not adhere to the official religion of Iraq and publicly identifies as an atheist; as a result, he was considered an infidel by his wife's family, and the continuation of their marriage was regarded as a disgrace by them.; b) the punishment already suffered by the second applicant (abduction and violence) is considered in Iraqi society an honor crime, as it constitutes a response to the violation of the honor code of Iraq and of the second applicant's tribe.; (c) the state authorities and the police in Iraq are not in a position to protect them from such crimes.; d) their persecutors belong to the Salafi movement, meaning they are fanatic Muslims of the same branch within which ISIS also emerged, e) the first applicant was persecuted due to expressing his atheism, specifically through physical violence, the abduction of his wife, and the expulsion of his daughter from school f) this belief of his remains unchanged, and he continues to express and spread it through social media, g) in the event of their return to Iraq, the first applicant risks being persecuted for blasphemy or being forced to suppress his religious views, while the second applicant faces the risk of suffering domestic violence again, which had previously led her to attempt self-immolation.

7. Because the contested decision primarily grounds its conclusion on the general unreliability of the applicants' claims regarding the risk of persecution, citing the existence of serious gaps, vagueness, and inconsistencies in their account, their inability to provide a clear picture of the alleged events, and the lack of a solid substantiation of key points of the claimed incidents, even after clarifying questions were posed by the case handler. However, these alleged problems with the applicants' claims are not further specified with reference to particular points from their oral interviews, so that it can be understood which gaps and inconsistencies were identified by the Committee and to enable the annulment review of the reasoning in this regard. Furthermore, specifically with regard to the applicants' main claim, namely that they are at risk from the second applicant's family due to the first applicant's atheism, the Committee bases their lack of credibility on the following findings: a) that the second applicant did not sufficiently define when the incidents of harassment actually took place "as she merely stated in general and vague terms that she was threatened by her elderly father, her seven siblings as well as her cousins, all of whom are "Salafi" fanatics and want to kill her because she left without their permission, without quoting any other essential details about what finally happened to the couple and the incidents of

violence they experienced from her family's side", b) that the applicants' narrative contains incomplete elements that are inconsistent with the criticality of the situation and the seriousness of the overall case, (c) that atheism is generally more tolerated in the Kurdistan Region than in other parts of Iraq and (d) that the second applicant's statements do not appear to constitute a risk of bodily harm or death to her as no violent incidents have arisen against her from her side of the family. However, as shown in the application for annulment under consideration, this reasoning does not appear to be legitimate and sufficient, given that: a) the simple inability to recall dates or times, which is probably connected to a number of different reasons (cultural peculiarities regarding the importance of dates, educational level, level of mental maturity, psychological state, presence of past traumatic incidents, etc.), does not constitute a sufficient causal basis for a judgement of the asylum seeker's unreliability, unless there are substantial temporal inconsistencies rendering his claims unreliable, a matter which must be specifically justified by reference to specific inconsistencies or inability to answer specific questions; b) as to the lack of elements from the applicants' narrative, it is not determined which elements these are; or the exact points of the narrative from which, in the Committee's judgement, they are absent; nor, moreover, is it established whether there were appropriate and sufficient questions for this purpose on behalf of the caseworker so that these blanks are filled by the applicants; c) although the contested decision contains general information regarding the treatment of atheists by the Iraqi state authorities and by Kurdistan society in general, no specific reference is made to the Salafi Muslim community, to which the family of the second applicant belongs, according to her claims, and who constitute the prosecution body of the applicants, as shown in the considered application; and in particular no sources are listed as to their existence and number among the Kurds of Iraq, as to their attitude against atheists and regarding the general handling of issues of honour within their families; nor is there any specific judgement as to whether or not the applicants' claim that the second applicant's family are Salafi Muslims is considered credible; or that the first applicant is indeed an atheist; and d) as to the fact that there are no violent incidents against the second applicant on the part of her family, it is not clear from the grounds of the contested decision if the Committee considers that the incidents actually mentioned by the second applicant in her oral interview (detention against her will for long periods, beatings and hair-pulling in a public place), as shown by the evidence in the file and pointed out again in the considered application for annulment, do not constitute "violent incidents"; or (if the Committee considers) that her narration of these incidents is not reliable. The Court should cite the specific reasons for this and take into account the possibility of calling the applicants for a supplementary interview in case the caseworker of the Asylum Service does not submit the appropriate questions for an adequate description of the critical incidents. Consequently, the contested act lacks a legitimate and sufficient justification and for this reason, validly presented, it must be annulled, and the case must be referred to the Administration for a new, legitimate judgement, according to the above specifically defined; i.e. in order to specifically evaluate the claims of the applicants about the risk of persecution, due to the atheism of the first applicant, by the family of the second applicant, who embraces the doctrine of Salafi Muslims. In case these claims are deemed reliable, it will be further investigated whether the other conditions for granting refugee status to the applicants are met. (...).

8. (...), as a consequence, the application for annulment must be accepted, the contested decision must be annulled and the case must be referred to the Administration, for a new legitimate judgement, according to what is specifically defined in the previous paragraph.

(...)

The request for annulment is accepted.

AΔ550/2023 

1st application - Eligibility - Application for annulment - China - Single woman - Persecution due to religion - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment Proceedings
Decision No: AΔ550/2023
Date of publication: 30.06.2023
Judge Rapporteur: Sultana N. Skoura
(...)

2. (...) with this application, the annulment is lawfully sought of decision no. 16343/2017 dated 30-10-2020 (2nd instance) of the 1st Appeals Committee of the Ministry of Migration and Asylum, by which the applicant's appeal dated 10-10-

2017 against decision no. 19996/7-9-2017 (1st instance) of the case handler at the Thessaloniki Regional Office (...) was rejected, and a return measure was imposed on her, ordering her voluntary departure from the country within a set deadline of 10 days from notification. By the aforementioned first-instance decision, her request for international protection had been rejected as unfounded. (...)

8. (...) according to Article 4 of Directive 2011/95/EU, the assessment of the evidence submitted by the applicant for international protection is to be carried out in two independent stages. The first stage concerns the evaluation of whether the facts that prove the merits of an application have actually occurred; and the second stage concerns the legal assessment of that evidence in order to decide whether, in light of the facts of the case, the substantive conditions for granting international protection are met. In any rejection decision, the legal and factual grounds for such rejection must be stated, in accordance with Article 11 of Directive 2013/32/EU. Furthermore, pursuant to the aforementioned provision of Article 4 of Directive 2011/95/EU, it is the responsibility of the applicant to submit to the competent authority all the elements necessary to substantiate their application, as they bear the primary burden of presenting all evidence relevant to their personal circumstances, while the asylum authority bears the burden of substantiating any doubts it may have. The asylum service in question must cooperate with the applicant in this first stage of identifying the relevant elements of his/her application in order to enable all the information supporting the application to be collected. It must be taken into account that the State has better access than the applicant to certain types of documents, in particular information on the general situation in his/her country of origin. Subsequently, in the second of the above stages, it is exclusively up to the competent authority to examine the merits of the asylum application (cf. CJEU judgement of 22-11-2012, Case C-277/2011, *M v Minister of Justice, Equality and Law Reform, Ireland, Attorney General*, para. 64 et seq. ECtHR, judgement of 23-8-2016, no. 59166/2012, *J.K. and others v. Sweden*, para. 91 et seq.).

9. (...), as the European Court of Human Rights has held, the competent authorities should, when examining an application for international protection, carry out a thorough examination in order to assess whether there is a likelihood of the applicant for international protection being subjected to inhuman and degrading treatment, in violation of Article 3 of the ECHR, in the event of his or her return to the country of origin (cf. Decision of the ECtHR of 2-10-2012, no. 33210/2011, *Singh and others v. Belgium*, paras 102-104; judgement of 21-1-2010, ref. no. 30696/2009, *M.S.S. v. Belgium and Greece*, para. 293, judgement of 26-4-2007, ref. no. 25389/2005, *Gebremedhin v. France*, para. 58, etc.). Finally, the very fact that the applicant is a member of a group that suffers systematic ill-treatment, if proven, is considered a sufficient reason for the application of Article 3 of the ECHR, even if there are no specific, distinctive elements in his/her person (ECtHR, decision of 11-1-2007, no. 1948/2004, *Sala Sheekh v. the Netherlands*, paras 148-149).

10. (...), further, Article 9 of the ECHR states that “1. 1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change her/his religion or belief and freedom, either alone or in community with others and in public or private, to manifest her/his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.” Therefore, from the combination of the above provision with the provisions of Article 10 of Law No. 4636/2019 (Article 10 of the Directive), it follows that, first of all, any violation of freedom of religion does not automatically constitute persecution as defined in the Geneva Convention of 1951. On the contrary, it is concluded that for persecution on grounds of religion to exist, either there must be a violation of Articles 2, 3 and 4 of the Convention or there must be a serious violation of the manifestations of the refugee's religious beliefs described in Article 10(1)(b) of the Directive. The above conclusion is confirmed by the case-law of the CJEU. By way of example, in *Bundesrepublik Deutschland v. Y* the Court held that a serious breach of religious freedom, with significant negative effects on the refugee, is required for such a breach to constitute an act of persecution. Thus, acts that merely constitute restrictions of the fundamental right of religious freedom and are provided for by law, without at the same time violating the hard core of the right, are automatically excluded, while acts that do not constitute a violation of those rights to which Article 15 para. 2 of the ECHR refers, are also excluded. The decision also addresses the distinction between the forum internum and the forum externum of religious freedom, concluding that such a distinction is unnecessary, since Article 10 of Directive 2011/95/EU includes both indiscriminately and therefore, there is no analysis that identifies the hard core of religious freedom with the freedom of religious conscience, excluding the freedom of expression of religious conscience from the hard core of the right. In view of the above, it is clear that claims based on religion can include religion, whether as a belief, identity or lifestyle. In other words, for some individuals, religion is a vital aspect of their 'way of life' and their relationship with the world and the society in which they live. At the same time, as is accepted, both in theory and in the case law of Greek and international courts, persecution on religious grounds can take many forms and depend on the facts of each case, including their consequences for each applicant for international protection. Persecution may, for example, include the prohibition of participation in a religious community or worship – public or private; the prohibition of religious indoctrination; or a discriminatory treatment imposed on persons because of the fact that they exercise their religious duties or belong to a specific religious community. As with the other forms of persecution listed in the Convention, religious beliefs, identity or lifestyle must be treated as fundamental components of a person's identity that cannot be forced to renounce, conceal or change in order to avoid persecution.

11. (...), in the present case, the following is apparent from the information of the administrative file: The applicant, born on 25-6-1988 and a citizen, as admitted, of the People's Republic of China, came to the Thessaloniki Regional Asylum Office

on 15-9-2016 and applied for international protection. At the registration of her application, the applicant claimed that she left her country of origin because the police were trying to arrest her because of her religion. During the two interviews that followed, the applicant, as regards her personal details, stated that (...). As to the reasons why she left her country, she stated that the main reason was the fact that she was being persecuted by the Chinese authorities and was in danger of being arrested because of her belief in the above-mentioned Christian Protestant doctrine "Church of Almighty God". (...). The disputed request was rejected as unfounded by the decision no. 19996/7-9-2017 of the caseworker of the Regional Asylum Office of Thessaloniki (...), although (the applicant's) claim regarding her religious beliefs was accepted as credible. Against this decision, the applicant filed an appeal on 10-10-2017, which was rejected as unfounded by the contested (second instance) decision no. 16343/2017, dated 30-10-2020 of the 1st Appeals Committee (...).

12. (...), it is argued - as the sole ground of annulment of the considered application - that the challenged decision must be annulled, because the Committee's judgement - that the eligibility requirements for granting refugee status to the applicant are not met - is poorly reasoned. (...).

13. (...) the contested decision accepted, after assessing the information obtained from international sources, that it is apparent from that information that in China certain religious denominations, in particular those which are not registered and do not operate with official State authorisation, are subject to persecution and prohibitions, and that their representatives are at risk of arrest and imprisonment. The Committee also accepted as credible the applicant's claim that she was a simple member of the Church of Almighty God, deciding, in addition, that, although it could not exclude the possibility that she was transmitting the teachings of her religion to others, it understood, however, that this activity was locally (and numerically) limited. However, subsequently, her main claim - that if she is forced to return to China, she will be arrested and tortured because of her religious beliefs, was not accepted, because her belief, that she has been targeted for this reason, in the Committee's view, appears to be based on her personal perception and is not based on factual evidence. The Committee reached this judgement on the grounds that the applicant was not a high-ranking official in the Church of Almighty God; did not appear to be officially wanted by the authorities of her country; and did not encounter any problems in obtaining her passport, obtaining an entry visa or leaving the country; and taking into account, in addition, that the applicant has never claimed any kind of discriminatory treatment on the basis of her religious background, either with regard to her access to employment or to education. This is in view of the fact that the international sources taken into account by the Committee - and detailed in paragraph 11 herein - show, first of all, that the Chinese government restricts the freedoms of religious persons, when they are perceived as a threat to the interests of the State or the Communist Party; and does not recognise any other than the five 'patriotic religious organisations'; and that arbitrary arrests and detentions for prolonged periods, including torture, are carried out in that country. Furthermore, it is established that the "Church of Almighty God" has been officially banned by the Chinese authorities and is prosecuted under Article 300 of the Criminal Code as a dangerous cult, and that, at various times, particularly following a specific homicide incident that took place in May 2014 and was linked to the beliefs and practices of the church's members, its followers have been prosecuted and convicted. Moreover, it appears that persecution is not limited to high-ranking officials or representatives of these religions, but also extends to followers and ordinary members, a status which has been acknowledged in the case of the applicant. Moreover, the status of an asylum seeker as a person officially wanted in his/her country of origin is not a necessary condition or a required prerequisite in order for him/her to be granted refugee status, as it may have been wrongly assumed. On the contrary, according to Article 4 of Law No. 4636/2019, the fact that the applicant has already suffered persecution or serious harm or imminent threats of such persecution or harm is merely a serious indication that there is a well-founded fear of persecution or a real risk of serious harm. Moreover, the fact that the applicant left her country in the manner described above - that is to say, legally and by air, using a passport issued in her name, years before the trip - cannot support the finding in the contested decision that the fear for her life, as pleaded, is not based on facts confirmed by any evidence or international sources, but rather on impressions which may be based on her personal perception. At this point, it must be taken into account that the applicant has not in any way claimed that she had been the subject of criminal proceedings prior to her departure; and besides, the incident of her being pursued by the authorities, as described by her, took place in circumstances and at a time when she was not identified by the prosecuting authorities of her country. In any event, the fact that the applicant thus left China does not, in any event, prove that there is no risk of persecution; given that, in any case - as it is apparent from all the sources referred to in the contested decision - the risk posed to followers of any religion in China is not necessarily linked to their being officially declared wanted persons. Therefore, the contested decision must be annulled in its entirety; and the only reason for annulment presented, must be accepted, since it is considered well founded. Moreover, the case must be referred back to the competent Appeals Committee in order for it to issue a new, lawful decision on whether the nature of the applicant's fear of persecution is real, reasonable and objective [well-founded under the 1951 Convention], after having reassessed the information available from reliable international sources concerning the treatment of members of the Church of Almighty God in China; and the right to religious freedom in that country in general; in light both of what has been interpreted in the 10th paragraph of this judgement; and in light of the question whether the conditions are met for the applicant to be considered eligible for subsidiary protection. (...).

The application is accepted.



1st application - Eligibility - Application for annulment - Pakistan - Safe country of origin - Single mother with minor child - Gender-based violence - Persecution on grounds of particular social group - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment Proceedings
Decision No: AΔ587/2023
Publication date: 20.07.2023
Judge Rapporteur: Theopoula D. Theodoridou
(...)

(...), with this application, the applicant, acting (...) on her own behalf and as the legal guardian of her minor daughter (...), seeks the annulment of decision no. 123347/13-7-2021 of the 12th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum, by which the appeal dated 7-4-2021 against decision no. 34434/6-11-2020 of the Thessaloniki Regional Asylum Office (R.A.O.) was rejected, and, ultimately, their requests for international protection were denied. Furthermore, a return measure was imposed against them, with voluntary departure within ten days.

(...) in Law 4636/2019 (...), through which the provisions of Directive 2011/95/EU (...) and Directive 2013/32/EU (...) were reintroduced into the Greek legal order, (...) it is provided (...) in Article 9: “1. An act shall be regarded as an act of persecution within the meaning of Article 1A of the Geneva Convention if: a) it is sufficiently serious by its nature or repetition as to constitute a severe violation of fundamental human rights, in particular of those rights from which no derogation is permitted under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (...). 2. Acts that may be considered acts of persecution within the meaning of the previous paragraph may include, among others: a) acts of physical or psychological violence, including acts of sexual violence, b) legislative, administrative, police and/or judicial measures which are discriminatory in themselves or are applied in a discriminatory manner, c) [...]”.

3. According to Article 2(e), there must be a connection between the reasons mentioned in Article 10 and the above acts of persecution or the lack of protection against such acts”, and in Article 10, paragraph 1: “In assessing the grounds for persecution, the competent examining and decision-making authorities shall take into account that: [...] d) a group is considered to be a particular social group when, among other things: i) the members of that group share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be required to renounce it, and ii) the group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society. (...) [...] In determining membership in a particular social group or identifying the characteristics of such a group, aspects relating to gender, including gender identity, shall be given particular consideration.” Finally, Article 15 of Law 4636/2019 provides: “Serious harm consists of: a) the death penalty or execution, or b) torture or inhuman or degrading treatment or punishment of the applicant in the country of origin, or c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict.” (...) within the meaning of Article 1A paragraph 2 of the Geneva Convention, a person may be recognized as a refugee even when they claim a fear of persecution by non-state actors, due to race, religion, nationality, political opinion, or membership in a particular social group, provided that the authorities of the state of which the person is a national are unable or unwilling to offer protection against such persecution by non-state actors (see Council of State 2401/2010, 2232/2005). In any case, even in this scenario, the reason for the persecution by a non-state actor must be one of those considered critical under the Geneva Convention for the recognition of refugee status (see Council of State decision 2401/2010).

(...) In the present case, the case file reveals the following: The applicant, a Pakistani national (...), submitted requests for international protection (...), for herself and her minor daughter, respectively, with the claim that her life was in danger from her paternal family, which opposed her marriage to her current husband (...). She left her country on 7 February 2019, after secretly marrying her husband (...). The applicant stated that her family (...) did not forgive a woman who married secretly and would kill her, as women were not allowed to make any decisions on their own. She had been in love with her future husband since 2007, when she was 16, but her family did not approve of him. (...) She continued communicating with him secretly. In 2013, her brother caught her secretly speaking (...) on their father's phone (...), and beat her severely with slaps. She then attempted suicide by taking her mother's sleeping pills (...). In another incident, when her brother caught her chatting on her computer (...), he broke the computer and hit her with it, then locked her in a room for three days without food, threatening to shoot anyone who helped her. Following this, in 2016, her family arranged a marriage for her with another man, (...). To avoid this marriage, the applicant secretly married (...) by conducting a nikah in a mosque with the

help of an imam, while her father and brothers were out of town. (...) When asked, the applicant stated that she did not turn to the police because it would have been futile against her family (...). She also stated that she feared she would be killed if she returned to Pakistan, as her family did not forgive daughters and no girl dared to go against their will, and they would easily be able to find her anywhere in Pakistan. (...) These requests were rejected as unfounded (...), which [decision] held that the acts of violence described by the applicant did not reach such a level of severity as to make her fear credible and likely. Moreover, she had not sought protection from the police, assuming it would not act, nor had she consulted a lawyer. (...). The applicant appealed this decision (...), arguing, among other things, that if returned to her country of origin, she would not receive effective state protection, on the one hand because the police are reluctant to intervene in domestic violence and honor crimes, instead advising girls to return to their families, and on the other because such crimes go unpunished, at least in the lower courts. This appeal was also rejected (...).

(...) Based on the above, the Committee accepted the applicant's claims as credible regarding her reasons for leaving her country and her unwillingness to return, which were consistent and corroborated by available sources. However, as the persecutor was a private actor and the applicant could, in the event of threats against her, seek the assistance of police and judicial authorities, something she never attempted, it was deemed that the condition of a well-founded and justified fear of persecution was not met. Therefore, the criteria for recognising her and her minor daughter as refugees were not fulfilled. (...), with the present application, the annulment of the aforementioned decision (...) is requested, and it is claimed, among other things, that the Committee unjustly and inadequately reasoned that the requirements for recognising the applicants as refugees were not met. Specifically, as stated, although from the international sources cited in the contested decision it emerges that women who marry a partner of their own choice, against the will of their family, are subjected to abuse and may become victims of honor crimes, and although the state mechanism and the police are particularly unable to effectively protect women, the Committee nonetheless accepted that the applicant's fear of being at risk from her family upon returning to Pakistan was neither well-founded nor justified, reasoning that she could receive effective state protection. (...)

(...), in the contested decision, the applicant's claims regarding the reasons that forced her to leave her country were accepted as credible, (...). However, her fear that she would be at risk from her family if she returned to Pakistan was not considered well-founded or justified, based on the reasoning that, in the event of threats against her, the applicant could turn to the police to receive effective state protection. (...) Nevertheless, the Committee did not specifically and adequately examine and assess, (...), regarding the unwillingness of the police authorities to intervene in cases of domestic violence and honor crimes, often advising victims to return to their families, as well as the ineffectiveness of the justice system in dealing with such crimes, particularly when committed against women. (...) Consequently, the Committee's judgment is inadequately reasoned, as rightly argued, rendering the examination of the remaining grounds for annulment unavailing. (...), consequently, the present application must be accepted, the contested decision must be annulled, and the case must be remitted to the Administration for a new, lawfully reasoned judgment, in accordance with the reasoning. (...)

The application is accepted.

AΔ82/2023



Residence permit for exceptional reasons - Application for annulment - Sudan - Single man - Physical disability - Serious illness - Humanitarian and security crisis in the country of origin - Absence of health care system in the country of origin - Retroactive effect of legislation - Application accepted

Administrative Court of First Instance of Piraeus
10th (Three-Member) Chamber / Annulment Proceedings
Decision No: AΔ82/2023
Date of publication: 10.11.2023
Judge Rapporteur: Angeliki K.Stamelou
(...)

2. (...), with the present application, (...), the applicant, a Sudanese national, seeks the annulment of the decision no. 26903 (file no. 349269)/17-12-2021 issued by the Deputy Head of the Department for Residence Permits for Third Country Nationals of the Directorate for Residence Permits of the General Directorate for Migration Policy of the Ministry of Migration and Asylum. By this document he was informed that his application, no. 26903/3.9.2020, for a residence permit

for humanitarian reasons (Article 19A of Law 4251/2014), would not be examined, as it was submitted after the entry into force of the provisions of Law 4686/2020 (A'96). (...).

7. (...) Article 67 of Law 4375/2016 (A' 51) provided that: "In the event that an application for international protection of an alien or stateless person has been definitively rejected, however, the competent decision-making authorities of this Part consider that the person fulfils the conditions to be granted a residence permit for humanitarian reasons, they shall refer the case to the competent authorities in accordance with Article 19A (f) of Law No. 4251/2014 (A' 80) as in force, which shall decide on the granting of the permit in question. In this case, the competent decision-making authorities shall issue a pertinent certificate to the person concerned." Moreover, Article 19A of Law No. 4251/2014 provided that: "1. By decision of the Minister of Interior and Administrative Reconstruction, a residence permit for humanitarian reasons is granted to third country nationals who are in Greece and fall into one of the following categories: a. (...) f. Third country nationals, whose case has been referred to the Ministry of Interior and Administrative Reconstruction by the competent decision-making authorities of Article 2, case 19 of Presidential Decree 113/2013 (A' 146) and by the Appeals Committees of Articles 26 and 32 of Presidential Decree 114/2010 (A' 195), as in force. For the granting of a residence permit of this category, it is particularly taken into account if there is an objective impossibility of removal or return to the country of origin or habitual residence for reasons of force majeure, such as serious health reasons of the person concerned or of a member of his/her family; if there is an international blockade of his/her country; or if the person concerned falls under the non-refoulement clause of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, (...). The relevant request for granting a permit for humanitarian reasons is examined only if the case of the third country national concerned has been referred to the Ministry of Interior and Administrative Reconstruction by the competent decision-making authorities of Article 2, case 19 of Presidential Decree 113/2013 (A' 146) in accordance with Article 33 of the same Presidential Decree; or by the Appeals Committees of Articles 26 and 32 of Presidential Decree 114/2010 (A' 195) in accordance with Article 28 paragraph 1 subparagraph b' of the same Presidential Decree, as in force; and only after the authorities have speculated that in the the applicant's case, one or more of the conditions mentioned in the second subparagraph of this paragraph are met. (...)". The provision of Article 67 of Law 4375/2016 was repealed by paragraph e' of Article 61 of Law 4686/2020 (A' 96), which entered into force on 12.05.2020, according to which: "This regulation covers all decisions published from 1.1.2020 onwards". According to the explanatory memorandum accompanying this legislation, the removal of the above provision was considered appropriate, as it is clear that the existing legal framework, taking into account all the amendments proposed by the bill, provides adequate protection to all applicants for international protection, even the most vulnerable. Already, with the aforementioned Law 4636/2019, which entered into force on 01.01.2020 (Article 125), it had been provided for the first time that the decision-making authorities were competent to examine whether the conditions of the principle of non-refoulement were met, as reflected in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as ratified by Law 1782/1988 (A' 116); in Article 7 of the International Covenant on Civil and Political Rights ratified by Law 2462/1997 (A' 25); in Articles 31 and 33 of the 1951 Geneva Convention relating to the Status of Refugees, ratified by Law 3989/1959 (A' 201); and in Article 3 of the European Convention on Human Rights, ratified by Legislative Decree 53/1974, (A' 256). [If the conditions of the principle of non-refoulement were met, the decision-making authorities were also competent] to issue a certificate of non-removal for humanitarian reasons, which implied for the holder the same rights and obligations as the certificate of deferral of removal (...) of Law 3907/2011. Subsequently, Article 72 par. 5 of Law 4825/2021 (A' 157/04.09.2021), repealed the provision of paragraph 6 of Article 19A of Law 4251/2014, which provided for the granting of a residence permit for humanitarian reasons, issued by the competent Minister after the case was referred to him/her by the Appeals Committees. Moreover, paragraphs 1 and 2 of Article 20 of the same law deleted the relevant subparagraphs of para. 3 of Article 68 and paragraph 4 of Article 104 of Law 4636/2019, which provided for the granting of certificates of deferral of removal, issued by the authorities deciding on applications for international protection. At the same time, Article 4 of the same law, amended subparagraph a of paragraph 1 of Article 24 of Law 3907/2011, stipulating the following: "The removal of a third-country national who is undergoing a return procedure is mandatorily postponed in the following cases: a) there is a violation of the principle of non-refoulement, as reflected in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (...); in Article 7 of the International Covenant on Civil and Political Rights, (...); in Articles 31 and 33 of the 1951 Geneva Convention relating to the Status of Refugees, (...); and in Article 3 of the European Convention on Human Rights (ECHR), (...). According to the relevant explanatory memorandum, "the regulation under evaluation is proposed in order to ensure the uniform application of the provisions on return of Law 3907/2011 (A' 7); and to avoid duplication of responsibilities, given that return is a purely administrative measure, analogous to deportation, which is carried out by the Greek Police, after the competent bodies of the Ministry of Immigration and Asylum have declared the stay of a third country national in Greece illegal in accordance with Law 4636/2019 (A' 169) and with respect to the principle of non-refoulement. More specifically, the regulation under evaluation abolishes the competence of the authorities deciding on applications for international protection to issue a certificate of non-removal on humanitarian grounds. The above competence will henceforth be exercised exclusively by the police officers who are responsible for the execution of the return decision, as provided for in Article 24 of Law 3907/2011". Moreover, par. 4 of Article 21 of Law 3907/2011, as amended by para. 2 of Article 2 of Law 4825/2021 stipulates that "4. The competent authorities may at any time grant an independent residence permit for reasons of compassion, humanitarian or other reasons, to a citizen of a third country, who resides illegally in the Greek territory,

according to Article 19A of Law No. 4251/2014. In the case of granting of the above residence permit, no return decision shall be issued. If a return decision has already been issued, it shall be revoked or suspended for a period of time equal to the duration of the validity of the above permit". At the same time, Article 20 states that: "In applying this Chapter, the competent authorities shall take due account of: (a) the best interests of the child; (b) family life; and (c) the state of health of the third-country national concerned, with respect to the principle of non-refoulement".

8.(...), finally, paragraph 1 of Article 4 of the Code of Administrative Procedure, as ratified by the first Article of Law 2690/1999 (Government Gazette A' 45), stipulates that: "1. a. Public services, local authorities and legal persons governed by public law, when applications are submitted, must process the cases of the persons concerned and decide on their applications ... If the application is submitted to an incompetent authority, that authority must, within three (3) days, forward it to the competent authority and notify the person concerned. ...".

9. (...), as is evident from the information of the case file, the applicant, a Sudanese national, born on 23.11.1980, applied for international protection on 18.10.2017 at the Reception and Identification Centre of Moria. His application was rejected by the decision no. 35183/27.11.2018 of the Asylum Service (Regional Asylum Office of Thessaloniki) against which he filed an appeal on 19.6.2019 out of time. In his appeal, he argued that due to the situation in his country of origin (Sudan), it is not safe for him to return there; and that if he returned to his country of origin, due to his serious health problems, he would be exposed to a serious risk of health deterioration. Regarding this matter, Decision No. 15062/2019/3.2.2020 of the Appeals Authority (second instance) was issued, which rejected the above appeal as inadmissible due to its late submission. However, it referred the applicant to the competent Service of the Ministry of Migration and Asylum in order to examine whether there are grounds for granting him a residence permit on humanitarian grounds, pursuant to Article 19a of Law 4251/2014, taking into account two factors: first, the current security situation and humanitarian crisis in his country of origin (Sudan), and second, the health problems the applicant is facing (spastic tetraplegia and hereditary spastic paraplegia). After this decision was issued, the applicant submitted to the Ministry of Migration Policy his application no. 26903/3.9.2020 for a residence permit for humanitarian reasons, according to Article 19a of Law 4251/2014. In this regard, the contested document (No. F. 349269/26903/17.12.2021) was issued by the Deputy Head of the Department of Residence Permits for Third Country Nationals of the Directorate of Residence Permits of the General Directorate of Migration Policy of the Ministry of Migration and Asylum. By this document, the applicant was informed that the application he submitted under no. 26903/3.9.2020 for a residence permit for humanitarian reasons (Article 19A of Law 4251/2014), would not be examined, as it was submitted after the entry into force of the provisions of Law 4686/2020 (A'96). Against this latter decision, the applicant filed the present application for annulment, seeking the annulment of the contested act of the Ministry of Migration and Asylum. Among other things, the applicant argues that the contested decision must be annulled because the retroactive application of the provisions of Article 71(2) of Law 4825/2021 and point (e) of Article 61 of Law 4686/2022 is unconstitutional, as it violates the principles of the rule of law, legitimate expectation, good administration, and equality.

10. (...), as stated in the main paragraph of this judgement and in light of the background to the present case, the Court has particularly taken into consideration the following: a) by Law 4686/2020 the national legislator retroactively repealed Article 67 of Law 4375/2016, which provided that pursuant to Article 19A of Law 4251/2014, the Independent Appeals Committees - following the rejection of an asylum application - were competent to refer the pertinent case to the Minister of Interior to grant a residence permit for humanitarian reasons; and this is what happened in the present case; b) the Ministry of Migration and Asylum - which, after rejecting the applicant's asylum application, also rejected his application for a residence permit for humanitarian reasons pursuant to Article 19A of Law 4251/2014 - did not have the competence to examine the relevant application of the applicant, in view of the provisions of Law 4686/2020 which delegate the relevant authority to the Minister of Interior; c) paragraph 4 of Article 21 of Law 3907/2011, as it was formed by para. 2 of Article 2 of Law 4825/2021 (A' 157/04.09.2021), provides that according to Article 19A of Law 4251/2014, the Minister of Interior, as well as the Coordinator of the Decentralised Administration, are the competent authorities to grant a residence permit for reasons of compassion, or for humanitarian or other reasons, to a third country national, who is illegally residing in the Greek territory; d) In addition, the Appeals Authority, by its second instance decision no. 15062/2019/3.2.2020 identified two parameters for the applicant to be considered as eligible to be granted a residence permit for humanitarian reasons, namely: on the one hand, the current security situation and humanitarian crisis in his country of origin (Sudan); on the other hand, the health problems that the applicant is facing. Thus the Appeals Authority considered that the applicant cannot return to his country due to the existing security situation - otherwise the principle of non-refoulement would be violated; and besides, that he is at risk of being subjected to inhuman and degrading treatment due to the fact that his health problems could not be treated there. Taking all the aforementioned into account, the Court concludes that the contested rejecting decision (...) was issued by an unauthorised - at the time of its issuance (17.12.2021) - body and for this reason, which is examined ex officio, as referring to the competence of the administrative body, this decision is illegal and should be annulled (Council of State 3271/2003, 1802/ 2003), while the examination of the other reasons for annulment is omitted as irrelevant. In view of this, the contested act should be annulled and the case should be sent back to the Ministry of Migration and Asylum, so that the Ministry - as it ought to, in accordance with Article 4(1) of the Code of Administrative Procedure (Law 2690 /1999, A45) - refers the application for the granting

of a residence permit for humanitarian reasons of the applicant and the relevant data submitted to it from 3.9.2020 to the competent bodies (Minister of Interior or Coordinator of Decentralised Administration, cf. Council of State 184/2007 para.7, 158/2010 para.7,8), in order for the latter to judge the above-mentioned parameters formulated by the Appeals Committee.(...).

The application is accepted.

AΔ1/2024



Residence permit for exceptional reasons - Application for annulment - Pakistan - Family with minor children - Links with Greece - Best interest of the child - School attendance - Retroactive effect of legislation - Application accepted

Administrative Court of First Instance of Piraeus
3rd (Three-Member) Chamber / Annulment Proceedings
Decision No: AΔ1/2024
Date of publication: 08.01.2024
Judge Rapporteur: George Barbagalos
(...)

2. (...), the present application seeks the annulment of the documents with protocol numbers 28489, 28492, 28495, 28498/31.12.2021 of the designated Deputy Head of the Department of Residence Permits for Third Country Nationals of the Directorate of Residence Permits of the General Directorate of Migration Policy of the Ministry of Migration and Asylum. Through the contested documents, each of the applicants was informed that their respective applications, with protocol numbers 37712, 37746, 37759, and 349879/6.11.2020, for a residence permit on humanitarian grounds, pursuant to the provisions of Article 19A(1)(f) of Law 4251/2014 (Government Gazette A' 80), would not be examined, as they had been submitted after the entry into force of Law 4686/2020 (Government Gazette A' 96). (...).

6. (...) Article 67 of Law 4375/2016 (Government Gazette A 51) provided that: "In the event that an application for international protection of an alien or stateless person has been definitively rejected, the competent decision-making authorities of this Part can however assess that the person fulfils the conditions for being granted a residence permit for humanitarian reasons, and shall refer the case to the competent authorities in accordance with Article 19A (f) of Law No. 4251/2014 (A' 80) as in force, which shall decide on the granting of the permit in question. In this case, the competent decision-making authorities shall issue a pertinent certificate to the person concerned." Furthermore, the provisions of Article 19A of Law 4251/2014 stipulated that: "1. By decision of the Minister of Interior and Administrative Reconstruction, a residence permit on humanitarian grounds shall be granted to third-country nationals who are in Greece and fall into one of the following categories: a. (...) f. Third country nationals, whose case has been referred to the Ministry of Interior and Administrative Reconstruction by the competent decision-making authorities of Article 2, case 19 of Presidential Decree 113/2013 (A' 146) and by the Appeals Committees of Articles 26 and 32 of Presidential Decree 114/2010 (A' 195), as in force. For the granting of a residence permit of this category, it is particularly taken into account if there is an objective impossibility of removal or return to the country of origin or habitual residence for reasons of force majeure, such as serious health reasons of the person concerned or of a member of his/her family; if there is an international blockade of his/her country; or if the person concerned falls under the non-refoulement clause of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which was ratified by the first Article of Legislative Decree 53/1974 (A' 256) or Article 3 of the New York Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Law 1782 /1988 (A' 116). The relevant request for granting a permit for humanitarian reasons is examined only if the case of the third country national concerned has been referred to the Ministry of Interior and Administrative Reconstruction by the competent decision-making authorities of Article 2, case 19 of Presidential Decree 113/2013 (A' 146) in accordance with Article 33 of the same Presidential Decree; or by the Appeals Committees of Articles 26 and 32 of Presidential Decree 114/2010 (A' 195) in accordance with Article 28 paragraph 1 subparagraph b' of the same Presidential Decree, as in force; and only after the authorities have assessed that in the the applicant's case, one or more of the conditions mentioned in the second subparagraph of this paragraph are met. (...)". The provision of Article 67 of Law 4375/2016 was repealed by paragraph e' of Article 61 of Law 4686/2020 (A' 96), which entered into force on 12.05.2020, according to which: "This regulation covers all decisions published from

1.1.2020 onwards”. According to the explanatory memorandum accompanying this legislation, the removal of the above provision was considered appropriate, as it is clear that the existing legal framework, taking into account all the amendments proposed by the Bill, provides adequate protection to all applicants for international protection, even the most vulnerable. Already, with the aforementioned Law 4636/2019, which entered into force on 01.01.2020 (Article 125), it had been provided for the first time that the decision-making authorities were competent to examine whether the conditions of the principle of non-refoulement were met, as reflected in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as ratified by Law 1782/1988 (A' 116); in Article 7 of the International Covenant on Civil and Political Rights ratified by Law 2462/1997 (A' 25); in Articles 31 and 33 of the 1951 Geneva Convention relating to the Status of Refugees, ratified by Law 3989/1959 (A' 201); and in Article 3 of the European Convention on Human Rights, ratified by Legislative Decree 53/1974, (A' 256). [If the conditions of the principle of non-refoulement were met, the decision-making authorities were also competent] to issue a certificate of non-removal for humanitarian reasons, which implied for the holder the same rights and obligations as the certificate of deferral of removal (...) of Law 3907/2011. Subsequently, Article 72 par. 5 of Law 4825/2021 (A' 157/04.09.2021), repealed the provision of paragraph 6 of Article 19A of Law 4251/2014, which provided for the granting of a residence permit for humanitarian reasons, issued by the competent Minister after the case was referred to him/her by the Appeals Committees. Moreover, paragraphs 1 and 2 of Article 20 of the same law deleted the relevant subparagraphs of para. 3 of Article 68 and paragraph 4 of Article 104 of Law 4636/2019, which provided for the granting of certificates of deferral of removal, issued by the authorities deciding on applications for international protection. At the same time, Article 4 of the same law, amended subparagraph a of paragraph 1 of Article 24 of Law 3907/2011, stipulating the following: “The removal of a third country national who is subject to a return procedure shall be compulsorily postponed in cases where: a) there is a violation of the principle of non-refoulement, as reflected in Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified by Law No. 1782/1988 (A' 116); in Article 7 of the International Covenant on Civil and Political Rights, ratified by Law No. 2462/1997 (A' 25); in Articles 31 and 33 of the 1951 Geneva Convention relating to the Status of Refugees, ratified by Law 3989/1959 (A' 201); and in Article 3 of the European Convention on Human Rights (ECHR), ratified by Law 53/1974 (A' 256). According to the relevant explanatory memorandum, “Given that return constitutes a purely administrative measure, proportional to deportation, which is carried out by the Hellenic Police after the competent authorities of the Ministry of Migration and Asylum have declared the stay of a third-country national in Greece unlawful in accordance with Law 4636/2019 (Government Gazette A' 169), and with respect for the principle of non-refoulement, the proposed regulation is introduced with the aim of ensuring the uniform application of the return provisions of Law 3907/2011 (Government Gazette A' 7) and avoiding overlapping of responsibilities.” More specifically, the regulation under evaluation abolishes the competence of the authorities deciding on applications for international protection to issue a certificate of non-removal on humanitarian grounds. The above competence will henceforth be exercised exclusively by the police officers who are responsible for the execution of the return decision, as provided for in Article 24 of Law 3907/2011”. Moreover, para. 4 of Article 21 of Law 3907/2011, as amended by para. 2 of Article 2 of Law 4825/2021 stipulates that: “4. The competent authorities may at any time grant an independent residence permit for reasons of compassion, humanitarian or other reasons, to a citizen of a third country, who resides illegally in the Greek territory, according to Article 19A of Law No. 4251/2014. In the case of granting of the above residence permit, no return decision shall be issued. If a return decision has already been issued, it shall be revoked or suspended for a period of time equal to the duration of the validity of the above permit”. At the same time, Article 20 states that: “In applying this Chapter, the competent authorities shall take due account of: (a) the best interests of the child; (b) family life; and (c) the state of health of the third-country national concerned, with respect to the principle of non-refoulement”.

7. (...), finally, paragraph 1 of Article 4 of the Code of Administrative Procedure, as ratified by the first Article of Law 2690/1999 (Government Gazette A' 45), stipulates that: “1. α. Public services, local authorities and legal entities under public law, when applications are submitted, must process the cases of the persons concerned and decide on their applications ... If the application is submitted to an incompetent authority, that authority must, within three (3) days, forward it to the competent authority and notify the person concerned. ...”.

8. (...), in the present case, the following is apparent from the information in the file: The applicants, nationals of Pakistan, submitted applications for international protection, which were rejected with the decisions nos. 394/18.7.2018 and 11593/15.2.2018 of the Independent Asylum Unit for Examining Applications for International Protection of Nationals (A.K.A. E.A.D.P.Y.) of Pakistan and the Regional Asylum Office of Attica, respectively. Against these decisions, the applicants appealed before the Appeals Authority on 19.7.2018. The 8th Independent Committee of the above-mentioned Authority while examining the said appeals, took into account the following: (a) this concerns a four-member family with two minor children, the younger of whom was born in Greece in 2017, while the older was a toddler (born in 2014), and it would be unduly harsh to compel them to undergo the difficult journey of returning to their country of origin; (b) the oldest child (...) was enrolled during the previous school year at ... Neapolis Kindergarten and attended classes without interruption; (c) for the last 1.5 years the first applicant has been working as an interpreter for the Greek union under the name “...”, under a fixed term employment contract; (d) the applicants had begun to develop strong life ties with Greece; and (e) as no criminal prosecution or conviction had arisen against them within the Greek territory, nor was there any risk

posed by their presence to public security or public health, the Appeals Authority, by its decision No. 16021/18/28.11.2019 (second instance), partially accepted the appeals submitted by the applicants, ruled that they were not entitled to refugee status or subsidiary protection, and deemed it appropriate to refer the case to the competent authority of the Ministry of Citizen Protection in order to examine the possibility of granting a residence permit on humanitarian grounds. Subsequently, the applicants submitted to the Department of Residence Permits for Third-Country Citizens of the Directorate of Residence Permits of the General Directorate of Immigration Policy of the Ministry of Migration and Asylum, on their own behalf and as guardians of their minor children, ... and ..., their applications nos 37712, 37746, 37759 and 349879/6.11.2020, asking to be granted a residence permit on humanitarian grounds, pursuant to the provisions of para. 1 of Article 19A of Law 4251/2014. However, with the contested documents of the appointed Deputy Head of the aforementioned Service, the applicants were informed that their above applications would not be considered, because they were submitted after the entry into force of Law 4686/2020. Against the latter acts mentioned above, the applicants lodged the application for annulment under consideration. With this application for annulment, the applicants seek the annulment of these acts, arguing that the retroactivity of the applicable provision of Article 71 par. 2 of Law 4825/2021 is unconstitutional, as contrary to the principle of the legitimate expectation, the principle of good administration and the principle of proportionality; and in addition, that by these acts, Article 8 par. 1 of ECHR, on the protection of private and family life, is violated.

9. (...) under the above circumstances and according to what is mentioned in the main clause of the present decision, the Court takes, in particular, into account the following: (a) by Law 4686/2020 the national legislator retroactively repealed Article 67 of Law 4375/2016, which provided that pursuant to Article 19A of Law 4251/2014, following the rejection of an asylum application, the Independent Appeals Committees were competent to refer the pertinent case to the Minister of Interior to grant a residence permit on humanitarian grounds; (b) The Ministry of Migration and Asylum - which, after rejecting the applicants' asylum applications, also rejected their applications for a residence permit on humanitarian grounds pursuant to Article 19A of Law 4251/2014 - did not have the competence to examine the relevant applications of the applicants, in view of the provisions of Law 4686/2020 which delegate the relevant authority to the Minister of Interior; and (c) Paragraph 4 of Article 21 of Law 3907/2011, as it was formed by para. 2 of Article 2 of Law 4825/2021 (A' 157/04.09.2021), provides that according to Article 19A of Law 4251/2014, the Minister of Interior, as well as the Coordinator of the Decentralised Administration, are the competent authorities to grant a residence permit for reasons of compassion, or for humanitarian or other reasons, to a third country national, who is illegally residing in the Greek territory. Given all these, the Court judges that the contested acts (...), were issued by an unauthorised - at the time of their issuance (31.12.2021) - body. For this reason - which in annulment disputes is also examined ex officio, as referring to the competence of the administrative body issuing the contested documents (Council of State 2988/2017, 3377, 3956/2015) - these acts are unlawful and should be annulled (ad hoc Administrative Court of Piraeus 82/ 2023, 10th three-member Chamber, annulment proceedings).

10. (...), given these circumstances, the application must be accepted, the contested acts annulled, and the case referred back to the Ministry of Migration and Asylum so that, as required under Article 4(1) of the Code of Administrative Procedure, it may forward the applications for residence permits on humanitarian grounds submitted to it on 6 November 2020, along with the relevant documentation, to the competent authorities for this purpose, namely the Minister of the Interior or the Coordinator of the Decentralized Administration (see Council of State decisions 158/2010, paragraphs 7 and 8). (...).

The request is accepted.

1st application - Eligibility - Application for annulment - Guinea - Single man - Arrived in Greece as Unaccompanied minor - Physical disability - Absence of health care system in the country of origin - Lack of a support network in the country of origin - Persecution due to membership to a particular social group - (Non) Legitimate justification - Application rejected

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ11/2024
Date of publication: 17.01.2024
Judge Rapporteur: Cassiani K. Manolakoglou
(...)

2. (...) with this application, it is sought the annulment of decision no. 144471/10.3.2023 of the 7th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum, by which the appeal lodged by the applicant against decision no. 673443/11.11.2022 of the Thessaloniki Regional Asylum Office, and ultimately his request for international protection, was rejected. With the Committee's decision, a return measure to the applicant's country of origin was also imposed, and a deadline of 25 days was set for his voluntary departure from Greece. (...)

4. (...), on the basis, in particular, of Article 78 paragraph 2 subparagraphs (a) and (b) Treaty on the Functioning of the European Union of, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 was adopted on standards for the qualification of third-country nationals as beneficiaries of international protection, for a uniform status for refugees or persons eligible for subsidiary protection and for the content of the protection granted (EE L. 337). The first part of Law 4636/2019, "On International Protection and other Provisions" (A'169 Correction of Errors A'173) readjusted the national legislation to the provisions of the above Directive. Subsequently, Law 4939/2022 (...) was published. The above Law 4939/2022, as it was in force at the time of the examination of the appeal lodged by the applicant (26.1.2023), states the following: (...). Article 8 states that: "1. For an act to be considered an act of persecution within the meaning of Article 1A of the Geneva Convention: a) it must be sufficiently serious by its nature or repetition to constitute a serious violation of fundamental human rights, in particular, the rights from which there is no derogation under para. 2 of Article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Law 53/1974, A' 256); or b) constitute an accumulation of various measures, including violations of human rights, which is sufficiently serious to affect the individual in a manner comparable to that referred to in paragraph a'... 3. According to par. 26 of Article 1, there must be a connection between the grounds referred to in Article 9 and the acts of persecution mentioned above or the lack of protection against such acts". Furthermore, Article 14 states that: "Serious harm consists in (a) death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of the applicant in his or her country of origin; or (c) serious and personal threat to the life or physical integrity of a civilian due to indiscriminate use of force in situations of international or internal armed conflict."

5. (...) serious harm is defined as the infliction on a third-country national of torture or inhuman or degrading treatment in his or her country of origin. Therefore, the risk of aggravating the situation of a third-country national suffering from a serious illness resulting from the absence of appropriate treatment in his country of origin is insufficient for subsidiary protection to be granted unless it results from a deliberate refusal to provide medical treatment to that third-country national. The obligation to interpret Article 15(b) of Directive 2011/95/EU under Article 19(2) of the Charter of Fundamental Rights of the European Union - according to which no one can be forced to be removed to a State in which there is a serious risk of being subjected to inhuman or degrading treatment, and having regard to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), ratified by Article 1 of Legislative Decree 53/1974 (A256), cannot reach the point of invalidating that interpretation. In this regard, it is indeed true that, according to the case law of the European Court of Human Rights, although foreign nationals who are subject to a removal decision are, in principle, not entitled to remain in the territory of a contracting state in order to continue receiving medical care and social benefits, whether of medical or other nature, from that state, nevertheless, a removal decision concerning a foreign national suffering from a serious physical or mental illness to a country where the means of treating that illness are less effective compared to those available in the said state may conflict with Article 3 of the ECHR, but only in wholly exceptional cases, namely where there are serious humanitarian grounds against the removal (see Case C-151/99, paragraph 1). (ECtHR, N. v. the United Kingdom, judgement of 27 May 2008, § 42). But at the same time, the fact that, in exceptional circumstances, it is not possible under Article 3 ECHR, as interpreted by the European Court of Human Rights, to remove a seriously ill third-country national to a country where there is no appropriate treatment, does not mean that he or she must be granted a residence permit in a Member State under the subsidiary protection regime provided

for in Directive 2011/95/EU. Because of the above, Article 15(b) of Directive 2004/83 must be interpreted as follows: The serious injury that this Article provides for does not cover a situation in which an applicant for international protection, in case of return to his country of origin, is likely to be subjected to inhuman and degrading treatment - as provided for by the national legislation applicable in the main proceedings - as a result of the lack of appropriate treatment in that country. The serious injury that this Article provides for only covers cases in which there is a deliberate refusal - in the country of origin - to provide the applicant with medical treatment (see judgement of the Grand Chamber of the Court of Justice of the European Union of 18 December 2014 in Case C-542/13 Mohamed M'Bodj v Belgian State, and judgement of 24 April 2018 in Case C-353/2016 MP v Secretary of State for the Home Department) (...).

8. (...), in the present case, the following is apparent from the information in the administrative file: The applicant, a Guinean citizen born on 15.5.2001, entered Greece unaccompanied, according to his declaration, on 18.10.2018. On 27.11.2018, he applied for international protection (...) at the Regional Asylum Office of Samos. This application was referred to be examined under the regular procedure, because, as an unaccompanied minor, he belonged to a vulnerable group. On 5.7.2022, after reaching adulthood, he attended a personal interview, (...). Regarding the reasons why he does not wish to return to his country of origin, he stated that he has a vision problem and will have no one to take care of him. In the event of his return, his eyesight will deteriorate due to the dust in Guinea, and he would be forced to live the rest of his life as a beggar, as, because of his condition, he will not be able to find work to support himself, (...). The applicant, during the administrative procedure, submitted: (a) The medical report dated 5.8.2019 by the ophthalmic surgeon (...), which indicates visual acuity of 2/10 in the left eye and 1.5/10 in the right eye, with the diagnosis of "diffuse retinal atrophy"; (b) a medical certificate dated 3.9.2019 issued by the ophthalmologist surgeon (...), which states that: based on the clinical examination and the imaging examination, the most likely diagnosis is macular toxicity from taking chloroquine, which the patient had received at the age of 10 years; (c) a certificate dated 28.7.2022, issued by the Director of the Ophthalmology Clinic of the Hippocrates Hospital of Athens, (...), which refers to visual acuity of the right eye 3/10 and of the left eye 4/10; and to macular atrophy; (d) a certificate - medical report dated 5.9.2022, issued by the doctor of the Ophthalmology Clinic of the General Hospital of Thessaloniki "G. Gennimatas - Agios Dimitrios" (...), which states as (possible) diagnosis "macular toxicity from taking chloroquine, which the patient has received in childhood, visual acuity - 1.5/10; (e) a medical document from the AHEPA Hospital of Thessaloniki, stating that the applicant suffers from tension headaches, probably in a state of fatigue, due to reduced visual acuity due to toxic retinopathy after taking chloroquine as a child. Taking painkillers and keeping a headache diary is recommended (...). On 21.9.2022, the applicant submitted to the Regional Asylum Office of Thessaloniki a legal memo in which (...) he also referred to his problems with his eyesight, because of which, as he claimed, he should be regularly monitored by an ophthalmologist. In this legal memo, he also provided information on the health system in Guinea, which he described as chronically underfunded and inefficient, a situation exacerbated by the EVD (Ebola) epidemic outbreak. Citing all the above, combined with the absence of a supporting network in his country and the health problem that he faces, he requested that his application for international protection be accepted, pointing out that there is a risk that he will return, being blind, to a country where there is no provision for people with disabilities; which would result in further damage to his health; and subject him to unbearable living conditions. By decision no. 673443/11.11.2022 of the Thessaloniki Regional Asylum Office, his application was rejected, and against this decision he lodged an appeal no. 777965/23.12.2022, in which he reiterated the points he had raised in the aforementioned memorandum.

10. (...), although the Committee accepted as credible the applicant's claims regarding his medical condition, the risk of losing his eyesight, and the deficiencies of the healthcare system in Guinea, and although international sources confirm the lack of access to basic healthcare services, it subsequently, in a contradictory manner, found that his living conditions in his country of origin would not be unviable. According to the applicant, his return to a country where, due to the aforementioned situation, he would be subject to cumulative violations of his human rights constitutes persecution; therefore, the conditions for granting him refugee status were met. However, regardless of whether the condition of Guinea's healthcare system is indeed as the applicant describes it, whether there is in fact a risk of rapid deterioration of his health for that reason, and whether such a situation falls within the scope of persecution as defined in Article 8 of the applicable Law 4939/2022, this situation is not linked to one of the grounds of persecution listed in Articles 1 par. 6 and 8 of Law 4939/2022. Rather, it constitutes a systemic deficiency that does not justify granting him refugee status, as is wrongly claimed, nor does it render this part of the contested decision contrary to the aforementioned provisions. In any case, the Committee, referring to international sources and taking into account the applicant's medical condition and the fact that the submitted medical documents did not indicate that he is receiving any specific medication or requires intensive medical monitoring that is unavailable in his country of origin, reasonably concluded that, in his case, the risk he invokes due to his health condition is not reasonably likely to materialize as a result of his return to his country. (...)

11. (...), it is alleged that the Committee failed to consider the possibility that the applicant might face persecution in his country of origin as a member of a particular social group, that of persons with disabilities, because of his health problem. In particular, the applicant states that the Committee, using information obtained from international sources, ascertained that protective legislation for persons with disabilities - namely, the prohibition of discrimination concerning their access to education, health services, public buildings, employment, transportation or the provision of other government services

- is not effectively implemented in his country of origin. However, the Committee failed to make a reasoned decision on whether those circumstances could ultimately constitute persecution against the applicant since he - as a visually impaired person - is a member of the abovementioned social group. Furthermore, the applicant states that persons with disabilities are at risk of becoming victims of trafficking in human beings by networks that are widely active in his country. Thus, in case of return, he is at risk of being forced by such networks into begging, as his problem is likely to develop into blindness. In his view, this is tantamount to persecution. In this regard, he cites a 2022 U.S. Department of State report entitled "Country Reports on Human Rights Practices: Guinea", according to which traffickers exploit men, women and children and force them to work in the agricultural sector, with boys, in particular, being forced into begging, among other things, and children and women being the most vulnerable groups. The above ground, in its first part, must be rejected, because the ineffective implementation of protective legislation for persons with disabilities does not, in itself, constitute persecution, as it does not necessarily entail a systematic violation of their fundamental rights. Moreover, as accepted in the contested decision, the applicant is now an adult and has professional qualifications. Besides, the further deterioration of his eyesight - which would make him blind and vulnerable as a member of the social group of persons with a severe disability, potentially leading to his complete exclusion from his country's social and professional life, exposing him to living conditions and risks contrary to human dignity - is currently uncertain. This is because it does not appear from the medical documents submitted that blindness is the prognosis of his state of health. Concerning the question of the risk that the applicant might face - to become a victim of a trafficking network - this argument was not raised during the administrative procedure, so it is inadmissibly raised for the first time now, before this Court. Moreover, even if it was accepted that such a possibility should have been examined by the Committee on its own initiative - given the applicant's state of health - from the report which the applicant refers to, it cannot be concluded that he is a target of trafficking in human beings because of the health problem he faces, which makes him a member of a particular social group, since he is an adult; and persons at increased risk of being exposed to such networks are, according to the U.S. Department of State report, children and women. (...).

13. (...), it is alleged that the contested decision is also inadequately reasoned and contrary to the provisions of Article 1 para. 19 and Article 14 case b of Law 4939/2022 concerning the section relating to the granting of subsidiary protection to the applicant. In particular, it is stated that if the applicant is returned to his country of origin, he will be exposed to conditions that constitute inhuman and degrading treatment; and since he will be deprived of the necessary medical care, he will suffer a rapid deterioration of his health, resulting in him being a disabled person. And besides - as he claims - since he has no support network in his country and there is no welfare system in place, he will not be able to meet his basic living needs. This plea is unfoundedly raised, first, because, as the contested decision lawfully held, the problems that the applicant refers to, as he states in his application, are attributed to deficiencies and inadequacies of the national health system; and are not due to a deliberate refusal to provide him with the appropriate treatment. Consequently, following the interpretation given in paragraph 4 of this judgement, the conditions for granting subsidiary protection to the applicant are not met in this case. In any event, the Committee, which also imposed the measure of return on him, has taken into account: (1) that the information from international sources did not indicate that Guinea fell into one of the categories requiring international attention, namely that of a serious humanitarian crisis, humanitarian crisis or a situation of concern; (2) the inadequacies of the Guinean health system in combination with the nature of the applicant's disease; (3) the fact that the applicant is not receiving specific medication, nor is he under intensive medical supervision; and (4) his age and professional training; and it has reasonably concluded that it is not expected for the applicant to be exposed to living conditions of such severity as to constitute a violation of Article 3 of the ECHR and a violation of the principle of non-refoulement. Consequently, before imposing the return measure, in order to decide whether the applicant's return to his country of origin would expose him to inhuman or degrading treatment, due to his state of health, the Committee took into account all the legitimate criteria, namely the general situation in Guinea and the applicant's personal circumstances (see *Vilvarajah and Others v. United Kingdom*, judgement of 30 October 1991). Moreover, according to the jurisprudence of the ECtHR, Article 3 of the Convention does not impose an obligation on the Contracting States to mitigate disparities in the availability of health care in the various States by providing free and unlimited health care to all aliens without a right of residence within their jurisdiction. At the same time, humanitarian circumstances could lead to a violation of the same Article in very exceptional cases where humanitarian grounds against removal are compelling (see *ECtHR N. v. United Kingdom*, judgment of 27.5.2008, no. ref. 60367/10), a condition which, based on the information in the file and the applicant's submissions, does not appear to be met in the present case. (...)

The application is rejected. (...).



1st application - Eligibility - Application for annulment - Türkiye - Single man - Turkish citizen of Kurdish origin - Persecution on Grounds of Political Opinion - Persecution due to race - Non-compliance with a previous annulment decision - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ56/2024
Date of publication: 19.03.2024
Judge Rapporteur: Stergios G. Kofinis
(...)

2. (...), with this application, it is sought the annulment of decision no. 644713/31.10.2022 of the 11th Independent Appeals Committee of the Ministry of Migration and Asylum, in a three-member composition. With this decision, the Committee, having re-examined the case following annulment decision no. 413/2022 of this Court, once again rejected the applicant's appeal of 11.12.2018 against decision no. 28668/2018/28.9.2018 of the Thessaloniki Regional Asylum Office, that rejected his application for international protection of 18.9.2017, and ordered his return to his country of origin with voluntary departure within a period of fifteen days.

3. (...), according to Article 95 § 5 of the Constitution and Article 50 § 4 of Decree 18/1989 (A' 8), the Administration is obliged to comply with annulment decisions by the Council of State. The specific content and scope of the obligation to comply are determined by the subject matter of the annulment pronounced, that is, by the nature and type of the act that was annulled, as well as by the judgment or judgements on the issues examined and decided upon by the Court in the reasoning of its decision, thereby creating *res judicata* for the specific case with respect to those issues. Specifically, in the case of annulment due to deficiencies in reasoning, the Administration may repeat its assessment in order to regulate the specific legal relationship retroactively and issue a new act with the same content as the one annulled, provided that it lawfully and sufficiently justifies its new assessment, either on the basis of the annulment decision or on the basis of elements that were not examined and ruled upon by the annulment court, regardless of whether those elements were known to the Administration at the time. In any case, this new assessment must not conflict with the findings of the annulment decision and must be made in light of the legal and factual circumstances that existed at the time the annulled act was issued. Moreover, the Administration is not prohibited from issuing a new act that reaches the same outcome, provided it is supported by new reasoning. (see Council of State 1820, 2611/1989 in plenary., 39/2023, 593/2021, 127/2019, 4091/2015, 1113/2005, 3320/2003, 14038/2000, 2916/1996 et seq.). Finally, the Administration is obliged to comply with the annulment decisions of the administrative courts in the same way as it is obliged to comply with the annulment decisions of the Council of State (Council of State 864, 2414/2016, 9/2015, etc.). (...)

6. (...), the following emerges from the contents of the administrative file: The applicant, a citizen of Türkiye and a Kurdish Alevi, (...) submitted an application for international protection on 18 September 2017 at the Thessaloniki Regional Asylum Office, stating that he left his country on 19 August 2017 for political reasons, (...) The application for international protection was rejected as unfounded by decision no. 28668/28.9.2018 of the Regional Asylum Office of Thessaloniki, against which the applicant filed an appeal. The appeal was rejected by decision no. 27991/2018/28.1.2020 of the 11th Independent Appeals Committee. The applicant filed an application for annulment dated 3.7.2020 against this decision, which was upheld by this Court in its decision no. 413/2022. (...) Upon re-examining the case following the issuance of the aforementioned annulment decision, the 11th Committee once again rejected the applicant's appeal. (...)

7. (...), in the present application, it is argued that the application under consideration lacks a lawful and sufficient reasoning, in light of the grounds on which the original decision of the Committee was annulled by this Court's decision no. 413/2022. More specifically, the applicant identifies the issues in the reasoning as follows: A) The Committee insists on its original assessment that he is unsuccessfully attempting to construct the profile of a politically active individual, whereas what he had actually stated in his interview was that he is being persecuted not because of his political activities, but because of the political beliefs and actions attributed to him by the Turkish authorities, an element that was also acknowledged by the aforementioned annulment decision. (...) B) The Committee's specific findings regarding the credibility of his claims, concerning his repeated detentions, the travel ban imposed on him, and the freezing of his bank account, were unconvincing, as they were limited to expressions of doubt about each of his individual claims without any factual basis.

In particular, he points out that: (a) the Committee initially expresses the view that it is not plausible for the Turkish police to carry out repeated detentions and that, if the applicant were indeed being persecuted, he would have been arrested and detained once and for all. However, it overlooks the fact that repeated arrests of individuals suspected of anti-regime activity are a common practice in authoritarian regimes, used as a means of intimidating both the individuals themselves and the wider population and (b) the reasoning is inadequate in the part where it is based on the fact that the applicant left the country as soon as he was informed by a relative of impending prosecution, without turning to the authorities to verify the charges or making use of the legal remedies available to him. This overlooks the fact that in countries like Türkiye, which cannot be characterized as states governed by the rule of law, as also indicated by the country-of-origin information cited in the contested application, there is no access to a fair trial, and individuals facing persecution are forced to assess the risk of arrest and imprisonment based on information that reaches them, rather than on official notifications. c) The reasoning of the contested decision regarding the freezing of his bank accounts and the imposition of a travel ban is based on broader indications of his alleged lack of credibility, specifically citing that these incidents are “private in nature” and therefore cannot be verified by external sources; that he did not provide sufficient information during his interview about his social media posts; that he was still able to financially support his mother after arriving in Greece despite the freezing of his accounts; that he applied to renew his passport even after (and despite) being informed by a relative who is a senior judge that his arrest was imminent; and that he was able to organize his escape with ease in just three days. According to the applicant, these grounds for reasoning are incorrect, because: a) if the Committee had found his explanations during the oral interview to be insufficient, it could and was obliged to invite him to an oral hearing and ask him clarifying questions. However, it is not entitled to use the doubts raised by his answers against him without giving him the opportunity to provide further clarifications. b) the fact that he did not elaborate at length during the interview on the issue of his posts, nor mentioned which social media platforms they were made on, is linked to the fact that he himself did not attribute to those posts the significance that the Turkish authorities did. Moreover, the Committee could have summoned him to request further explanations, c) the financial support provided to his mother is possible due to his employment in Greece, a fact which the Committee was aware of from the documents submitted by the applicant, d) the fact that he did not face financial difficulties in Türkiye supports his claim that he left due to persecution and not as an economic migrant, e) it is entirely reasonable for him to attempt, before resorting to irregularly leaving his country with the help of smugglers, to renew his passport, so that he could legally relocate to another country and secure a professional future, and f) the fact that he organized his escape within three days is an indication of the severity of the persecution he was already facing and the further persecution he feared he would face in the future. (...).

8. (...), in decision no. 413/2022 of this Court, the Committee was requested to specifically assess the credibility of the applicant’s claims regarding him being repeatedly brought before the authorities of his country of origin after his return there, as well as the imposition of the measures of a travel ban and the freezing of his bank account. Furthermore, should these claims be deemed credible, the Committee was to make a determination, first, as to whether these measures were due to the political activity attributed to him in conjunction with his ethnic origin and religion, and second, whether these measures, in view of their repeated nature, could be characterized as persecution. However, from the contested decision, it cannot be concluded that this specific assessment of the credibility of the applicant’s particular claims was actually carried out appropriately, so as to deem the Committee’s conclusion lawfully and sufficiently reasoned. Specifically, the Committee initially rejected the applicant’s claim of repeated detentions as implausible and unreliable, reasoning that if he were indeed a “person of interest” to the Turkish authorities, measures would have been taken against him earlier, specifically, that he would have remained in prison when he was arrested. Indeed, from the sources cited by the Committee, it appears that when aggravating circumstances are present (such as particularly serious content in an online post, the individual’s participation in networks considered subversive by the government, the political stance of the person’s family, etc.), there is an increased likelihood of arrest for individuals who post pro-PKK content on social media. From the applicant’s oral interview, the Committee, in a conclusion not subject to annulment review, inferred that the applicant was neither a high-ranking member of the HDP nor engaged in intense political activity, a conclusion that the applicant himself does not dispute. However, the Committee’s conclusion that individuals of “high interest” to the Turkish authorities are arrested immediately (and therefore the issue of repeated detentions does not arise in their case) is not sufficient to support its inferred conclusion on the separate issue of whether the applicant’s claim, who is acknowledged to be a person of “lesser interest”, of repeated detentions without being formally charged or arrested is credible or not. Nor does it appear that the Committee specifically took into account, in forming its conclusion on this issue, the information concerning the treatment and possible arrest and detention of ordinary HDP members, which is included in the sources cited in paragraph 11 of the contested decision itself and therefore forms an integral part of its reasoning, particularly since there is no indication that the Committee questions the credibility of these sources (e.g., “The arrest of a member or supporter of the HDP could be triggered, among other things, by participation in a demonstration or a community event. ... the homes of its supporters may be raided before a scheduled event takes place). Citizens were often arrested for things they said years before during demonstrations, as records are kept by the government, which has the ability to find ways to carry out arrests if it so wishes. Arrests and detentions are used to spread fear within the Turkish and Kurdish communities in Europe, as well as in Türkiye”). Therefore, the Committee’s conclusion that this

particular claim is not plausible or credible is not supported by the reasoning it itself invokes, as that reasoning pertains exclusively to individuals of “high interest.” This holds true regardless of the reason for which these detentions may have occurred, whether they were intended to intimidate him, as part of a broader practice by the Turkish authorities, as the applicant claims in the present application, or whether they were incidental, and regardless of whether or not they constitute persecution, as these are questions that presuppose a legally well-reasoned assessment of the credibility of the claim itself. Furthermore, regarding the second issue raised by the applicant, namely, the imposition of a travel ban and the freezing of his bank accounts, it does not appear from the contested decision that the Committee conducted a specific assessment of the credibility of this particular claim. On the contrary, the Committee merely rejected this claim as unreliable, based on the broader indications of the applicant’s lack of credibility, most of which had already been cited in the original decision rejecting his administrative appeal. As for the latter, however, the Committee did not point out any specific contradictions or significant chronological inconsistencies in the applicant’s account, nor did it find that his narrative contradicted the country-of-origin information he provided, in order to reliably conclude that the applicant generally lacks credibility. The Committee merely noted the lack of detail in his account regarding his social media posts and past political activity. However, neither the contested decision nor the contents of the file indicate that the applicant was asked specific clarifying questions during his oral interview on these matters and failed to provide clear explanations or details. Nor was the applicant invited to provide further clarifications before the Committee in the context of the specific assessment of the credibility of these particular claims (see also Council of State decision no. 1371/2023 regarding the obligation of the Committee to summon the appellant when insufficient information is gathered during the oral interview, resulting in gaps). Furthermore, the Committee’s findings, which cast doubt on the plausibility of the applicant’s claim that he left his country after being informed of an impending arrest, are not sufficient on their own to support the conclusion that the applicant lacks credibility. This is because the plausibility of a behavior or action must be assessed in relation to the conditions prevailing in the country of origin. In this case, the Committee does not cite any country-of-origin information indicating that individuals persecuted for insulting the President of Türkiye or for alleged cooperation with pro-Kurdish organizations are able to request information about any charges against them and effectively exercise legal remedies in response (on the contrary, the country-of-origin information cited in the contested decision could support the opposite conclusion), nor does it show that organizing an escape from the country with the help of a smuggler within three days is implausible.

Finally, in light of the evidence of the applicant’s employment as a cook at a restaurant business in Rhodes, which is included in the administrative file and was available to the Committee, the reasoning of the contested decision is undermined insofar as it questions the applicant’s ability to financially support his mother, and, by extension, the credibility of his claim regarding the freezing of his bank account. Therefore, the ground raised must be upheld, and the contested decision annulled, with the case being referred back to the Administration for a new, lawful assessment regarding the credibility of the applicant’s claims of repeated detentions, the freezing of his bank account, and the imposition of a travel ban.

9. (...), consequently, the application for annulment must be accepted, the contested decision annulled, and the case referred back to the Administration for a new lawful assessment, in accordance with the specific directions set out in the preceding paragraph.

(...)

The application for annulment is accepted.



1st application - Eligibility - Application for annulment - Cameroon - Single man - Persecution due to membership in a particular social group - LGBTQIA+ - Right to an effective remedy - Violation of the right to a prior hearing - Application accepted

Administrative Court of First Instance of Athens
34th (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ222/2024
Date of publication: 27.03.2024
Judge Rapporteur: Sofia A. Retsa
(...)

2. (...), with this application, the annulment of the second-degree decision no. 23326/2020/03.11.2020 of the 9th Independent Appeals Committee of the Appeals Authority of the Ministry of Immigration and Asylum is requested, which rejected the appeal of 15.09.2020 of the applicant against the 5483/05.06.2020 decision of the Regional Asylum Office (R.A.O.) of Samos. By the latter decision, his application of 15.03.2019 for the granting of international protection status had been rejected, and a return measure to his country of origin had been ordered against him. (...)

5. (...), asylum and, more generally, international protection are already a matter of interest in European Union law [see in this respect the provisions of Article 18 of the Charter of Fundamental Rights of the European Union and Article 78 of Chapter 2 of Title V of the Treaty on the Functioning of the European Union (TFEU)]. As the Court of Justice of the European Union (CJEU) has consistently held, the Geneva Convention is the cornerstone of the international legal system for the protection of refugees and the provisions of the directives constituting the Common European Asylum System, such as among other things, Directives 2011/95/EU and 2013/32/EU on the conditions for granting refugee status and international protection in general, the content of such status and the procedures to be followed (cf. see the following paragraphs), were adopted to facilitate the competent authorities of the Member States in the application of that Convention based on common concepts and common criteria (CoE Vol. 2347, 2348/2017, CJEU, judgment of 13.9.2018, C-369/17, Ahmed, paragraph 40). (...) Furthermore, the provisions of the above directives must be interpreted in a complementary manner to each other, in light of their overall economy and purpose, under the Geneva Convention and other relevant “related” international conventions, as referred to in Article 78(1) TFEU, and in this interpretation, should also respect the fundamental rights recognised by the Charter of Fundamental Rights of the European Union (CoE Vol. 2347, 2348/2017, cf. CJEU, judgments of 8.5.2014, C-199/12 to C-201/12, X and others, paragraphs 39 and 40, and of 26.2.2015, C-472/13, Shepherd, paragraphs 22 and 23). Member States must not only interpret their national law in a manner consistent with Union law but also ensure that they do not rely on an interpretation contrary to the fundamental rights protected by the Union legal order or to other general principles of Union law (see. CoE Reports 2347, 2348/2017, CJEU, Grand Chamber, Judgment of 21.12.2011, C-411/10 and C-439/10, N.S. and Others, paragraph 77). (...).

11. (...), as held in the 1371/2023 judgment of the Council of State, it follows from the provisions of Union law cited in the preceding paragraphs that the Procedures Directive 2013/32/EU distinguishes between, on the one hand, an “authorising authority”, which it defines in Article 2(f), as “any quasi-judicial or administrative authority of a Member State responsible for examining applications for international protection and competent to take decisions at first instance in such cases” and, on the other hand, the ‘court or tribunal’ referred to in Article 46 thereof, which has jurisdiction in appeal proceedings (CJEU, judgment of 16 June 2006, p. 1). 7.7.2020, C-517/17, Addis, paragraph 61). Concerning the examination of the application for international protection at first instance, Article 14(1) of Directive 2013/32/EU provides that, before the determining authority takes a decision, the applicant shall be given the opportunity of a personal interview on his/her application for international protection with a person competent under national law to conduct such interviews. The fact that the Union legislature has chosen to provide, in the context of that directive, on the one hand, for a clear and express obligation on the part of the Member States to give the applicant for international protection, the opportunity to be interviewed in person before a decision is taken on his application and, on the other hand, for an exhaustive list of exceptions to that obligation demonstrates the fundamental importance it attaches to the personal interview in the asylum procedure (CJEU, Addis judgment, paragraphs 47 and 59). Moreover, Article 46(1) of that Directive grants applicants for international protection the right to an effective remedy before a court or tribunal against decisions relating to their application. Article 46(3) defines the content of the right to an effective remedy, specifying that Member States bound by the Directive shall ensure that the court before which the decision on the application for international protection is challenged conducts a “full and ex nunc examination of the needs for international protection under Directive 2011/95/EU.” The expression “ex nunc” highlights the obligation of the judge to take into account, in his assessment, any new information which has arisen since the adoption of the decision, which is the subject matter of the appeal. As regards

the adjective “complete”, its use confirms that the judge must consider both the information which the deciding authority took or could have taken into account and that which arose after the decision of that authority. It follows from the previous that Member States are required, under Article 46(3) of Directive 2013/32/EU, to frame their national law in such a way that the examination of the relevant appeals includes a judicial review of all the matters of fact and law which enable the judge to make an updated assessment of the case in question so that the application for international protection can be examined in its entirety without the need to refer the case back to the referring authority. The above interpretation serves the purpose pursued by Directive 2013/32/EU of ensuring that such applications are examined as expeditiously as possible, subject to an appropriate and complete examination (CJEU, Grand Chamber, judgment of 29.7.2019, C-556/17, Torubarov, paragraphs 51-53, and judgment of 25.7.2018, C-585/16, Alheto, paragraphs 105, 106, 109-113). However, with regard to the procedure before the court, it should be noted that neither Article 46 nor any other provision of Directive 2013/32/EU provides for a hearing to be held before the court handling the appeal. Following the relevant judgments of the Court of Justice of the European Union (judgment of 26.7. 2017, C-348/16, Sacko, paragraphs 28, 31, 32, 36, 37, 38, 44 and 48), the characteristics of an Article 46 action must be determined by the national legislature, in the transposing provisions, in compliance with Article 47 of the Charter of Fundamental Rights of the European Union, which is an affirmation of the principle of effective judicial protection and provides that any person whose rights and freedoms guaranteed by Union law have been infringed has a right to an effective remedy before a court or tribunal. This principle of effective judicial protection of the rights individuals derive from Union law consists of various elements, including the right to a defence, the principle of equality of arms, the right of access to the courts and the right to legal advice, defence and representation. Specifically, with regard to the appeal procedures set out in Chapter V (Article 46) of Directive 2013/32/EU, in order to ensure that the right to such an appeal is exercised effectively, the national court must be able to assess the validity of the reasons on which the competent administrative authority based its decision to consider the application for international protection unfounded or abusive. While the absence of a hearing of the applicant in the context of an appeal procedure such as that provided for in Chapter V of Directive 2013/32/EU constitutes a restriction of the right to a defence, which are encompassed within the principle of effective judicial protection enshrined in Article 47 of the Charter, fundamental rights, including the right to be heard, do not constitute absolute entitlements. They may be subject to limitations, provided that such limitations genuinely pursue objectives of general interest and do not, in light of the pursued objective, represent a disproportionate and intolerable interference that would undermine the very essence of the rights thus guaranteed. Consequently, it is permissible for the national legislator to introduce provisions relating to the procedure for examining the appeal under Article 46 of the above-mentioned Directive, which do not provide for a hearing of the applicant for international protection before the court handling the appeal, in cases where it is considered that a full and ex nunc examination of the appeal can, in principle, be carried out solely on the basis of the case file — including, where applicable, the report of the personal interview conducted during the first-instance administrative procedure or the transcript of that interview. In those circumstances, the possibility of waiving the hearing corresponds to the interest, recalled in recital 18 in the preamble to the Directive, of both the Member States and the applicants in having a decision on applications for international protection taken as soon as possible, subject to an appropriate and full examination. However, the national legislature is not permitted to prevent the court from ordering a hearing where it is necessary to conduct a full and ex-nunc examination, under Article 46 of the Directive, of the factual and legal issues in the case.

12. (...), moreover, in the 12th paragraph of the above mentioned decision no 371/2023 of the Council of State, the following was also accepted: “with the above provisions transposing Directives 2011/95/EU and 2013/32/EU into Greek law (a) the rule of assessing applications for international protection on an individual basis, which, as regards applications for refugee status, was also derived from the Geneva Convention, is confirmed, (b) the importance of the interview with the applicant as a fundamental element of the procedure for examining applications for international protection is emphasized and the conditions and guarantees provided by the Procedures Directive for the conduct of a personal interview (CoE 689/2021) are ensured, (c) the competent “courts”, within the meaning of Article 46 of Directive 2013/32/EU, are defined as the Independent Appeals Committees of Articles 4 and 5 of Law No. 4375/2016.” According to what has already been ruled (Council of State in Plenum, 2347, 2348/2017, 1581/2021), these Committees are not courts within the meaning of the Constitution (nor, for the most part, special administrative courts or “judicial committees”, which are prohibited by the Constitution) but independent authorities (integrated into the structure) of the executive function of the state, which exercise powers of a “judicial nature” (Art.89 par. 2 of the Constitution) and meet the requirements of Article 46 of the Procedures Directive in terms of the guarantees enjoyed by the ordinary judges who form them, their rules of operation and the nature and extent of their powers, which are not limited to reviewing the legality of the decisions of the deciding authority but extend to full review of the case in law and substance. Furthermore, as stated in the preceding paragraph, the national legislature has legitimately limited the instances in which the applicant must be heard orally before the Appeals Committee to three, namely where the appeal is against a decision to revoke international protection status, where questions or doubts arise as to the completeness of the interview conducted at the first stage of the examination before the determining authority's bodies, and where the applicant invokes the right to be heard before the Appeals Committee. However in view of, (a) the importance of the interview with the applicant in the system for assessing applications for international protection on an individual basis, as mentioned above, (b) the obligation under Union and national law for the determining authority to give the applicant, during the interview, an appropriate opportunity to provide explanations regarding any missing information and any inconsistencies or contradictions in his

or her statements; and (c) of the full and ex nunc review exercised by the Appeals Committees for the cases brought before them, it must be considered that issues or doubts arise as to the completeness of the interview conducted and in the event that the information gathered during the personal interview conducted during the first-instance administrative procedure is insufficient, resulting in gaps remaining with regard to statements of the applicant that are crucial for the assessment of his claims as well as crucial elements invoked by the applicant for international protection to establish a fear of persecution or risk of serious harm, while by asking the appropriate questions either the gaps could be filled or the applicant's inability to present convincing allegations in support of his claim could be established. In this case, the Appeals Committee must invite the applicant for international protection to a hearing before ruling on his/her appeal against the act of the determining authority challenged before it (from the recent relevant case law of the courts of the Member States of the European Union, cf. the order of the Italian Supreme Court - Corte di Cassazione - 1089/2023, published in summary form in a collection of case-law of the Italian Supreme Court, on the obligation of the court to invite the applicant for international protection to a hearing to fill in the gaps and remove the inconsistencies and contradictions arising from his statements, in the context of Italian law, which also provides for the applicant to be heard by the court in certain cases only)'.

13. (...), in the present case, the following is apparent from the information in the file: the applicant, a Cameroonian citizen, on 15.03.2019 submitted an application of international protection, the registration of which stated that he had left his country of origin because he was homosexual. With the decision no. 5483/05.06.2020 of the above R.A.O, his application was rejected as unfounded. Subsequently, by the already contested decision of the 9th Independent Appeals Committee, the relevant appeal of the applicant of 15.09.2020 was rejected. (...).

14. (...), the applicant seeks the annulment of the contested decision, claiming, among other things, that in breach of Article 97 of Law 4636/2019 and the essential procedural requirement of a hearing, he was not invited to a hearing by the Appeals Committee, which was handling his appeal. In particular, he submits that although the Appeals Committee, in its assessment of his claims, considered that the development of some of them during his oral interview at first instance was characterised by ambiguities and contradictions, it did not invite him to an oral hearing before it, despite its obligation to do so under the provision as mentioned above of Article 97 of Law No 4636 /2019, to form its own opinion regarding his credibility, but was content with the conclusions of the first-instance decision that had been drawn from the interview that had been conducted inadequately on 01.07.2019.

15. (...), following the provisions cited above and those accepted for interpretation in the main recital (cf. in particular paragraph 12), the Appeals Committee, having found ambiguities and generalisations in the statements made by the applicant during his oral interview in the first instance, which - as is evident from the content of the contested decision referred to in paragraph 13 - had a substantial influence on its final decision rejecting his application for international protection, was obliged by law and, in particular, by the provisions of Article 97(b) of Law No 4636 /2019, to invite the applicant to an oral hearing before it in order, if possible, to remove ambiguities and clarify the allegations of the applicant that are crucial for the assessment of his application before issuing the contested decision. The oral hearing of the applicant for international protection before the Appeals Committee is mandatory if ambiguities and gaps are found during the interview conducted at the first instance to remedy the deficiencies that occurred during this interview, which is of primary importance in the procedure for the examination of the application for international protection (cf. CJEU, Addis judgment, paragraph 70), the Appeals Committee failure to do so cannot be remedied by the mere fact that the applicant was, in any event, able to put forward his claims in his application for leave to appeal and in his statement (actually submitted in this case) before the Commission. At the same time, from the point of view of the present case, it is also unimportant that, as is apparent from the relevant transcript of the applicant's interview, the applicant was asked at the end of his interview whether he wished to add anything else. This is because, in this way, the interviewer is not exempted from the obligation to submit the appropriate questions to the applicant for international protection to remove ambiguities and fill in the gaps (see, in this regard, CoE 1371/2023, para 18). Consequently, the relevant plea must be upheld as well-founded, and the contested decision must be annulled, with the examination of the other pleas for annulment being superfluous.

16. (...), in consequence of the preceding, the present application should be granted, the contested decision should be annulled, and the case should be referred back to the Administration for a decision by the competent Independent Appeal Committee, following the due process of law by inviting the applicant to an oral hearing. (...).

(...)

The application is accepted.



Subsequent asylum application - Admissibility - Application for annulment - Ivory Coast - Single woman - Serious illness - Female Genital Mutilation - Gender-based violence - Persecution due to membership in a particular social group - SGBV - Absence of health care system in the country of origin - (Non) Legitimate justification - Application rejected

Administrative Court of First Instance of Athens
21st (Three-Member) Chamber/Annulment Proceedings
Decision No: AΔ748/2024
Publication date: 12.09.2024
Judge Rapporteur: Chalampali Iliana I.

1. (...) with the present application, (...), is requested the annulment, of decision no. 446245/1.8.2022 of the second instance issued by the 1st Independent Appeals Committee. With this decision the appeal lodged on 22.3.2022 by the applicant against decision no. 426931/1.12.2021 of the Independent Asylum Unit of Nikaia was rejected, with which her application of 4.8.2021 for international protection had been rejected. (...)

4. (...) the Convention of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence, ratified by Article 1 of Law 4531/2018 (Government Gazette A' 62), and the adaptation of Greek legislation, provides in Article 60 that "1. The Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognized as a form of persecution within the meaning of Article 1, A(2) of the 1951 Convention Relating to the Status of Refugees, as well as a serious form of harm giving rise to complementary/subsidiary protection. 2. The Parties shall ensure that a gender-sensitive interpretation is given to each of the grounds enumerated in the Convention, and that whenever it is established that the fear of persecution is related to one or more of these grounds, refugee status shall be granted to the applicants in accordance with the applicable relevant instruments. 3. The Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum seekers, as well as gender-sensitive asylum guidelines and procedures, including the determination of refugee status and applications for international protection." and in Article 61, it is stated that: "1. The Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with their existing obligations under international law. 2. The Parties shall take all the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or place of residence, are not returned under any circumstances to any country where their lives may be at risk or where they may be subjected to torture or inhuman or degrading treatment or punishment."

6. (...), in the present case, the following facts emerge from the case file: the applicant, a national of Ivory Coast, (...), with the (initial) application dated 2.11.2018, which she submitted to the Regional Asylum Office (R.A.O.) of Samos, applied for international protection, declaring (...) that she did not wish to return to her country of origin because she was not wanted by her family, as well as by the family of her husband, and that she wished to seek treatment for her health problem. At the scheduled interview, (...), she stated that she had left her country after discovering that she was infected with the HIV virus. (...), she [also] stated that her daughters would be found and she would be forced to return them to the family of her former husband, from whom they would be subjected in the future to clitoridectomy. She also stated that (...) she fears being marginalized again because of the HIV virus. The above application was rejected (...). Subsequently, the applicant submitted to the aforementioned R.A.O., on 8.8.2021, a subsequent application for international protection, during the registration of which she stated that she did not wish to return to her country of origin because she had been a victim of sexual abuse and genital mutilation due to her religion, and that her husband had transmitted HIV to her, because of that they wanted to kill her. (...). She stated that when she was 10 years old, she underwent clitoridectomy and later, at the age of 15, she was forced by her uncle (...) in marriage to a man with whom she had three children, two twin girls and a boy, while they all lived together with two other husbands' wives and their children (...). Her husband eventually passed away (...), after being hospitalized and diagnosed with AIDS. (...) It was found that she herself was infected with AIDS and hepatitis; after the mourning period in Ivory Coast (4 months and 10 days) had passed, the family of her husband wanted to marry her off to the brother of her deceased husband and younger son of the family, as dictated by the culture of the country. (...). However, the applicant did not want to re-marry because of what she had experienced and because her husband had infected her with AIDS, which made things worse for her. Specifically, she stated that the family of her deceased husband changed their mind regarding the marriage and returned her to her own family, i.e., to her uncle and his wife, while they kept her children. While living with them, no one touched her, she ate separately from the rest of the family, when she drank water no one touched her glass, and generally they were afraid of catching the disease. (...). She even claimed that they eventually tried to poison her (...). After this incident, she decided to leave the country, (...).

However, before leaving, in order to save the girls from clitoridectomy, which she herself had undergone at age 10 and which the girls were approaching, she took them from her husband's family and left them with a friend to raise (...), while she left the boy with her husband's family; (...). Regarding the reasons why she does not wish to return to her country of origin, she stated that due to the disease she faces, she cannot live in Ivory Coast, where she experiences strong social exclusion and also has absolutely no support network. (...). The above subsequent application (...) was rejected as unfounded (...). The same decision ordered the return of the applicant to her country of origin. Against the above decision, the applicant filed (...) an appeal, which was rejected as unfounded (...), with the same reasoning as above. (...)

7. (...), by the present application, the applicant seeks the annulment of the above-mentioned (...) decision (...), arguing that it lacks legitimate justification. Specifically, she claims that the conditions for inclusion in the refugee status regime apply to her, since FGM (...) is a form of gender-based violence and all types of FGM are harmful and violate a range of human rights of girls and women; a woman or girl who has already undergone this practice before seeking asylum may still have a well-founded fear of future persecution due to the permanent and irreversible nature of FGM. Furthermore, a girl or woman who has undergone FGM in her youth may later be subjected to re-removal or re-cutting if the first procedure is considered incomplete, at the time of her marriage or the birth of her child. Accordingly, she argues that persecution exists in the case of FGM, according to Article 1 of the Geneva Convention, which, due to its continuing and lasting effects on the victim, which affect her physical, psychological, emotional, and sexual health, remains ongoing; even if there is no reasonable likelihood that the woman will undergo clitoridectomy again, the persecution the victim invokes for the future is still present, even if it takes a different form, as there remains a connection with past persecution. (...). To this are added, according to her claims, the forced marriage to her husband, the abuse she suffered from him and his two wives, the infection with HIV, the forced marriage to the brother of her husband, the abuse and stigmatization by her uncle's family and by anyone who learned she was HIV-positive. Therefore, she argues she is entitled to international protection in the form of refugee status because a) she was a victim of gender-based violence, consisting, on the one hand, of being forced into marriage with her husband and then with her husband's brother, and, on the other hand, of undergoing multiple episodes of genital mutilation; b) gender-based violence constitutes a form of persecution; c) genital mutilation constitutes a form of continuous persecution, as its consequences are long-lasting and follow the victim throughout her life; d) states have the obligation to protect women who have been victims of violence, an aspect of which is international protection; e) states must ensure that victims of gender-based violence are not retraumatized and/or stigmatized; and f) given all the circumstances of the case at hand, there are cumulative human rights violations constituting persecution; (...). Furthermore, she claims that the conditions for subsidiary protection are met because a) FGM constitutes torture and cruel, inhuman, or degrading treatment, not only at the time the practice is performed or during recovery, but also because of its subsequent consequences; and b) the treatment in her country of origin, both by the state and society, of patients suffering from AIDS constitutes ongoing degrading treatment, which she herself suffered after being diagnosed as HIV-positive. However, the above ground for annulment and the related arguments are unfounded. This is because the Committee held with a legitimate justification that neither the conditions for recognition of refugee status nor those for subsidiary protection are met in the applicant's case, taking into account that a) her claims regarding extreme social exclusion due to her illness (HIV virus) and limited access in her country to healthcare services, as possible grounds for persecution, had already been raised with the initial application for international protection and had been examined and rejected at both first and second instance (...), b) the fact that the applicant suffered domestic violence and sexual abuse from her former husband, as well as genital mutilation at age 10, claims on which only her subsequent application was based (...), does not constitute grounds for persecution (...) and, therefore, there is no reasonable likelihood that she will suffer such harm if returned, and thus face a related risk (...) and c) from the international sources cited in the contested decision, it appears that Abidjan and Ivory Coast, in general, are not in a state of armed conflict, and therefore there are no substantial grounds to consider that the applicant, given her personal circumstances (woman, widow, Sunni Muslim, 34 years old), upon return to Ivory Coast, will face (...) a real risk of harm due to a serious and individual threat to her life or physical integrity as a civilian because of indiscriminate violence in a situation of international or internal armed conflict.

8. (...), furthermore, the applicant claims that the contested decision violates the principle of non-refoulement, as it orders her return to her country of origin, where she was subjected to the torture of genital mutilation, was a victim of gender-based violence both through undergoing that mutilation and through being forced into marriage, and where she has been subjected to multiple forms of inhuman and degrading treatment, both because of the aforementioned and due to her health condition as an HIV carrier, because of inadequate medical care, as well as due to the stigma from the society in Ivory Coast. This claim is raised unfoundedly, because the conditions for the application of the invoked principle (...) are not met in this case, and her specific claims regarding extreme social exclusion due to her illness and limited access in her country to healthcare services were examined and rejected both at first and second instance, by decision no. 46381/17.12.2019 of the Regional Asylum Office of Thessaloniki and decision no. 23543/11.1.2021 of the 3rd Independent Appeals Committee, respectively. (...)

The application is rejected.

1st application - Eligibility - Application for annulment - Iran - Single man - Right to an effective remedy - Unlawful notification by email - Out of time appeal - Free Legal Assistance provided by lawyers of the Asylum Service Registry - Violation of a substantial procedural requirement - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (Three-Member) Chamber/Annulment Proceedings
Decision No: AΔ6/2025
Date of publication: 13.01.2025
Judge Rapporteur: Tzellou Alexandra G
(...)

2. (...) with this application the annulment of decision no. 284155/17.11.2023 of the 2nd Independent Appeals Committee of the Ministry of Migration and Asylum (in a three-member composition) is sought, by which the appeal lodged by the applicant on 17.10.2023 against decision no. 84119/30.8.2023 of the Thessaloniki Regional Asylum Office was rejected as out of time. By the latter decision, his application for international protection had been rejected as unfounded. (...)

4. (...) Article 87 of Law 4939/2022 “Ratification of the Code of Legislation on the reception, international protection of third-country nationals and stateless persons, and temporary protection in the event of a mass influx of displaced foreigners” (...) stipulates that: “1. ... 2. The decisions on the application for international protection ... are served to the applicant by the competent Receiving Authority, in accordance with the provisions of the following paragraphs. 2... 3. The decision is served to the applicant (a) in person, or (b) by registered mail sent to the declared residential or accommodation address or workplace, personally to the applicant, or to their legal representative, authorized advisor, or representative in accordance with Article 69 of this Code, or (c) by email to an address declared by the applicant to the Reception and Identification Service or the Asylum Service, or to an address declared by their legal representative, authorized advisor, or representative, or (d) via an electronic application managed by the Asylum Service, to which the applicant has access through a personal account. A decision served by electronic means to the applicant’s declared email address, as described above, is considered served forty-eight (48) hours after its electronic dispatch. Together with the decision, in the event that service is carried out according to the above methods, an explanatory document is provided in a language the applicant understands or is reasonably presumed to understand, which explains in a simple and accessible manner the content of the served document, its implications for the applicant, and the actions that may be taken. Alternatively, an address (URL) is provided to a webpage of the Ministry of Migration and Asylum containing all this information in a language the applicant understands or is reasonably presumed to understand....

4. (...) If the applicant is detained, resides in Regional Reception and Identification Services, or stays in Reception or Accommodation Centers, the rejection decision or the operative part of the decision granting international protection status, along with the explanatory document referred to in the third sentence of paragraph 3, shall be sent by any appropriate means to the Head of the respective center or facility, who shall ensure immediate posting of a notice of receipt, along with the delivery and distribution hours of documents to applicants for each working day and time, in visible areas of the facilities, and shall draft a corresponding receipt and posting record. Applicants must ensure they appear at the centre during the delivery and distribution hours to receive their correspondence. For each service to the applicant, a corresponding service report is drawn up. Service is deemed completed three (3) days after the date of drafting the receipt report mentioned in the first sentence.” Furthermore, Article 97(1) of the same law provides: “The applicant is entitled to file an appeal, in accordance with this present Article and Article 102, before the Appeals Authority: (a) against a decision rejecting an application for international protection as unfounded under the regular procedure, as well as against a decision granting subsidiary protection status, insofar as it concerns the non-recognition of the appellant as a refugee, within thirty (30) days from the service of the decision or from the time it is presumed that the appellant became aware of it, in accordance with paragraph 5 of Article 87.”

5. (...), in this case, the following facts emerge from the case file: the applicant (...) submitted a request for international protection at the Diavata Reception and Identification Center (RIC) on 26.01.2023. During the submission of his request, he stated that he did not wish to return to his country of origin because he had been arrested multiple times and his life was at risk,...). During his oral interview (...), he stated that he was born in Iran and (...) regarding the reasons for leaving his country of origin, he initially stated that in 2018, he had been falsely accused of alcohol possession (...) he was arrested by the authorities, taken to a police station where he was tortured for eight consecutive days (...). A year and a half later (in 2019), during the period of Muharram, he stated that he was arrested by the authorities in a park along with friends while

they were smoking hookah and playing cards (...) they were detained until the next morning, tortured, and then released after being given a document, having their fingerprints taken, and receiving a warning. Finally, the applicant stated that he was present at an incident outside a shop where the owner was arguing with a customer. When the police arrived to record the incident, one of the involved parties attempted to bribe the officer, and the applicant recorded the event on video. A year and a half later, during a dispute with a friend about the role of the police, he showed the video to his friend. Two or three days later, the friend visited the applicant under a pretext, managed to take his phone, copied the video, and handed it over to the authorities. The applicant then reported receiving a summons to appear in court, although the reason was not specified. He did not appear and received another summons, which he also ignored. He stayed one more day in his country to prepare, and then fled Iran. Subsequently, he learned that the authorities had arrested and tortured his brother in an attempt to force him (the applicant) to surrender. (...) With decision no. 84119/30.08.2023 of the Thessaloniki Regional Asylum Office, the applicant's claims regarding the leak of the bribery video, his religious beliefs, and his distancing from Islam, as well as his arrest due to the name similarity with the individual who possessed 400 litres of alcohol, were deemed not credible. On the other hand, the claims that he was taken to a police station during Muharram for playing cards and smoking hookah in public, beaten by plainclothes officers, and later released after being warned, were considered credible. In view of the above, (...) the Thessaloniki Regional Asylum Office rejected the applicant's request for international protection at the first instance, concluding that he did not meet the criteria for refugee status or for subsidiary protection, as it was assessed that there were no conditions of international or internal armed conflict in Iran. The above decision was served to the applicant via email on 30.08.2023 (...) to the address he had provided during his oral interview (...), along with the decision, a document was provided informing him that he could file an appeal against it within thirty (30) days from service or knowledge of the decision. In cases of service by email, the decision is considered served 48 hours after being sent. Against this decision, the applicant filed an appeal on 17.10.2023 (...), requesting the annulment of the first-instance decision and a reconsideration of his application. He argued, among other things, that his appeal was submitted in time because, although the decision was sent to his declared email address, it ended up in the spam folder, and the proof of service was not uploaded to the system. As a result, he became aware of the decision only on 27.09.2023, when his lawyer visited the Asylum Service and requested copies of his file. Ultimately, with the contested decision of the 2nd Appeals Committee, the applicant's appeal was rejected as late, on the grounds that the claim that the email had gone to the spam folder was not substantiated, and that there was no indication that force majeure applied to the applicant's case.

6. (...), with the present application, the applicant requests the annulment of the contested decision, initially reiterating the claims he made in his previously filed appeal regarding the service to him of the first-instance decision via email, which was filed in the spam folder. In this regard, he argues that, as a result, he became aware of the content of the decision only on 27.09.2023 through his lawyer, and that, therefore, in this case, his appeal was filed within the legal time limit. He further argues that the decision of the Appeals Committee, which held otherwise, was issued in violation of his right to an effective remedy under Article 13 ECHR and Article 47 of the Charter of Fundamental Rights, with the result that he was deprived of a substantive second-level examination of his application. In addition, he claims that he has been residing since 17.02.2023 until today at the Refugee Reception Facility (...), and thus, the specific service procedure provided for residents in such facilities under Article 87(4) of Law 4939/2022 was unlawfully not followed in this case. Finally, he adds that although he submitted a request under Article 76(3) of Law 4939/2022 for the provision of legal aid within the thirty-day time limit set by Article 97(1) of Law 4939/2022, namely on 27.09.2023, the Asylum Service's decision appointing a lawyer was issued late, without fault on his part, three (3) days after the expiration of the aforementioned deadline (on 05.10.2023), resulting in the appeal being ultimately submitted on 17.10.2023 and rejected by the Appeals Committee as inadmissible. (...)

7. (...), in the present case, the applicant, at the time of examination of the present request for international protection, as well as at the time of issuance and service of the first-instance decision rejecting his application, was residing at the Controlled Temporary Accommodation Facility for Asylum Seekers (...). In view of this and given that, according to the specific provision of paragraph 4 of Article 87 of Law 4939/2022, in cases where applicants reside in accommodation centers, the service of rejection decisions must follow the specific procedure provided for in that provision, which, as a more specific regulation, prevails over the general provision of paragraph 3 of Article 87 of Law 4939/2022, and further taking into account that, in this case, the above service procedure was not followed, the Court rules that the present application must be accepted, the contested decision annulled, and the case referred back to the Administration for a substantive review by the competent Appeals Committee. (...)

The application for annulment is accepted.

1st application - Eligibility - Application for annulment - Afghanistan - Single man - Persecution due to religion - Persecution due to membership in a particular social group - Ethnic minority - Exclusion from International Protection - Risk of a new persecution in case of return to the country of origin - Annulment of a return decision - Principle of non-refoulement - Application rejected

Administrative Court of First Instance of Thessaloniki

2nd (Three-Member) Chamber /

Annulment Proceedings

Decision No: AΔ91/2025

Publication date: 30.4.2025

Judge Rapporteur: Stylianos I.Papadopoulos

(...)

2. (...), with this application, the applicant seeks the annulment of decision no. IP/87019/31.8.2023 of the 5th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member panel, by which his appeal against decision no. 189198/31.3.2023 of the Thessaloniki Regional Asylum Office was rejected, by which his request for international protection had been rejected.

3. (...), Article 78 of the Treaty on the Functioning of the European Union (...) provides that: “1. The Union shall develop a common policy on asylum, subsidiary protection, and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. (...)”

4. (...), based on the aforementioned Article 78 of the TFEU, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 was adopted, “on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted” (EU L337/9). (...) The above Directive was transposed once again into the national legal order through Law 4939/2022 “Ratification of the Code of Legislation on the reception, international protection of third-country nationals and stateless persons, and temporary protection in the event of a mass influx of displaced foreigners” (Government Gazette A’ 111), which provides in Article 1 that “(...) 3. The assessment of the application for international protection shall be conducted on an individual basis and shall include consideration of: a) relevant elements relating to the country of origin at the time of the decision, including the legislation of that country and the manner in which it is applied; b) the relevant statements and documents submitted by the applicant, including any information provided regarding whether he or she has been or may be subject to persecution or serious harm; c) the individual situation and personal circumstances of the applicant, such as personal background, gender, and age, so as to determine whether, based on the applicant’s personal circumstances, the acts to which he or she has been or could be exposed would amount to persecution or serious harm; d) the possibility that the applicant’s activities since leaving the country of origin were undertaken solely or primarily for the purpose of creating the necessary conditions for submitting an application for international protection, in order to assess whether, as a result of those activities, the applicant would be exposed to persecution or serious harm upon return to that country, (...) (...) Article 11 [provides] that: “(...) 2. A third-country national or stateless person is excluded from refugee status when there are serious reasons for considering that: a) he or she has committed ... a war crime or a crime against humanity, as defined in the relevant international conventions drawn up to establish provisions relating to such crimes; b) ... 3. Paragraph 2 also applies to individuals who are instigators or otherwise participate in the commission of the crimes or acts referred to in that paragraph. In all cases, the gravity of the participation is assessed”, in Article 14, it is provided that: “Serious harm consists of: a) the death penalty or execution; or b) torture or inhuman or degrading treatment or punishment of the applicant in the country of origin; or c) serious and individual threat to the life or physical integrity of a civilian due to indiscriminate violence in situations of international or internal armed conflict.” In Article 16, it is stated that: “1. A third-country national or stateless person is not eligible for subsidiary protection when there are serious reasons for considering that: a) he or she has committed ... a war crime or a crime against humanity, as defined in the relevant international conventions drawn up to establish provisions relating to such crimes; b) ... 2. The provisions of paragraph 1 also apply to persons who are instigators or otherwise participate in the commission of the crimes or acts referred to in that paragraph. In all cases, the gravity of the participation is assessed (...)” and in Article 20(1), it is stated that: “The competent authorities shall respect the principle of non-refoulement, in accordance with the international obligations of the country.”

5. (...), in Article 4 of the Additional Protocol to the Geneva Conventions of 12 August 1949 relating to the protection of victims of non-international armed conflicts, which was ratified by Article 1 of Law 2105/1992 (Government Gazette A' 196), it is provided that: "(...) 3. Children shall be provided with the care and aid they require, in particular: (...) (c) children who have not attained the age of fifteen shall neither be recruited into the armed forces or groups, nor be allowed to take part in hostilities. (...)". Furthermore, in the Convention on the Rights of the Child, ratified by Law 2101/1992 (Government Gazette A' 192), Article 38 states: "(...) 2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities. 3. States Parties shall refrain from recruiting any person under the age of fifteen into their armed forces. In recruiting among those who are over fifteen but under eighteen years old, States Parties shall endeavour to give priority to those who are older. (...)", additionally, in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified by Article One of Law 3080/2002 (Government Gazette A' 312), it is provided: Article 1: "States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities." and in Article 2 that: "States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces."

6. (...), in the Statute of the International Criminal Court (Rome Statute), which was ratified by the first Article of Law 3003/2002 (Government Gazette A' 75), it is provided in Article 1 that: "An International Criminal Court ('the Court') is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of concern to the international community as a whole, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. (...)". In Article 5, it is stated that: "The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. In accordance with this Statute, the Court shall have jurisdiction with respect to the following crimes: (a) The crime of genocide; (b) Crimes against humanity; (c) War crimes; (d) The crime of aggression," in Article 8, it is provided that: "1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes. 2. For the purpose of this Statute, 'war crimes' means: (...), (b) Other serious violations of the laws and customs applicable in international armed conflicts, within the established framework of international law, namely any of the following acts: (i) ... (xxvi) Conscripting or enlisting children under the age of fifteen into the national armed forces or using them to participate actively in hostilities. (...) (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely any of the following acts: (i) ... (vii) Conscripting or enlisting children under the age of fifteen into national armed forces or groups, or using them to participate actively in hostilities. (viii) ... (f) Paragraph 2(e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions such as riots, isolated and sporadic acts of violence, or other acts of a similar nature. It applies to armed conflicts occurring within the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups, or between such groups.(...)", in Article 25, it is provided that: "1. The Court shall have jurisdiction over natural persons pursuant to this Statute. 2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute. 3. Under this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: (a) commits such a crime, whether individually, jointly with another, or through another person, regardless of whether that other person is criminally responsible (...)", in Article 30, it is provided that: "1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge (...), in Article 31 that: "1. In addition to other grounds for excluding criminal responsibility contained in this Statute, a person shall not be criminally responsible if, at the time of that person's conduct: (...) (d) the conduct which is alleged to constitute a crime within the jurisdiction of the Court was caused by duress resulting from a threat of imminent death or of continuing or imminent serious bodily harm against that person or another person, and the person acts necessarily and reasonably to avoid this threat, provided that the person does not intend to cause a greater harm than the one sought to be avoided. Such a threat may: (i) originate from other persons; or (ii) arise from circumstances beyond the person's control (...)", and in Article 33, that: "1. The fact that a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or of a superior, whether military or civilian, shall not relieve that person of criminal responsibility, unless: (a) the person was under a legal obligation to obey orders of the Government or the superior in question; (b) the person did not know that the order was unlawful; and (c) the order was not manifestly unlawful. (...)".

7. (...) in the present case, the following facts emerge from the administrative file: the applicant, born on 22 October 1996, a national of Afghanistan, submitted an application for international protection on 21 January 2020 at the Lesbos Regional Asylum Office, claiming that he faces the risk of being imprisoned for over 16 years in his country of origin, as he was sent by the Iranian authorities, in which country he was born and had lived his entire life, to fight in Syria. The Afghan authorities are searching for him because they believe he went to fight voluntarily, since there are relevant photos posted on social media. (...) During his stay in Qom, Iran, he possessed residence documents, specifically a residence card (Amayesh card), as a dependent of his father, who had the right to use the card. (...) Furthermore, he stated that he does not wish to return to his country for three reasons: a) because he has never personally lived in Afghanistan, b) because

he is a Shia Hazara, and c) because his life is at risk due to the prevailing security situation in that country. Regarding the difficulties he would face today in the event of his return to Afghanistan, he stated, among other things, that all Shia Hazaras are currently at risk in Afghanistan due to the security situation and the threat posed by the Taliban. He fears that he would be beheaded because of his religion. Furthermore, he stated that his life is in danger in Afghanistan because he fought, from 2015 to 2018, with the Fatemiyoun Brigade in Syria (...). (...) Specifically, he testified that after a declaration was issued by the Iranian state in 2015, he and his family were visited at their home by two men in civilian clothing, who informed his father that in order for the family to obtain legal documents again, such as a passport and residence permit, and to be allowed to stay in Iran, one of them would have to go fight in Syria. (...) At that time, the applicant, in agreement with his family and his father, decided that, as the eldest son, he should participate in the war in Syria, believing that this way his family would “repay the debt for the documents the Iranian state had given them.” The applicant also stated that on the day of the visit, the men said that, in addition to documents, anyone who enlisted to fight in Syria would also receive a salary. (...) Regarding his activities on the frontline, the applicant stated that his tasks were not particularly noteworthy, that no specific operation was in progress, and that no significant battle took place during that time (...). Regarding his activities, he testified that, as an ordinary soldier, he had no autonomy and followed orders from Iranian officers, specifically colonels, (...). The applicant held the position of a regular soldier and received orders from Afghan “commanders,” except during the period from 2017 to 2019, the last two years of his stay in Syria, when he was promoted to a rank, specifically that of sergeant (...). In particular, regarding the child soldiers aged 13 and above who were part of his unit, he stated that he did not choose the individuals in his unit, nor did he have the right or permission to express any positive or negative opinion about this practice. In any case, however, the minors were under his command, and he was responsible for training them, transporting them, and leading them in the battles in which they participated. Furthermore, he testified that although he felt bad for those children, because he understood they had come to Syria in order to obtain documents, he was under the command of the battalion leader. Since the order was for the minors to participate in battle like the other soldiers, there was no distinction between adults and minors, and he could not avoid using them in combat, because he risked being punished by being removed from his position as sergeant, which would result in losing his salary. When asked by the case worker whether he considered it illegal for children to participate in war, he responded that yes, it is illegal, and that in his opinion, children should not take part in wars; they should study and have a good future, but he could not do anything about it, and it was genuinely difficult for him. (...) He then stated that the last time he returned from Syria, specifically from Aleppo, was at the end of 2019, when he was granted a 15-day leave. He had saved up money and decided to leave for Türkiye for safety, because he was exhausted. In particular, during the first month of his stay in Iran, he received a phone call from an office in Mashhad, called Diraksani, which was the office that had issued him a passport and residence permit in Iran, due to his agreement to fight in Syria. In that phone call, the authorities told the applicant that his permit had expired and that he had to return to Syria, and that if he did not comply, they would cancel his documents and return him to Afghanistan. As a result, he left behind his passport and residence permit in Iran and departed the country. The applicant’s request for international protection status was rejected as unfounded by Decision No. 189198/31.3.2023 of the Thessaloniki Regional Asylum Office, on the grounds that there were reasons for his exclusion both from refugee status, pursuant to Article 11(2)(a) of Law 4939/2022, and from subsidiary protection status, due to his commission of the war crime of using children under the age of fifteen in hostilities. Furthermore, the same decision imposed a return measure against him. The applicant lodged an appeal against that decision on 18.5.2023, which was rejected (...). Specifically, in its latter decision, the Committee accepted as credible the applicant’s claims regarding: a) his identity and personal details, b) his religion and racial/ethnic group, that he is a Hazara Shia Muslim, c) his place of birth and former residence, namely Qom, Iran, d) the legal status under which he lived in Iran and his general living conditions there as a holder of an Amayesh card, e) the departure of his parents from Afghanistan 40 years ago for economic reasons and due to instability, f) his recruitment at a young age into the armed group Fatemiyoun by the Iranian state and his duties as a soldier and later sergeant during the war in Syria from 2015 to 2019, and g) the public dissemination of the photographs. The Committee then took into account that there is a valid and justified reason for persecution by the Taliban regime in Afghanistan, and specifically that there is a reasonable likelihood that, if returned to his country of origin, he would face a risk to his life and physical integrity due to his ethnic background, religion, and membership in a particular social group, as he was born and lived much of his life outside Afghanistan. In light of all this, and considering that, in the Committee’s judgment, relocation to another area of Afghanistan is not feasible due to the general instability and security situation in the country and the applicant’s personal circumstances, namely, his long-term absence and lack of a support network, the Committee ruled that he is, in principle, entitled to be recognized as a refugee, as the requirements of Article 1A of the Geneva Convention are met in his case. (...) Subsequently, the Committee examined the possibility of excluding the applicant from refugee status, in accordance with Article 1F of the Geneva Convention and Article 11 of Law 4939/2022, specifically whether he had committed the war crime of using children under the age of fifteen as soldiers in military operations. To that end, the Committee, having taken into account that the armed conflicts occurring during the relevant period in Aleppo, Syria, where the applicant and his unit were exclusively active, were of a non-international character, and that the applicant, during his interviews, stated that from 2017 to 2019, while he served as a sergeant in a Fatemiyoun unit, there were one, two, or three minors under the age of fifteen under his command, concluded that the applicant had committed, as a direct perpetrator, the act defined in Article 8(2)(e)(vii) of the Rome Statute, which constitutes a war crime. The Committee then determined that the applicant bore individual responsibility for the above war crime, which he committed as a direct perpetrator. This was because:

a) he was aware of the age of the children serving as soldiers in his unit and fully accepted their use in hostilities, since he actively employed them by giving them orders and treating them, as he himself stated during his interviews, in the same way as all other soldiers; and at the same time, he also directly accepted the possibility that they might be harmed during combat. Although, as he said, he understood and “felt saddened” that these children had joined the war in order to obtain documents, he still made use of them during combat while holding, as he also stated, the rank of sergeant, b) he cannot claim that he was unaware of the prohibition on the use of children in hostilities, since the Rome Statute has been in force since 2002, and both Afghanistan and Iran have ratified the Convention on the Rights of the Child since 1994, c) even though, based on his statements, he appears not to have reflected on the criminal severity of his actions, he is nonetheless capable of recognizing the tragic fate of these children, as well as the fact that their place is in school and not in war. Therefore, in the Committee’s judgment, it cannot be accepted that he acted under an excusable legal misunderstanding, and d) even taking into account all of the applicant’s personal circumstances, his vulnerability due to his precarious legal status in Iran, his young age, his educational level, and the fact that he himself was recruited through exploitation of his vulnerable position, thus having been a victim of the same policy before becoming a perpetrator, there are no indications suggesting that the use of children in war is a feature of his specific cultural background or that, within his community, this act is not considered criminally reprehensible, at least with regard to children under the age of fifteen. (...) Subsequently, the Committee examined whether there were grounds for exempting the applicant from individual responsibility for the aforementioned war crime, in accordance with Articles 31(d) and 33 of the Rome Statute. Specifically, regarding the applicant’s claim that he was following orders from his superiors, the Committee, in assessing the subjective elements of the crime, particularly the possible existence of legal error, considered that the prohibition on the use of children in hostilities is universally known (“something everyone knows”) and, therefore, it is presumed that the applicant was aware of it. The fundamental nature of this prohibition also implies that any order to the contrary is manifestly unlawful. Moreover, the Committee did not dispute that, in the context of his duties as a sergeant, the orders given to the applicant, even if they did not explicitly determine how the children should be used (a matter where there may have been some degree of discretion), nevertheless implied that he was expected to use these children in some way. However, in the Committee’s judgment, the applicant was capable of distinguishing right from wrong, knew that the only reason the children were there was to obtain legal documents, believed himself that children do not belong in war but rather in school, felt sorry for those children, and clearly intended to comply with a policy that turned children into soldiers. He himself requested to become a sergeant, traveled to and from Syria more than 10 times, and had the option simply not to return. Furthermore, his life or physical integrity was not directly threatened in the event of refusing the order, so coercion cannot be invoked. The consequence of refusal would have been the loss of his rank or that he would have had to renounce his status as a member of the Fatemiyoun, and thus lose his salary. Therefore, in the Committee’s judgment, there were no grounds to lift his individual responsibility for the crimes committed against the child soldiers in the unit he commanded, and as such, the applicant had to be excluded from refugee status pursuant to Article 11(2) of Law 4939/2022. For this reason, his application was rejected as unfounded in this respect. Furthermore, the Committee, taking into account, in combination with his religion, ethnicity, and other circumstances, the fact that the appellant was a member of an Iranian Shia militia in Syria, in which, as accepted, he participated in the commission of war crimes involving the use of child soldiers in combat, and considering the prevailing social and political conditions in Afghanistan (according to international sources) following the Taliban takeover and the enforcement of Sharia law, concluded that there is a reasonable likelihood that the applicant would face the risk of being sentenced to death and executed in Afghanistan if returned. In light of the above, and given that the risk of persecution arises from the generalized civil conflict and the uncontrolled armed groups operating throughout the territory of the country, without the presence of effective state protection, it cannot be considered that there is a possibility for the applicant to relocate to another area of his country where he would be safe. The Committee therefore concluded that the applicant is, in principle, eligible for subsidiary protection status, however, there exists, in his case, a ground for exclusion under Article 16(1)(a) of Law 4939/2022, namely the commission of the war crime of using children under the age of fifteen in hostilities. Therefore, his application was also rejected in the part concerning the granting of subsidiary protection. Nevertheless, the Committee, having taken into account that, in the event of his return to Afghanistan, the applicant is at risk of being subjected to torture or to inhuman or degrading treatment or punishment, in violation of Article 3 of the European Convention on Human Rights or the corresponding Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (...) ruled that the applicant’s return to Afghanistan would violate the principle of non-refoulement, from which no derogation is permitted. Accordingly, the Committee suspended the removal of the applicant, in accordance with Article 24(1)(a) of Law 3907/2011.

8. (...) with the present application, the applicant (...) argues that the contested decision wrongly held that he committed, as a direct perpetrator, the war crime of using children under the age of fifteen in hostilities. Specifically, he claims that the crime provided for in Article 8(2)(e)(vii) of the Rome Statute is complex and requires both the initial conscription or enlistment of minors and their subsequent use in hostilities by the same individual. In this case, however, he argues that he did not actively participate in the conscription or recruitment of minors, nor did he have the option to refuse their use in hostilities, as he was a low-ranking member of the military and merely followed the orders of his superiors. Therefore, the objective elements of the aforementioned war crime are not fulfilled. Furthermore, the applicant argues that, in any case, he acted under an excusable mistake of law (*ignorantia juris excusabilis*), as he was unaware of the legal

provisions prohibiting the use of children under fifteen in hostilities, even though, as is evident from his interviews, he was emotionally aware of the difficult situation these children were in. The applicant also claims that there were grounds for exemption from individual criminal responsibility under Articles 31(d) and 33 of the Rome Statute. Specifically, he argues that, given his position in Iranian society, his young age, and his educational background, he was under psychological coercion, as leaving the armed forces would have resulted in his family losing their legal documents, and he himself would have faced deportation to Afghanistan, where he would have almost certainly been killed by the Taliban. Moreover, he asserts that his position as sergeant did not allow him to determine whether the minors would be used in hostilities, and therefore, he never had a real choice in the matter.

9. (...) The offense of using children under the age of fifteen in hostilities is not a composite crime, as is erroneously claimed. As is evident from the literal interpretation of Article 8(2)(e)(vii) of the Rome Statute, in which the terms “conscripting” or “using” are employed disjunctively, and also from the teleological interpretation of the provision, whose purpose is to prohibit in every way the participation of children under the age of fifteen in hostilities, the mere use of minors in hostilities is sufficient. It is not required that the same individual also conscript or enlist them. Therefore, the applicant’s argument that he did not actively participate in the conscription or recruitment of the children is irrelevant, since, as he himself stated during his interviews, he used minors under the age of fifteen in hostilities in Syria while serving as a sergeant in a Fatemiyoun unit. Accordingly, the Committee lawfully determined that he committed the aforementioned war crime as a direct perpetrator.

10. (...) furthermore, the Committee held that the applicant was not acting under an excusable mistake of law, since: a) he knew the age of the children who were serving as soldiers in his unit and fully accepted their use in hostilities, b) he cannot claim ignorance of the prohibition on the use of children in hostilities, given that the Rome Statute has been in force since 2002, and both Afghanistan and Iran ratified the Convention on the Rights of the Child in 1994, c) although his statements suggest that he may not have reflected on the criminal nature of his conduct, he was nonetheless capable of recognizing the tragic fate of those children and that their rightful place was in school, not in war, and d) even taking into account all his personal circumstances, his vulnerability due to his precarious legal status in Iran, his young age, his level of education, and the fact that he himself was recruited through exploitation of his vulnerable position, thus having been a victim of the same policy before becoming a perpetrator, there was no indication that the use of children in war is a part of his cultural background, or that within his community such an act lacks criminal condemnation, at least with respect to children under the age of fifteen. (...) The above finding by the Committee is deemed lawful and sufficiently reasoned. (...)

11. (...) Subsequently, the Committee’s conclusion that there were no grounds for exempting the applicant from responsibility under Article 33 of the Rome Statute is also lawfully and adequately reasoned. (...)

The application is rejected.

AΔ213/2025



Subsequent asylum application - Eligibility - Application for annulment - Democratic Republic of Congo - Single man - Mental health issues - Victim of torture - Persecution due to membership in a particular social group - LGBTQIA+ - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ213/2025
Date of publication: 30.06.2025
Judge Rapporteur: Cassiani K. Manolakoglou

(...)

2. (...) with this application, the annulment of Decision No. IP/238127/31.10.2023 of the 13th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum is sought, by which the administrative appeal lodged by the applicant, both individually and on behalf of his minor children, against Decision No. 294887/9.6.2023 of the Thessaloniki Regional Asylum Office was rejected, and ultimately, the request of both the applicant and the minors for international protection was denied. With the same decision of the Committee, the return of all of them to their country of origin was also ordered, and a 25-day deadline was set for their voluntary departure from Greece.

4. (...) In (...) Law 4939/2022, the following are provided: (...) Article 9 states that: “When assessing the reasons for persecution, the competent examining and decision-making authorities shall consider that: (...) d) A group shall be considered a “particular social group” where, among other things: (aa) its members share an innate characteristic ... which cannot be changed, or share a common background or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and (bb) the group has a distinct identity in the relevant country because it is perceived as being different by the surrounding society. Depending on conditions in the country of origin, a particular social group may include a group based on the shared characteristic ... of sexual orientation...” (...).

5. (...), it has been held that although it is up to the applicant themselves to determine their sexual orientation, which constitutes an element within their personal sphere, applications for asylum that are justified on the basis of fear of persecution due to that orientation, just like applications based on other grounds for persecution, may be subject to an assessment procedure such as the one provided for in Article 3 of Law 4939/2022. However, the conditions under which the competent authorities assess the statements, documents, or other evidence submitted in support of such applications must comply with the fundamental rights enshrined in the Charter, including the right to respect for human dignity as set out in Article 1 of the Charter, as well as the right to respect for private and family life as provided in Article 7 of the same Charter. In any case, such assessment must be conducted on an individual basis and must take into account the applicant’s personal situation and circumstances, including factors such as personal background, gender, and age, in order to determine whether, based on those circumstances, the acts to which the applicant has already been or may be exposed amount to persecution or serious harm. The inability of an asylum seeker to answer questions based on stereotypical assumptions about homosexual behaviour, questions which, nonetheless, may serve as a useful tool in evaluating such applications, cannot in itself constitute sufficient grounds for concluding that the applicant is not credible. Moreover, given the sensitive nature of issues related to a person’s private sphere and, in particular, their sexuality, a person’s statement concerning their sexual orientation cannot be deemed unreliable solely on the grounds that, due to their reluctance to reveal personal aspects of their life, they did not disclose their homosexuality from the outset (CJEU judgment of 2 December 2014 in joined cases C-148/13 to C-150/13, A, B and C v. Staatssecretaris van Veiligheid en Justitie). Finally, in assessing an application for refugee status, the competent authorities cannot reasonably expect that, in order to avoid persecution, the asylum seeker should conceal their homosexuality in their country of origin or exercise restraint in expressing their sexual orientation (CJEU judgment of 7 November 2013 in joined cases C-199/12 to C-201/12, X, Y and Z v. Minister voor Immigratie en Asiel).

6. (...), in the present case, the following facts emerge from the administrative file: the applicant, a citizen of the Democratic Republic of the Congo (DRC), born on 7 March 1989, had submitted an initial application for international protection, (...). (...) He also stated that he left his country of origin on 22 May 2017 and entered Greece on 7 March 2019, and that he does not wish to return because he belongs to an anti-government religious group and is being sought by the authorities. (...) As he claimed, he fled his country for political reasons, and specifically because he had joined the opposition group Filimbi, and (...) was tortured and raped by his persecutors. (...) The applicant’s request for international protection, as well as the requests of his minor children, (...) were rejected, (...) and an appeal against that decision was lodged, which was also rejected (...). On 27 January 2023, the applicant submitted a subsequent application for international protection, on behalf of himself and his minor children, (...). According to the registration form, he stated that he left his country because he is Bakongo and bisexual. (...) He further added that he also had problems with the anti-government youth of his country, because he had sexual relations with politicians, and when this was revealed, they wanted to kill him. However, those politicians helped him flee the DRC. Finally, he claimed that he did not mention this particular reason in his initial application out of shame and fear of being humiliated. During his personal interview (...) the applicant (...) stated that he left his country due to the insecurity he felt as a result of his sexual orientation, which was not accepted by his family and religion. (...) Because of their sexual orientation, their family subjected them to conversion rituals and torture. The applicant stated that he was threatened (...) and that he was unwanted by his family (...). When asked, the applicant self-identified as bisexual, but said that he prefers to have sexual relations with men. He said that he had children because he was tortured and began doing things against his will. He described that during adolescence (ages 14–16), he realised that he was sexually attracted to people of the same sex, and that he preferred, and still prefers, men. When asked how he feels about this desire, he replied that for him, it is normal. (...) When asked whether he knows other homosexual or bisexual individuals, or whether in his country there are organizations, dating websites, or meeting places (“hangouts”) for people with a sexual orientation similar to his, the applicant replied that homosexual relationships are kept secret and that such organizations, websites, or hangouts do not exist, because they are prohibited by the state and the Constitution, and are considered against nature. (...)

7. (...) the relevant applications for international protection were rejected as unfounded, on the grounds that the applicant’s claims regarding his sexual orientation were not considered credible. Although international sources confirmed that homosexuality is not criminalized in the DRC, it was noted that LGBTI+ individuals face discrimination, stigma, and abuse, and are prosecuted under public indecency laws when they openly express their sexual preferences. According to that decision, the applicant’s claims lacked plausibility, included logical gaps when examined through probing, critical

questions, and were full of ambiguities, as the applicant failed, in the caseworker's assessment, to clearly articulate or provide details regarding his sexual orientation. His responses consisted mainly of speculations and vague statements. (...) The applicant filed an (...) appeal against the above decision, in which he (...) raised the following arguments: 1. During his interview, he adequately described his daily life and emotions within the context of his homosexual relationships, as well as the "purification" rituals to which he was subjected. (...) 4. That the caseworker's assessment is marked by numerous stereotypical assumptions about what homosexual relationships are or should be like, and how homosexual individuals are expected to feel or behave. (...)

8. (...) In the contested decision, the 13th Independent Appeals Committee, after repeating verbatim the caseworker's findings regarding the logical gaps and contradictions identified in the applicant's account, rejected the appeal and, at the second instance, denied the requests for international protection. Additionally, the Committee noted that the applicant's interview contained gaps and inconsistencies, due to which his claims were not deemed likely to be true, as there was no indication that he made a genuine effort to present a coherent narrative that reflected lived experiences, despite having responded specifically to the caseworker's repeated and detailed questions. As for the arguments submitted in the applicant's written memorandum, the Committee concluded that these merely repeated and elaborated on facts already mentioned during his interviews and did not overturn the caseworker's assessment regarding his credibility. (...)

9. (...), with the present application, the applicant argues that the contested decision, and in particular the assessment regarding the credibility of his key claims, is insufficiently reasoned (...).

10. (...) the above ground is well-founded. Indeed, in this case, the Committee, like the caseworker (...), ruled that the applicant's claim regarding his sexual orientation lacked plausibility, contained logical inconsistencies when examined through probing questions, and was filled with ambiguities, basing its reasoning on the first-instance decision. However, through his appeal and supporting memoranda, the applicant specifically challenged the caseworker's arguments and findings, as reflected in the first-instance reasoning, citing specific excerpts from his testimony, (...) he argued that the conclusion regarding the implausibility of his claims stemmed from stereotypical views about homosexuality, and that the findings of logical gaps and ambiguities were not supported by the case file, particularly by his interview, as recorded in the relevant transcript. Specifically, the applicant referred to concrete parts of his narrative, such as his answers about when and how he met (...), their daily habits, their sexual life, the feelings he had for him, and how they grew apart when they started studying at different universities, in order to dispute the conclusion that he had failed to refer to the emotional aspects of the relationship, or that his narrative lacked a natural progression or development, and he also pointed out that these were experiences from the age of 15, over 20 years ago, which justified any lack of detailed recollection. This argument was not specifically addressed by the Committee. Instead, the Committee noted that the applicant himself admitted that, after 20 years, he could not fully remember or describe his feelings. However, the passage of time is a relevant factor that must be considered in the context of the individualised assessment the Committee is obliged to conduct, in order to justify the inability of an applicant of international protection to recall details or describe past events with precision. Therefore, the Committee did not effectively address the applicant's claim that his difficulty recalling or describing his relationship with (...) was due to memory degradation, and instead unlawfully construed this as an admission of the absence of details in his narrative. Yet, a lack of detail may be indicative of unreliability only when unjustified, not when, as in this case, it is attributed to memory loss, which the Committee was required to rebut in order to justify its conclusion. Moreover, the Committee did not explain why it considered the applicant's statements about his relationship with (...), as presented in his memoranda, to be insufficient or lacking reference to the emotional dimension of the bond, particularly since the applicant explicitly stated that he loved his partner and spoke about his feelings. Furthermore, the Committee held that the applicant unsuccessfully tried to causally link his homosexuality to the magical rituals he underwent. However, this conclusion was not based on specific elements in the case file, considering that: 1. According to international sources, as cited in the contested decision, LGBTI+ individuals in Congo are subjected to conversion rituals; 2. From the content of the applicant's interview, it is clear he claimed that, due to his family's religious beliefs, he was forced to undergo rituals to change his sexual orientation, once they discovered his relationship with a classmate; 3. The contested decision itself notes that when the applicant was asked about the consequences he suffered once his sexual orientation became known, he focused on the conversion rituals he underwent. Additionally, the Committee did not respond to the applicant's crucial claim that the reason he had two relationships with women and had children, and still remains with his second partner, stems from an internal conflict between religious, social, and family pressures and his true desires, and he explained that, having been raised in such an environment, he himself believed that same-sex relationships were a curse and felt compelled to hide his sexual preferences due to discrimination and prejudice. As such, the fact that he has children and relationships with women is not enough to deem him unreliable or implausible, as the Committee concluded. In fact, the applicant claimed he remains with his partner in Greece for the sake of his children, a claim that was not specifically refuted, nor was it explained why it was not considered plausible. The Committee also held that the applicant's statements were vague and general, such that his awareness of his sexual orientation and how it evolved were unclear, despite the fact that, during his interview, he spoke about his first relationship with his classmate, realizing he prefers to be with men, the two parallel same-sex relationships he had during his studies, and the significant relationship with (...), whom he described in detail. All of the above were raised in his appeal, yet the

Committee did not specify where the alleged vagueness, generalities, or contradictions lay. Finally, the applicant, both in his appeal and in the present application, argued that it was expected for him to focus on the conversion rituals, as they were a traumatic experience, that he had explained his relationship with his classmate ended due to studying at different universities, and that his exposure to science and new people led him to question his family's superstitions and views on homosexuality. He also claimed that the Committee failed to consider the psychologist's report from the NGO METAdrasi dated 12.4.2023, as required under Article 3 of Law 4939/2022 concerning individualised assessment. The Committee did not specifically address these claims, which the applicant presented to challenge the caseworker's findings on his credibility. As such, the Committee's conclusion cannot be considered lawful or sufficiently reasoned, as rightly argued by the applicant. Lastly, the Committee on one hand concluded that the applicant had not made a genuine effort to present a coherent and experience-based narrative, but on the other hand accepted that he responded specifically to repeated and thorough questions from the caseworker, findings which are contradictory and undermine the conclusion of unreliability, according to the criteria of Article 3 of Law 4939/2022. Given these facts, the contested decision, which is based on the finding that the applicant's key claims are not credible, is neither lawful nor sufficiently reasoned, as rightly argued, particularly because the objections raised by the applicant against the first-instance decision were not specifically addressed. These objections were substantiated by specific excerpts from his interview, information from international sources, as well as his particular circumstances, which, in his view, did not justify the findings of vagueness, ambiguity, lack of detail, and implausibility.

(...)

The application for annulment is accepted.

AΔ206/2025

1st application - Eligibility - Application for annulment - Iran - Single man - Persecution due to political opinion - (Non) Legitimate justification - Application rejected

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ206/2025
Date of publication: 30.06.2025
Judge Rapporteur: Cassiani K. Manolakoglou
(...)

2. (...) with the present application, the annulment of decision no. IR/163315/11.03.2024 of the 17th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum is sought, by which the appeal no. IR/381787/27.12.2023, lodged by the applicant against the rejection decision no. IR/184348/11.10.2023 of the Thessaloniki Regional Asylum Office (RAO), and ultimately his request for international protection, was rejected. The Committee's decision also ordered the return of the applicant to his country of origin.
(...)

5. (...) the assessment of facts and circumstances, according to Article 4 of Directive 2011/95/EU (Article 3 of Law 4939/2022), takes place in two distinct stages. The first stage concerns the determination of the actual facts that prove the credibility of the application, while the second stage involves the legal evaluation of said evidence in order to decide whether the substantive conditions laid down by the provisions for the granting of international protection are met, in light of the facts of the specific case (judgment of 22 November 2012, M., C-277/11, paragraph 64). The assessment of whether the established circumstances constitute a threat such that the person concerned has a well-founded fear, taking into account their individual situation, of actually being at risk of acts of persecution must, in any event, be made with care and prudence, given that individual freedoms and human integrity are at stake, issues that pertain to the fundamental values of the Union (judgment of 2 March 2010, Salahadin Abdulla et al., C-175/08, C-176/08, C-178/08, and C-179/08, paragraphs 89 and 90). In the case of a claim of persecution on the grounds of political opinion, the competent authorities of the Member States must carry out an exhaustive and thorough examination of all relevant circumstances concerning the applicant's specific individual situation, as well as the broader context of their country of origin, particularly the political, legal, judicial, historical, and socio-cultural aspects, in order to determine whether the applicant has a well-founded fear of being persecuted on account of their political opinions, especially those that might be attributed to them by potential agents of persecution in their country of origin. Furthermore, for the views, ideas, or opinions of an applicant who has not yet attracted the attention of potential agents of persecution in the country of origin to fall within the scope

of “political opinion,” it is sufficient that the applicant claims to hold or expresses such views, ideas, or opinions. However, this does not predetermine the assessment of whether the applicant’s fear of persecution on the basis of those political opinions is well-founded. The intensity of the political opinions invoked by the applicant and their possible activities in disseminating those opinions also constitute critical elements in the individualised assessment of their application. Indeed, such elements are taken into account when evaluating the likelihood that these opinions or activities may have attracted, or could attract, the attention of potential agents of persecution in the applicant’s country of origin, as well as the risk that the applicant may be persecuted upon return to that country. The fact that the applicant, through the political views they have expressed or through potential activities aimed at disseminating those views, either during their stay in the country of origin or after their departure, has already drawn the attention of potential agents of persecution in the country of origin is also a crucial factor in the individualised assessment required under Article 4(3) of Directive 2011/95 (see CJEU, Case C-151/22, *Staatssecretaris van Veiligheid en Justitie*, judgment of 21.9.2023, paras. 37, 45, 46, 47). If, however, the applicant’s fear cannot be based on persecution already suffered, when the competent authorities are called upon to assess whether the applicant has a well-founded fear of being persecuted, they must examine whether the established circumstances constitute such a threat that the individual concerned may reasonably fear, taking into account their personalised situation, that they are indeed at risk of acts of persecution (cf. CJEU, Case C-71/11, *Y and Z*, judgment of 5.9.2012, para. 76).

6. (...), in the present case, the following facts emerge from the administrative file: the applicant, a citizen of Iran of Kurdish ethnic origin, born on 23 September 1986, left his country, according to his own statement, in October 2022, and entered Greece irregularly via the Evros region through Türkiye on 17 March 2023, where he submitted an application for international protection, (...). According to the registration form, the applicant stated that he did not wish to return to Iran, explaining: “I participated in the protest in Iran that took place against the mandatory hijab for girls and women. During the protests, I clashed with the police, and they beat me. I escaped with the help of the people, and now I am wanted by the Ministry of Intelligence, and my life is in danger.” (...) During the interview, he stated that he is of Kurdish origin, (...). He is married and has two children who remain in Iran, along with the rest of his family, including his parents and five siblings. (...) Regarding the reasons why he left his country of origin, the applicant, during his free narrative, recounted the following: “On 30-06-1401 (21-08-2022), I took part in the protests against the mandatory hijab... In one of the demonstrations I participated in, after about two hours, we clashed with the police. (...) they threatened us, saying: ‘We will kill you, go home, we’ll imprison you.’ But we didn’t pay attention to them because we were just there to protest. Gradually, more people started joining the demonstration, and the police presence increased, especially from the Sepah and Ettelaat organisations, which were dressed in plain clothes rather than uniforms. The police, (...) stood in front of the crowd on the front line... and they were shooting and had weapons with rubber bullets... (...) They were hitting everyone. They beat me very badly with a baton... After they beat us, they wanted to arrest us, (...). My phone had fallen where we clashed with the police, (...) I called my wife, she answered the phone crying and was upset, and as she cried... she told me that half an hour earlier, the police had come to our house and had turned the whole place upside down (...)” (...) It was the first time he had participated in a protest, and in the subsequent ones that took place in his city, he did not take part because he was hiding in his father’s field. (...) When the applicant was asked to explain why the police would want to arrest an ordinary citizen who had taken part in a protest for the first time and had no particular role in it, he said: “They know more because they arrest some people and kill them so that others will be afraid.” (...) His application was rejected as unfounded by decision no. IP/184348/11.10.2023 of the Thessaloniki Regional Asylum Office, which found the applicant’s claim regarding his participation in an anti-government protest to be credible, but not his claim that he had been identified by the authorities and was being sought because of this participation. This was because his descriptions on that specific point of his account were considered incomplete and vague, lacking coherence and consistency. Based on this finding, combined with the fact that it was not established that the applicant had engaged in any anti-government activity beyond merely participating in a single protest in 2022 without any active role, it was concluded that the fear he expressed, that he would be persecuted by the authorities of his country for political reasons, was neither well-founded nor justified.

7. (...), against this decision, the applicant filed an appeal, in which he argued that the caseworker (...) did not take into account his claim that he had previously been arrested and detained for anti-government activity, resulting in a file being kept on him by Ettela’at; that his Kurdish ethnicity is also an aggravating factor contributing to his targeting; that the city of Sardasht has only 45,000 inhabitants, making it easy for the authorities to be informed of his participation in the protest on 21.8.2022; that he recently learned from his wife that Ettela’at agents had come looking for him at his home; and that, in the previous week, four individuals who had participated in the same protest as him had been arrested and executed. Citing the above, the applicant argued that he indeed faces the risk of persecution if returned to his country and that, since the caseworker found his account lacking in the required detail, she was obliged to ask further clarifying questions rather than reject his application on the grounds of the unreliability of his key claims, claims which, in any case, do not contradict the information obtained from international sources regarding his country of origin, but rather are confirmed by them. This appeal was rejected as unfounded by the now challenged (...) decision of the 17th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum. The Committee, following research from international sources with publication dates ranging from 14.9.2022 to 16.3.2023, [...] found the following: a) that the

death of Mahsa Amini, a 20-year-old Kurdish woman who died three days after being arrested and allegedly beaten by the morality police in Tehran, sparked a wave of protests in Iran; b) that by the end of the year (2022), security forces had killed more than 500 people and arrested over 19,000 protesters, with some of those arrested facing the death penalty; c) that a report by Amnesty International mentioned 22,000 detainees who were subjected to torture, beatings, flogging, electric shocks, rape, and sexual violence by security forces; d) that the same report also stated that plainclothes agents kidnapped individuals from the streets during or after protests and took them to locations such as warehouses, where they tortured them before abandoning them in remote areas and e) that on 8.12.2022 and 12.12.2022, two young individuals were executed, executions that were believed to be connected to anti-government protests. In assessing the internal credibility of the applicant's claims, the Committee accepted those relating to (...) his claim that he participated in the protest that took place in his country in August 2022, (...). However, the applicant's claim that, due to his participation in the August protest, he was targeted and is being sought by the authorities of his country, specifically by the ETTELA'AT and that if he returns to Iran he will be arrested and his life will be in danger, was not accepted as credible. Nor was his claim that he had previously been arrested and detained by the same agency. Specifically, during the assessment of the internal credibility of these claims, the Committee noted that: a) the applicant, although asked repeatedly, was unable to explain why the authorities would be searching for him, given that the protest in question involved large crowds of people, men and women of all ages. He himself, as he explicitly stated, was participating in a protest for the first time, had learned about it through social media, had no specific role in the demonstration, merely shouted slogans, and did not take part in any clashes with the police that followed, nor did he throw stones or tear gas at them, b) his family continues to reside in Iran, without him mentioning any problems they may be facing. (...) c) the applicant referred to the reason he was allegedly detained in a vague and contradictory manner, (...), d) the applicant's alleged arrest occurred many years ago (12), and he did not mention any problems he faced because of it until 2022, when he left the country. Consequently, it was determined that the conditions for recognition of refugee status were not met, as it was not established that the applicant has an objectively well-founded fear of being persecuted by the authorities of his country in the event of return to his country of origin. Additionally, it was concluded that: a) there are no grounds indicating that the applicant would face the risk of the death penalty or execution upon his return to Iran, b) the applicant is a 36-year-old, healthy man who has completed his school education and lived and worked his entire life in Iran, in an area where the dominant ethnic group is Kurdish and where his wife and minor children still reside, and c) although the current security situation in Iran is tense following the death of the young woman, it cannot be classified as a situation of indiscriminate violence due to armed conflict such that his life or physical integrity would be threatened as a civilian. Therefore, the conditions for granting the applicant subsidiary protection are also not met.

8. (...), with the present application, the applicant argues that the Committee's conclusion, (...) is not legally justified, because: 1. it contradicts the information gathered by the Administration from international sources and cited in the contested decision, according to which the protests triggered by the killing of Masha Amini were followed by thousands of arrests of ordinary protesters, torture, and executions by the Iranian regime as a means of intimidation; 2. the applicant's claim was accepted as credible that he was beaten during the protest, that he lost his phone at the location where he was nearly arrested, that the authorities obtained his personal information through the phone, and that the police later searched both his home and his father's home to arrest him; 3. it is evident from the information gathered by the Committee that, in his country, even ordinary protesters are considered by the regime to be dangerous dissidents. In support of these claims, the applicant cites more recent information from international sources [...], indicating that one year after the protests, there was a dramatic increase in executions.

9. (...), the above ground, as presented, is unfounded. This is because, regardless of whether the information cited in the contested decision indeed shows that in Iran there were arrests and torture of ordinary protesters and executions of detainees based on false or pretextual charges, without adherence to the minimum guarantees of a fair trial, in this case, despite the applicant's contrary claims, the Committee did accept as credible his assertion that he participated in a demonstration in August 2022, but not the crucial claim that, due to his participation, he was targeted and is being sought by the authorities of his country. (...). What is crucial in the context of the present assessment is not whether the Committee unjustifiably rejected the information suggesting that mere participation in a demonstration was sufficient to prompt prosecution, as the applicant claims, but whether he was actually noticed and identified by the authorities because of his participation, an allegation that was not accepted as credible, with specific justification, which the applicant has not rebutted (...).

(...)

The application is dismissed.

1st application - Eligibility - Application for annulment - Mali - Single man - Serious illness - Absence of health care system in the country of origin - Persecution due to membership to a particular social group - Violation of a substantive legal provision - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Athens
21st (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ677 /2025
Date of publication: 12.06.2025
Judge Rapporteur: Kalliopi Th. Maragou
(...)

1. (...), with the present application, (...) the applicant requests the annulment of decision no. 243100/4.5.2022 of the 19th Independent Appeals Committee of the Appeals Authority, which rejected his appeal of 3.3.2022 against decision no. 65856/4.2.2022 of the Asylum Unit of Nikaia. With the latter decision, his initial application of 13.11.2018 for international protection had been rejected at first instance.
(...)

7. (...), from the contents of the case file, the following emerges: the applicant, a citizen of Mali, according to his own statement, submitted on 13.11.2018 an application for international protection before the Regional Asylum Office (RAO) of Samos. (...) Subsequently, the above application was referred to the regular procedure, as it was determined that the applicant belonged to a vulnerable group, specifically as an unaccompanied minor. (...) In particular, he stated that (...) he is Muslim by religion and of Soninke ethnic origin. Regarding his health condition, he declared that he passes blood in his urine and suffers from headaches. As for his family situation, he stated that he is unmarried, has two siblings, (...) while both of his parents have passed away: his father in 2007 and his mother in 2013. (...) Furthermore, he stated that he left his country in 2018, while still a minor, (...). Regarding the reasons for which he left his country of origin, the applicant stated that he fled because he was born out of wedlock and not in a hospital, and as a result, he does not possess a birth certificate and cannot obtain any other identification documents. (...) He further stated that, in contrast, his siblings, who were born after their parents' marriage, are able to obtain documents, (...) he, as someone born out of wedlock, has no right to work and no access to hospitals in Mali. (...) The applicant described his relationship with his uncle, stating that he was never accepted by him because he was born out of wedlock; that his uncle forced him to attend a religious school and systematically subjected him to physical and psychological violence (...). (...) after the death of his mother in 2013, he and his two siblings lived in his uncle's house, who also took all of his father's money, (...). By decision no. 65856/4.2.2022 of the Asylum Unit of Nikaia, the applicant's above-mentioned application was rejected as unfounded, on the grounds that he does not meet the criteria to be recognised as a refugee or as a beneficiary of subsidiary protection. Against the above decision, the applicant filed an appeal, which was rejected as unfounded by the contested decision, and he was ordered to return to his country of origin. Specifically, the Appeals Committee did not accept his argument that, as a child born out of wedlock, he has no right to obtain identification documents in his country. To refute this claim, the Committee cited relevant provisions of Mali's Nationality Code (1962, as amended in 1995), which allow acquisition of nationality, among other cases, when an illegitimate child is born to parents of whom at least one is a Malian national with a proven link to the country (article 8, paragraph 3 of the Code). The Committee also referenced international sources stating that "a birth certificate is issued only for Malian nationals born in maternity clinics or for those whose birth is declared within thirty days," and noted information from the Embassy of Mali indicating that an alternative birth certificate ("jugement supplétif") can be obtained in such situations (...). According to the same sources, the alternative birth certificate is issued in all cases where a child's birth is not declared within the thirty-day deadline. Furthermore, children born out of wedlock can be legitimised at a later stage through the marriage of their parents. Based on this information, the Committee held that obtaining a birth certificate, when the newborn's registration does not occur on time, within the prescribed thirty-day period, but at a later point, may indeed involve a complex administrative process for the individual seeking the document. However, under no circumstances does the loss of this document equate to the revocation of Malian nationality or to the loss of the right to obtain identification documents upon reaching adulthood. (...) The Committee accepted the applicant's claim regarding the physical abuse he suffered from his uncle. However, it did not accept his claim that he had been accused of theft, reasoning that he was unable to provide sufficient information or describe the incident in detail. Lastly, concerning the applicant's claim that, if returned to Mali, he would be unable to access the medical care required for his health condition, resulting in its deterioration, the Committee, after presenting information from international sources about diseases and the healthcare system in Mali (which offers only limited access to basic healthcare, thereby putting citizens at risk), and after taking into account the applicant's own health issues (infection

associated with schistosomiasis), his hospitalization, and the surgery he underwent, as evidenced in the submitted medical reports, accepted his claim regarding the shortcomings of the healthcare system in Mali. Subsequently, in light of the above assessment of the applicant's claims, the Committee examined whether he qualifies for the special protective status of a refugee under Article 1A(2) of the 1951 Geneva Convention, as in force. (...) Furthermore, regarding the applicant's claim that, if returned to his country, he would not have access to adequate medical care, the Committee ruled that this does not, in this case, constitute grounds for recognition as a refugee. This is because, on the one hand, efforts are currently being made to build a healthcare system in Mali that protects the rights of its residents; and on the other hand, any difficulties the applicant may face in his country of origin are linked to systemic weaknesses in the healthcare system and not to any deliberate refusal by the authorities to provide him with medical care. To support this conclusion, the Committee referred to relevant international sources. In light of the above, it was determined that the applicant is not at risk of being discriminated against in terms of access to healthcare in Mali. Moreover, his health problems have now stabilized following the surgery he underwent in Greece and the medical instructions and successful treatment he continues to follow. Given all the foregoing, the contested decision found that the applicant does not face a well-founded and justified fear of persecution in his country of origin for any of the reasons listed in the Geneva Convention (race, religion, nationality, political opinion, or membership of a particular social group), and therefore the examination of the remaining criteria for refugee recognition was deemed unnecessary. (...)

8. (...) with the present application, the applicant seeks the annulment of the contested decision, claiming primarily that it was issued in violation of a substantive legal provision, or alternatively, in the absence of specific and well-reasoned justification regarding his eligibility for refugee status under Article 1A(2) of the 1951 Geneva Convention Relating to the Status of Refugees, ratified by Legislative Decree 3989/1959, as in force, as well as under the provisions of Article 3 of Law 4939/2022. He argues that persecution is established through cumulative human rights violations related to the inability to enjoy his rights in his previous country of residence due to the statelessness status in which he finds himself. This ground for annulment is rejected as unfounded. And this is because, in the contested decision, the applicant's claim that, as a child born out of wedlock, he is unable to obtain a birth certificate, and, as a result, has no right to identification documents, medical care, or employment, was not accepted. The reason given was that the fear of persecution he invoked is neither real nor well-founded, as it is not based on objective facts, but rather on his own subjective perception. Specifically, the Committee, having taken into account that according to Mali's Nationality Code, nationality may be granted, among other cases, to a child born out of wedlock to parents of whom one is a Malian national with a proven connection to the country (Article 8, point 3 of the said Code), and further, based on international sources, that an alternative birth certificate may be issued in all cases where a child's birth is not declared within the thirty-day deadline set by the Code, concluded that although obtaining a birth certificate when the registration of the newborn does not occur on time but at a later stage may involve a complex administrative process, the lack of this document cannot, under any circumstances, be equated with the revocation of Malian nationality or the loss of the right to obtain identification documents upon reaching adulthood.(...) Given the above content, the contested decision is legally and sufficiently reasoned, since the applicant is now an adult and, therefore, is able to take the necessary steps to obtain identification documents in his country of origin. (...)

9. (...), the applicant argues that the contested decision was issued in violation of a substantive legal provision, or alternatively, lacks specific and well-reasoned justification regarding his eligibility for subsidiary protection under Article 14(b) of Law 4939/2022, in conjunction with a violation of Article 3 of the European Convention on Human Rights (ECHR), concerning inhuman or degrading treatment. Specifically, in the present application, reference is first made to information from international sources indicating that Mali is one of the poorest countries in the world, plagued by epidemics and a food crisis, lacking access to basic necessities (such as drinking water), and possessing a severely underdeveloped healthcare system, both in terms of quality and quantity. In light of the above, the applicant argues that the contested decision is inadequately reasoned and therefore subject to annulment, with regard to the claim he raised in his administrative appeal that, if returned to Mali, he would not be able to receive the medical care required for his health condition, which would consequently deteriorate. He contends that the contested decision, in the relevant section, does not cite international sources, and furthermore, in another part of the same decision, it is acknowledged that in 2018, the year the applicant left his country, the healthcare sector was in a state of collapse. However, there is no mention of any actual improvement since then; on the contrary, the decision refers only to a theoretical approach by Mali's institutions toward improving the healthcare system.

10. (...), in the contested decision, it was concluded that the legal requirements for granting the applicant subsidiary protection were not met, on the grounds that he does not face a risk of being subjected to inhuman or degrading treatment upon return to his country of origin, in light of his claim that he would be unable to access the medical care required for his health condition, resulting in its deterioration. Specifically, the Committee, having taken into account all of the applicant's claims, international reports concerning his country of origin, his personal characteristics, and the particular circumstances of the present case, determined that there is no indication that the applicant would be at risk, upon return to his country, of treatment contrary to the provisions of Article 3 of the European Convention on Human Rights (ECHR). Furthermore, in assessing the same claim regarding the applicant's eligibility for refugee status, the

Committee accepted that the applicant's health problems have already stabilised following the surgery he underwent and the medical instructions and successful treatment he continues to follow. However, as previously mentioned, during the initial evaluation of this specific claim, the Committee accepted his argument concerning the deficiencies of the healthcare system in Mali. To this end, it cited information from international sources regarding diseases and the healthcare system in Mali, indicating that the system provides only limited access to basic health care for citizens, thereby placing them at risk. In addition, the Committee took into account the applicant's own health issues (infection associated with schistosomiasis), his hospitalisation, and the surgery he underwent, as reflected in the submitted medical reports. In light of the above, the contested decision contains contradictory, or, alternatively, insufficient, reasoning, given that while the Committee initially accepts that the healthcare system in Mali is ineffective and places citizens' health at risk, it nonetheless overlooks the fact that the applicant, even after the surgical treatment of his condition, continues to require medical instructions and treatment, upon which the effective management of his health depends. Moreover, when assessing the applicant's eligibility for subsidiary protection, the Committee does not refer to specific international sources to substantiate its conclusion, while the general references cited in the contested decision, which indicate some progress in the provision of basic healthcare in Mali in recent years, concern other segments of the population, namely pregnant women and young children, rather than the applicant's category. In any case, the contested decision fails to provide a sufficient explanation for why the applicant is not at risk of inhuman or degrading treatment upon return to Mali, given the serious state of his health and the significant inadequacy of the country's basic healthcare system. Consequently, this ground for annulment is accepted as well-founded, and the contested decision is deemed insufficiently reasoned and therefore subject to annulment with respect to this aspect. The examination of the remaining grounds for annulment is thus rendered unnecessary.

11. (...), consequently, the present application must be partially upheld, the contested decision annulled in the above-mentioned part, and the case referred back to the Administration for a new lawful assessment, in accordance with the reasoning set out in the preceding paragraph. (...)

(...)

The application for annulment is partially accepted.

AΔ267/2025  

1st application - Eligibility - Application for annulment - Democratic Republic of Congo - Single woman - Gender-based violence - Victim of trafficking - Serious illness - Mental health issues - The State could provide protection - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber /
Annulment Proceedings
Decision No: AΔ267/2025
Publication date: 12.09.2025
Judge Rapporteur: Stylianos I.Papadopoulos

2. (...), with this application the applicant, a national of the Democratic Republic of the Congo, seeks the annulment of Decision No. 291412/15.5.2024 of the 14th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member composition, by which her administrative appeal against Decision No. 39584/18.1.2024 of the Thessaloniki Regional Asylum Office was rejected and, ultimately, her application for international protection was dismissed as unfounded. Furthermore, by the same decision, a return measure was imposed against her, requiring her to depart the country voluntarily within twenty-five (25) days. (...)

7. (...), in the present case, the following emerges from the information in the administrative file: The applicant, a national of the Democratic Republic of Congo, (...) submitted an application for international protection. When registering her application, she stated that she did not wish to return to her country of origin because she did not feel safe there. (...) Regarding her schooling, she stated that she only attended school for five years, leaving in the fifth grade of elementary school because her family had no money and her stepfather did not love her at all, but wanted to use her as a sexual object and rape her. At the age of 15, she was raped by two boys of the same age and became pregnant. This rape prompted her stepfather to start raping her systematically, while she tried many times to talk to her mother about this

abusive behaviour, but to no avail, as her mother did not believe her and beat her, believing that she wanted to destroy her marriage. (...) She then stated that in 2013, she became pregnant as a result of the rapes she suffered at the hands of her stepfather. When she told her mother about the paternity of her child, her mother and stepfather beat her severely and burned her leg with a hot piece of wood, threatening her not to reveal the paternity of the child to anyone. They constantly threatened her that if she revealed the father of her child, they would kill her. As a result of the above, she became the laughing stock of the village, as she had given birth to a child of unknown paternity. Unable to bear the abuse, she abandoned her child and her home and lived on the streets, selling vegetables until her father's brother took her in and brought her to his home in Kinshasa, leaving her minor child with her mother, as she could not take it with her. She remained there for about five months, but was unwelcome by her uncle's wife, who considered her a witch, and her uncle's son. Her uncle's wife abused her, and when her uncle was not at home, he did not give her any food. At one point, her uncle received threatening phone calls from her stepfather to kick her out of her home. These phone calls resulted in her uncle's wife and son beating her severely, as they considered her to be at fault. After informing her uncle that she could no longer endure the abuse, he arranged for her to leave the Democratic Republic of Congo, handing her over to a man who, after crossing a large river, raped her in a hotel in Brazzaville. The applicant then stated that she flew to Türkiye, where she remained for four months, two of which she spent in prison, and was then gang-raped by four men in an apartment. She then entered Greece by sea via the port of Samos. By Decision No. 39584/18.1.2024 of the Thessaloniki Regional Asylum Office, the applicant's application for international protection was rejected as unfounded. Against that decision she lodged an administrative appeal, alleging, inter alia, that it was unlawful not to recognise that she belongs to a vulnerable group as a victim of rape and other serious forms of psychological and sexual violence; that her claims regarding women's lack of access to the police and judicial authorities in her country of origin were not duly examined; and that, in any event, her personal circumstances were not taken into account in assessing her actual ability to seek protection from the state authorities of the Democratic Republic of the Congo, in particular the prospects of a successful complaint, her stepfather's professional status as a member of the military, in view of corruption and the general climate of impunity for military and police officers in the Democratic Republic of the Congo, as well as the fact that she lived in a small village, where the risk of disclosure of the incident within the community and her family is increased, while, correspondingly, the degree of impartial investigation of the complaint under conditions of confidentiality and respect for the victim's privacy by the local authorities is reduced. That administrative appeal was rejected as unfounded by the contested Decision No. 291412/15.5.2024 of the 14th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member composition, by which, additionally, a return measure was imposed on the applicant, providing for voluntary departure from the country within a period of twenty-five (25) days. In particular, after taking into account that the applicant's statements regarding her personal details did not present logical inconsistencies and were sufficiently detailed, the Committee found them to be credible. (...) Subsequently, the Committee took into account the following: 1. That the applicant's personal history did not demonstrate an inability of the state of the Democratic Republic of the Congo to provide her with effective protection and, in combination with the elements of her profile (race, religion, etc.), no reason emerged for which the authorities would be unwilling or unable to protect her. 2. That the applicant never approached the authorities to report the abusive behaviour of her stepfather. 3. That, since leaving her place of residence, she never again encountered her stepfather. 4. That women in the Democratic Republic of the Congo, although they face discrimination in their daily lives, particularly in rural areas, and although the Family Code provides for more restrictive roles, according to which permission from their husbands is required in order to engage in legal transactions, nevertheless the Constitution prohibits discrimination against women, and women are involved in commercial activities, particularly in cities and urban centres. 5. The applicant's individual characteristics, namely that she is a young adult, of Bakongo ethnic origin and of Pentecostal Christian faith. 6. That although she is unmarried and has a minor child, who is currently cared for by her mother, it is not considered particularly likely that she would face any security issues in relation to this, given that she has stated that relatives reside in Kinshasa, in particular her deceased father's brother, who assisted her in the past, and therefore it cannot be argued that no support network exists. 7. That, according to a report prepared by the Swiss government, "single women or single mothers living alone in Kinshasa are not an unusual phenomenon. However, single women have limited access to the labour market, and poverty among these women is more frequent." 8. That the applicant did not present individual aggravating circumstances, nor did she state that she faces specific personal problems on account of her religion, origin, or health. In view of the above, the Committee concluded that there is no reasonable likelihood that the applicant would be subjected to treatment amounting to persecution or serious harm upon her return to her country of origin, due to her personal characteristics and broader profile, and that, in the present case, a well-founded and justified fear of persecution for one of the exhaustively listed grounds of the Geneva Convention is not established. Accordingly, in the Committee's view, the conditions for her recognition as a refugee are not met. Subsequently, after taking into account the current security situation in Kinshasa, the applicant's last place of residence in the Democratic Republic of the Congo, where there is no internal armed conflict and levels of indiscriminate violence are low, as well as the applicant's individual characteristics, namely that she is an able-bodied adult woman who may reasonably be expected to find employment and secure accommodation, the Committee found that the conditions for granting subsidiary protection status are likewise not met.

8. (...), by the application under examination the applicant submits that the contested decision is inadequately reasoned and was issued in breach of the provisions of the Geneva Convention, the United Nations Convention on the Elimination of

All Forms of Discrimination against Women, and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, since, in her case, all the conditions required for the granting of refugee status or subsidiary protection are met. In particular, she argues that the Committee inadequately reasoned its assessment concerning the rejection of her application for international protection, as it failed properly to evaluate the elements of her profile (a single woman, a victim of gender-based and domestic violence since adolescence) and to link them to the country-of-origin information on the Democratic Republic of the Congo relied upon by her. Likewise, she maintains that the Committee disregarded the international sources she cited, which indicate that women who are victims of domestic, gender-based, and sexual violence do not report the abuse to the authorities and that the protection afforded by those authorities is ineffective. Furthermore, she submits that she herself provided reasons for not approaching the police. Specifically, she stated that she did not report the incidents to the authorities because she had received explicit threats, including physical threats, from both her stepfather and her mother that, should she make a report, they would kill her. Moreover, given that it was known within her community that she had given birth to two children as a result of rape, she experienced social stigmatisation, which constituted an additional deterrent factor preventing her from reporting the rapes. She contends that these claims are not addressed at all in the contested decision, although, in her view, they are essential for establishing persecution by a non-State actor, in accordance with Article 5(c) of Law No. 4939/2022. The applicant further argues that the Committee's finding that she has a support network in her country of origin is inadequately reasoned, as no assessment was made of her statements during the interview to the effect that her mother does not constitute a supportive person, given that she threatened her and did not attempt to protect her from her stepfather's violence, nor does her uncle, who was threatened by her stepfather and assisted her in leaving the Democratic Republic of the Congo.

9. (...), by the contested decision the applicant's request for the granting of refugee status was rejected on the ground that no well-founded and justified fear of persecution was established, for two reasons: first, because the applicant never approached the police authorities of her country of origin, the effectiveness of which, also in light of the elements of her profile (race, religion, etc.), revealed no reason why they would be unwilling or unable to protect her; and secondly, because the applicant was found to have a support network in the Democratic Republic of the Congo, namely her uncle, who had assisted her in the past. That assessment of the Committee regarding the effectiveness of the police authorities, however, is not only unsupported by the international information cited by the applicant and set out in the preceding paragraph, but is directly called into question, given that, as emerges from those sources, a large number of cases of domestic and sexual violence are never reported to the authorities due to prevailing social attitudes, as well as the authorities' lack of effectiveness. Furthermore, the Committee did not, in the Court's view, assess the applicant's claims, found to be credible, concerning the threats to her life made by both her stepfather and her mother should she report the rapes to the authorities, nor did it carry out a detailed assessment of the elements of her profile, namely that she is a single woman living in a small village and a victim of sexual and domestic violence since adolescence, in order to conclude that, in the event of her return to her country of origin, she would not be at risk of again becoming a victim of sexual or domestic violence. Moreover, the Committee's finding regarding the existence of a support network in the country of origin is also inadequately reasoned, since it failed to assess the uncle's ability to provide her with any form of assistance, in light of the applicant's assertions concerning the threats received by her uncle from her stepfather, which compelled him to organise her departure from the Democratic Republic of the Congo, as well as the ill-treatment she suffered at the hands of her uncle's wife and cousin while residing in his household. In view of these considerations, the contested decision does not, in the Court's judgment, appear to be lawfully reasoned, as validly argued in the application under examination. For that reason, it must be annulled and the case referred back to the Administration for a new, fully reasoned decision, in order to determine, after taking into account the status of women before the law, women's political rights, their economic and social rights, the cultural and social norms of the country and the consequences of their violation, the prevalence of similar harmful traditional practices, the frequency and types of violence perpetrated against women, the protection afforded to them and the punishment prescribed for perpetrators of violence in the Democratic Republic of the Congo, as well as the risks the applicant may face in the event of her return to her country of origin, whether there exists an objectively justified fear of persecution, in particular on the ground that she belongs to the particular social group of single women who are victims of domestic or sexual violence in the Democratic Republic of the Congo, due to the risk of again becoming a victim of domestic or sexual violence. (...)

The application is accepted.



Subsequent asylum application - Admissibility - Application for annulment - Syria - Family with minor children - Türkiye as a safe third country - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ307/2025
Date of publication: 15.09.2025
Judge Rapporteur: Stergios G. Kofinis
(...)

2. (...), with the present application, which is lawfully brought for hearing following the issuance of the Court's decision AD106/2024 suspending the proceedings and the resolution of the legal issue concerning the constitutionality of assigning to a judicial officer the duties of a single-member administrative body within the Independent Appeals Committees (see the Announcement of the President of the Council of State of 3.12.2024 on the preliminary question that had been raised by decision AD534/2022 of the Thessaloniki Administrative Court of First Instance, and now Council of State, Plenary, decision 1150/2025), the annulment is sought of decision 408629/13.7.2022 of the 3rd Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member formation, by which the applicants' administrative appeal against decision 152448/2022 of the Regional Asylum Office (R.A.O.) of Thessaloniki was rejected as unfounded and, ultimately, their application for international protection was rejected as inadmissible, on the ground that Türkiye was considered a safe third country for them. By the first-instance decision, their readmission to Türkiye had additionally been ordered. (...)

5. (...), within the meaning of the above provisions, as interpreted by the Court of Justice of the European Union (Case C-134/23, judgment of 4.10.2024, Association "Greek Council for Refugees" et al.), those provisions allow a Member State to designate, by an act of general application, a country as a generally safe third country for specific applicants for international protection (para. 43), without the validity of such an act being dependent on the condition that it be established that the applicants for international protection concerned are in fact admitted or readmitted to the territory of that third country (para. 46). However, where it is established that the third country which has been designated by a Member State as generally safe does not, in practice, accept the admission or readmission of the applicants for international protection concerned, that Member State may not reject their applications for international protection as inadmissible on the basis of Article 33(2)(c) of Directive 2013/32. Furthermore, that Member State may not unjustifiably delay the examination of those applications and is required, inter alia, to ensure that such examination is carried out on an individual basis, in accordance with Article 10(3)(a) of the same Directive, and within the time limits laid down in Article 31 thereof (para. 54).

9. (...), as held by decision 177/2023 of the Plenary of the Council of State (and confirmed by decisions 1049–1052/2025 of the Plenary of the same Court), it follows from the international instruments referred to in the immediately preceding considerations that, in principle, Türkiye undertook a legal obligation to accept, under certain conditions, the readmission from Greece of third-country nationals applying for international protection. However, from the evidence submitted before the Council of State, it emerged that Türkiye does not, in practice, comply with the above legal obligations, since the readmission to Türkiye of applicants for international protection whose applications have been rejected as inadmissible on the ground of the "safe third country" does not take place. On the contrary, from March 2020 onwards, returns from Greece to Türkiye have been suspended, and it cannot be accepted that this constitutes merely a temporary non-implementation by Türkiye of the EU–Türkiye Statement of 18.3.2016.

10. (...), in the present case, the following emerges from the documents of the administrative file: The first two applicants, who are spouses and parents of the remaining applicants, Syrian nationals, submitted subsequent applications for international protection to the Regional Asylum Office (R.A.O.) of Thessaloniki on 11.11.2021 and 12.11.2021 respectively, stating that they do not wish to return to Türkiye, from which they entered the country and in which they had resided after leaving their country of origin, because their children had suffered discrimination and beatings, and because the first applicant had been deported after seven years of residence in Türkiye and suffers from health problems that cannot be treated in that country. By decision 406960/23.11.2021 of the R.A.O. of Thessaloniki, the applicants' subsequent application was found admissible. During their personal interviews, conducted on 7.1.2022 and 10.1.2022 respectively,

with the assistance of an interpreter to and from the Arabic language spoken and understood by the applicants, they were informed that the examination of their application would be limited to assessing whether Türkiye constitutes a safe third country for them. (...) Furthermore, they stated that approximately nine years earlier, they had left their country and moved to Türkiye, where they resided in the village of al Shakala, near the Turkish–Syrian border, for seven and a half years. They entered Greece on 7.9.2019 at the port of entry on the island of Lesbos. The fourth child of the family (...), was born in Mytilene and has not passed through Türkiye. As regards the conditions to which they were exposed and which they would face in the event of their return to Türkiye, the first applicant stated that there was no safety for him and his family in Türkiye and that, recently, the Turks had been exerting great pressure on Syrians in the country. He and his family were beneficiaries of temporary protection and held residence documents (kimlik) in Türkiye. In addition, he was working and operating a clothing store. Furthermore, the applicant stated that during his stay in Türkiye, he had once been deported to his country, but subsequently re-entered Türkiye; that his children were afraid to go to school because Turkish classmates were beating them; and that they were at risk of being recruited by the Free Syrian Army. He also stated that while in Türkiye he faced a health problem that was not diagnosed there and that he received treatment only after entering Greece. The second applicant stated that in Türkiye the children often returned from school beaten by Turkish classmates and did not dare to go outside, as they faced ill-treatment and harassment by Turks. The applicants also stated that some of their siblings reside in Türkiye under temporary protection; moreover, the brother of the second applicant now operates the store that the first applicant had maintained in Türkiye. (...) By decision 152448/16.3.2022 of the above Regional Asylum Office, the applicants' applications were rejected as inadmissible, and they were ordered to be readmitted to Türkiye. Against that decision, the applicants lodged an appeal before the Appeals Authority on 6.6.2022 and submitted their memorandum of 8.7.2022. By the contested decision of the 3rd Appeals Committee, the above appeal was dismissed as unfounded, and their applications for international protection were rejected as inadmissible pursuant to Article 84 of Law 4636/2019, on the ground that the applicants had not invoked specific critical elements and circumstances concerning them from which the existence of a real, personal, and present risk and an individual fear of persecution in Türkiye could be established with sufficient clarity, with the result that Türkiye was considered a safe third country for them. (...)

11. (...), with the application under consideration, the applicants seek the annulment of the contested act, arguing, first of all, that the EU–Türkiye Statement of 18.3.2016 has, in practice, already ceased to operate since March 2020, when Türkiye unilaterally suspended the readmission of third-country nationals to its territory, initially invoking reasons of public health. Since then, despite repeated démarches by Greece and the European Union to resume the procedure for the return of third-country nationals to Türkiye, no intention to restart readmissions has been expressed. In view of these facts, the applicants submit that they are, in practice, deprived of their right to asylum, as guaranteed by the 1951 Geneva Convention and EU law.

12. (...), in accordance with what was accepted in paragraph 5 of the present decision, it is not permissible to reject an application for international protection as inadmissible on the ground that there exists a safe third country for the applicant, where that third country does not allow the applicant to enter its territory. Moreover, from the information that is known, as accepted also by the Council of State (see Plenary decisions 1049–1052/2025), it follows that, at the material time of issuance of the contested decision, Türkiye had already for approximately two and a half years not accepted the return of third-country nationals (whether asylum seekers or not) to its territory. The Administration, which under these circumstances bears the relevant burden of proving the feasibility of the applicants' readmission to Türkiye, did not submit any evidence from which it could be inferred either that readmissions to Türkiye were in fact taking place during that period, or that the resumption of the implementation of the EU–Türkiye Readmission Agreement or of the corresponding Greek–Turkish readmission mechanism was reasonably expected at that time (or even at present). In view of the above, the contested decision must be annulled and the case remitted to the Independent Appeals Committee for a new, lawful assessment.

13. Accordingly, the application under consideration must be upheld, the contested decision annulled, and the case remitted to the Administration for a new, lawful assessment, in accordance with the specific directions set out in the preceding paragraph. (...)

The annulment application is accepted.



1st application - Admissibility - Application for annulment - Afghanistan - Single father with minor child - Türkiye as a safe third country - Single member Appeals Committee - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ314/2025
Date of publication: 15.09.2025
Judge Rapporteur: Stergios G. Kofinis
(...)

2. (...), with the present application, which is brought for hearing following the Court's Decision No. AD107/2024 staying the proceedings, and after the resolution of the legal issue concerning the constitutionality of assigning to a judicial officer the duties of a single-member administrative body within the Independent Appeals Committees (see the Announcement of the President of the Council of State of 3.12.2024 on the preliminary question referred by Decision No. AD534/2022 of the Thessaloniki Administrative Court of First Instance, and now Judgment No. 1150/2025 of the Plenary of the Council of State), the annulment is sought of Decision No. 234286/28.4.2022 of the 7th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member composition, by which the administrative appeal of 22.11.2021 lodged by the applicants against Decision No. 193773/19.8.2021 of the Thessaloniki Regional Asylum Office (RAO) was rejected as unfounded and, ultimately, their application for international protection was rejected as inadmissible, on the ground that Türkiye was considered a safe third country for them. By that decision, the applicants' readmission to Türkiye was also ordered. (...)

5. (...), within the meaning of the above provisions, as interpreted by the Court of Justice of the European Union (Case C-134/23, judgment of 4.10.2024, Association 'Greek Council for Refugees' et al.), those provisions allow a Member State to designate, by an act of general application, a country as a generally safe third country for specific applicants for international protection (para. 43), without the validity of that act being dependent on the condition that it be demonstrated that the applicants for international protection concerned are in fact admitted or readmitted to the territory of that third country (para. 46). However, where it is established that the third country which has been designated by a Member State as generally safe does not, in practice, accept the admission or readmission of the applicants for international protection concerned, that Member State may not reject their applications for international protection as inadmissible on the basis of Article 33(2)(c) of Directive 2013/32. Furthermore, that Member State may not unjustifiably delay the examination of those applications and must, inter alia, ensure that such examination is carried out on an individual basis, in accordance with Article 10(3)(a) of the same Directive, and in compliance with the time limits laid down in Article 31 thereof (para. 54). (...)

9. (...), as held in Judgment No. 177/2023 of the Plenary of the Council of State (and as confirmed by Judgments Nos. 1049–1052/2025 of the Plenary of the same Court), it follows from the international instruments referred to in the immediately preceding paragraphs that, in principle, Türkiye undertook a legal obligation to accept, under certain conditions, the readmission from Greece of third-country nationals applying for international protection. However, on the basis of the evidence submitted before the Council of State, it was established that Türkiye does not, in practice, comply with the above legal obligations, since the readmission to Türkiye of applicants for international protection whose applications have been rejected as inadmissible on the ground of the "safe third country" does not take place; on the contrary, as from March 2020 onwards, returns from Greece to Türkiye have been suspended, and it cannot be accepted that this constitutes merely a temporary non-application of the EU–Türkiye Statement of 18 March 2016 by Türkiye.

10. (...), in the present case, the following emerges from the material contained in the administrative file: The first applicant, who declared himself to be a national of Afghanistan, lodged an application for international protection on 4.3.2020, both on his own behalf and on behalf of his two minor children, stating, on the one hand, that he is divorced from the children's mother and has been granted custody of them, and, on the other hand, that he does not wish to return to his country of origin, because when he was young the Taliban had set fire to the entire village in which they, the Sadat, lived, whereupon his father took the family and they fled from Afghanistan to Iran, where, however, he also faced many problems due to the divorce, because he was unemployed and because he had no rights at all. That application was rejected as inadmissible by Decision No. 193773/19.8.2021 of the Thessaloniki Regional Asylum Office, on the ground that Türkiye, from which the applicants entered Greece, could be characterised as a safe country for them, in accordance with the provisions of Article 86 of Law No. 4636/2019. By the same decision, their readmission to Türkiye was ordered. Against that decision, the applicants lodged an administrative appeal with the Appeals Authority, which was rejected by the contested decision

on the same grounds, specifically because it was found that all the conditions for characterising Türkiye as a safe third country for the applicants were met, given that they did not face any of the risks referred to in points (a) to (d) of Article 86(1) of Law No. 4636/2019, that they had the possibility to seek protection meeting the fundamental principles and values deriving from the Geneva Convention, and that there existed a connection between them and that country, as they had transited through it and their country of origin is located nearby. Finally, their readmission to Türkiye was again ordered.

11. (...), by the application under examination, the applicants seek the annulment of the contested act, arguing, in the first place, that the EU–Türkiye Statement of 18.3.2016 has ceased to operate in practice as from March 2020, when Türkiye unilaterally suspended the readmission of third-country nationals to its territory, initially invoking public health reasons, and that since then, despite repeated démarches by Greece and the European Union for the resumption of the procedure for the return of third-country nationals to Türkiye, no intention to resume readmissions has been manifested. In view of these circumstances, the applicants submit that they are, in practice, deprived of their right to asylum, as guaranteed by the 1951 Geneva Convention and by European Union law.

12. (...), in accordance with what was accepted in paragraph 5 of the present judgment, an application for international protection may not be rejected as inadmissible on the ground that there exists a safe third country for the applicant, where that third country does not allow the applicant to enter its territory. Moreover, from the information that is known, as also accepted by the Council of State (see Plenary Judgments Nos. 1049–1052/2025), it follows that, at the material time when the contested decision was issued, Türkiye had already, for approximately two years, not accepted the return to its territory of third-country nationals (whether asylum seekers or not). The Administration, which under these circumstances bears the relevant burden of proof as regards the possibility of readmission of the applicants to Türkiye, did not submit any evidence from which it could be inferred either that readmissions to Türkiye were in fact taking place during that period or that, at that point in time (or even today), the resumption of the implementation of the EU–Türkiye Readmission Agreement or of the corresponding Greek–Turkish readmission mechanism was reasonably to be expected. In view of the above, the contested decision must be annulled, and the case referred back to the Independent Appeals Committee for a new, lawful determination.

(...)

The application is accepted.

AΔ370/2025



1st application - Eligibility - Application for annulment - China - Single woman - Persecution due to religion - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (Three-Member) Chamber / Annulment proceedings

Decision No: AΔ370/2025

Date of publication: 31.10.2025

Judge Rapporteur: Stergios G. Kofinis

(...)

2. (...), with the present application, is sought the annulment of Decision No. IP/539530/2.9.2024 of the 7th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member composition, by which the applicant's appeal of 10.6.2024 against Decision No. IP/153181/5.3.2024 of the Thessaloniki Regional Asylum Office (RAO) was rejected; by the latter decision, her application of 21.2.2023 for international protection had been rejected, and her return to her country of origin had been ordered.(...)

6. (...), the following emerges from the material contained in the administrative file: The applicant, a national of China, (...) lodged an asylum application on 21.2.2023 before the Thessaloniki Regional Asylum Office (RAO), in which she stated that she does not wish to return to her country of origin for religious reasons, specifically because there is a risk of her arrest by the police, as in August 2021 she had previously been arrested by the police due to a meeting with persons of the same faith, and she is at risk of being sentenced to a term of imprisonment ranging from one (1) to ten (10) years, the duration of which would be determined on the spot. (...) The applicant stated that she left China on 16 September 2021 and entered Greece on 18 September 2021. She travelled by air on a transit flight and arrived in Greece at Athens International Airport. With regard to her religious beliefs, she maintained that she has adhered to the Christian doctrine of

Huhan (Shouters) since 2012. (...) The applicant stated that meetings were held in the homes of fellow believers because this doctrine is persecuted (as are all others) in China, where participation is permitted only in the so-called “patriotic” church. (...) As regards the reasons why she does not wish to return to China at present, the applicant stated that she fears that the same will happen to her as happened to her aunt, who was arrested and imprisoned for three years, recalling also her own experience in 2018, when she was arrested for interrogation and ill-treated by police officers. (...) When asked whether she could live safely and work in another city in China, she replied as follows: “I feel that I am very young to want to go to prison under such circumstances. In China, it does not matter which place you go to; believers are persecuted everywhere. If I am there, I will be persecuted everywhere as well; in a great many cities, a great many believers have been arrested, so wherever one may flee within China, there is no safe place.”

Her application was rejected as unfounded by Decision No. IP/153181/5.3.2024 of the Thessaloniki Regional Asylum Office, and her return was ordered. Against that decision, the applicant lodged an administrative appeal, in which she argued, inter alia, that she is a member of the Huhan doctrine Church, which is included among the prohibited religious organisations in China, and whose members are at risk of persecution pursuant to Article 300 of the Criminal Code, which criminalises the exercise of religious freedom through participation in a “heterodox doctrine”, as well as arbitrary practices such as detention and torture. That administrative appeal was rejected by the contested decision, both with respect to the claim for recognition of refugee status and the claim for subsidiary protection. (...).

7. (...), by the application under examination, as further developed in her filed memorandum of 27.2.2025, the applicant submits that the contested decision is inadequately reasoned, since all the conditions required for her recognition as a refugee are met in her case. In particular, the applicant points out that the contested decision entirely erroneously and without adequate reasoning rejected her claim that she is wanted in her country of origin and that she faces a risk of arrest and imprisonment as a practising believer and person responsible for proselytising activities. By referring to specific answers she gave during her interviews, the applicant maintains that her assertion that she is sought by the Chinese authorities is far from being a mere assumption or personal assessment, given that she: (a) described in detail that she belongs to the Protestant Huhan doctrine, which the Chinese authorities include in the list of prohibited “evil cults”, and that her Church, which forms part of the “house church movement”, is subject to severe persecution in China; (b) explained the specific position she held within the hierarchy of her Church, as a person responsible for the dissemination of the Gospel; (c) stated that many members of her doctrine had been arrested and tortured by the Chinese police and sentenced to long terms of imprisonment because they were exercising their religious duties; (d) described the manhunt launched by the Chinese police against believers of these groups, which she herself has experienced; and (e) emphasised that she herself had in the past been arbitrarily arrested and detained by the Chinese police solely on account of the exercise of her religious duties. Furthermore, the applicant argues that the fact that she was able to leave China using her passport merely demonstrates that, up to the time of her departure, no criminal prosecution had been initiated against her or that it had not yet been entered into the electronic database system of the Chinese police, the operation of which is, in any event, undocumented, while she herself could not have obtained further information regarding the existence or nature of any proceedings against her due to the non-democratic character of the Chinese regime. In support of this position, she relies on reports by university professors submitted before Italian courts, according to which the acquisition of a passport and departure from China on that basis cannot be regarded as an indication of the absence of persecution by the Chinese authorities, in view of the lack of absolute reliability of the police control system or the possibility of obtaining a passport through alternative, not always lawful, means. In light of the above, the applicant submits that, even if no prosecution had been initiated against her prior to her departure from China, her fear that such persecution may at some point take the form of criminal prosecution is entirely well-founded and justified, given that the religious faith she professes is persecuted by the Chinese authorities. She further argues that the contested decision, although accepting as credible her claim regarding her position within the Church, failed to carry out any assessment of that claim in relation to her fear of persecution, despite the fact that, in China, even low-ranking members and ordinary adherents of the “house churches” are persecuted. Moreover, as she points out, she cannot be required to renounce or conceal her religious beliefs in order to avoid persecution, while the experiences of friends and members of the same organisation, which she referred to during her interviews, may constitute indications of a risk of persecution also in her own case.

8. (...), the contested decision bases its finding not to recognise the applicant as a refugee on the assessment that her claim that she is sought in her country of origin is not credible, in particular in view of her ability to obtain a passport and an exit visa and to travel by air using those documents without encountering any difficulties. That assessment, which is based on reference to relevant country-of-origin information, constitutes a substantive appraisal by the Administration which is, in principle, not subject to review in annulment proceedings and, accordingly, any grounds directed against it are, in the present case, inadmissibly raised by the application under examination. However, the contested decision, by which the applicant’s claim that she is a member of the Protestant religious doctrine Huhan and that she was arrested in the past for exercising her religious duties was initially accepted as credible, does not contain a specific assessment of the risk of persecution faced by the applicant in the event of her return to her country of origin as an ordinary member or a low-ranking adherent of that religious organisation, in light of the country-of-origin information cited by the contested decision itself, according to which that religious group is illegal in China and arrests of its members have been reported

for more than twenty years. In particular, as set out by way of interpretation in paragraph 5, the contested decision does not include a specific assessment, first, as to whether the applicant, if returned to her country of origin, would continue to practise her religion in practice, and, secondly, as to whether such conduct, conduct from which she cannot be required or reasonably expected to refrain, would expose her to a real risk of persecution, namely to measures or consequences of such gravity as to qualify as “persecution” within the meaning of Article 8 of Law No. 4939/2022. To that end, the Committee’s finding that, between her first arrest in 2018 and her departure from the country in 2021, she continued to exercise her religious duties is not sufficient: first, because, as recorded in the contested decision, the applicant stated, without that claim being found not credible, that for the first six months she did not attend any gatherings at all, and that throughout the three-year period there was continuous police pursuit, making participation in gatherings particularly difficult; and secondly, because, as the contested decision itself accepts, that three-year period ended with a further near-arrest, with the result that the assessment concerning that period relates to the past and is insufficient to support a conclusion regarding the (non-)existence of a future risk. For this reason, which is validly raised, the application under examination must be upheld, and the case referred back to the Administration for a new decision, lawfully reasoned in accordance with the above, on that issue.

(...)

The application is accepted.

AΔ381/2025



Subsequent asylum application - Admissibility - Application for annulment - Democratic Republic of Congo - Single man - Persecution due to political opinion - New and substantial evidence - Single member Appeals Committee- Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (Three-Member) Chamber / Annulment proceedings

Decision No: AΔ381/2025

Date of publication: 20.11.2025

Judge Rapporteur: Olga V. Plastira

(...)

2. (...), with the application under consideration, which is brought again for hearing following the Court’s decision No. 89/2024 suspending the proceedings due to a preliminary question pending before the Council of State that had been referred by decision AD534/2022 of the Thessaloniki Administrative Court of First Instance, and, now, following decision No. 1150/2025 of the Plenary of the Council of State, the annulment of decision No IP/176484/9.10.2023 of the 17th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member formation, is sought, by which the applicant’s appeal against decision IP/102577/7.9.2023 of the Regional Asylum Office (R.A.O.) of Thessaloniki was dismissed and, ultimately, his subsequent application for the granting of international protection was rejected and his return was ordered.

(...)

7. (...) from the provisions set out above, it follows that, in order for a decision to be taken on the admissibility of a subsequent application for international protection, such (subsequent) application is, in the first place, subject to a preliminary examination, in order to determine whether new elements or findings have arisen or have been submitted by the applicant in relation to the assessment of whether he meets the conditions required to be recognized as a beneficiary of international protection. The examination of the admissibility of the subsequent application continues only where such new elements or findings in relation to the first application for international protection do in fact exist, so as to ascertain whether they significantly increase the likelihood that the applicant meets the required conditions for the recognition of that status. Moreover, although the wording of those provisions does not clarify the concept of “new elements or findings” capable of substantiating a subsequent application, it is nevertheless clear that a subsequent application may be based on elements or findings that are new, either because they arose after a decision was issued on the previous application, or because they were submitted for the first time by the applicant (CJEU judgment of 9.9.2021, Case

C-18/2020, XY v Bundesamt für Fremdenwesen und Asyl, paras. 33–37), even though they pre-existed, provided that their non-submission during the examination procedure of the first application is justified. Finally, although the wording of Article 40 of Directive 2013/32 does not clarify the concept of “new elements or findings” capable of substantiating a subsequent application [judgment of 10 June 2021, Staatssecretaris van Justitie en Veiligheid (new elements or findings), C-921/19, EU:C:2021:478, para. 29], nevertheless, paragraphs 2 and 3 of that article provide that such new elements or findings on which such an application may be based must have “arisen” or must have been “submitted by the applicant” (ibid., para. 36). Furthermore, the term “essential” elements must be understood as referring to those elements that are capable of restarting the procedure for examining the asylum application, because they are sufficiently different from those previously submitted so as to create a reasonable belief that they could lead to the recognition of international protection status, notwithstanding the final rejection of the previous application.

8. (...), in the present case, the following emerges from the documents of the case file: The applicant, (...) a citizen of the Democratic Republic of the Congo, (...) submitted an application for international protection on 4.7.2018 to the Regional Asylum Office (R.A.O.) of Lesbos, stating that he does not wish to return to his country of origin because he had been arrested by the police of his country, imprisoned for three weeks, escaped, and is now wanted, with his life being in danger. (...) He further stated that he left his country by air on 19.4.2017, having secured an illegal passport (pp. 4 and 6 of the record of the interview of 27.7.2021) with the assistance of a friend of his uncle, with Türkiye as his destination. There, without meeting the legal requirements, he worked for four months in a bag-manufacturing workshop to raise money for his journey to Greece. (...) He stated that he fears returning to his country of origin because in the past, he had been arrested and tortured due to his participation in demonstrations. (...) By decision 161358/21.3.2022 of the R.A.O. of Alimos, the application of the said foreign national was rejected. Although his claims regarding his origin, personal, family and professional situation, as well as his participation in a protest march, his imprisonment and torture, were accepted, the claim concerning the issuance of an arrest warrant was not accepted, as it was considered that the applicant had not convincingly explained how he had been released by the authorities despite the existence of such a warrant against him. Taking into account the applicant’s low political profile, whose political activity was limited to mere participation in protest marches, it was held that there was no well-founded and justified fear of the applicant’s arrest or harm upon his return to his country of origin. The applicant’s administrative appeal against that rejection decision was dismissed as out of time by decision 147682/13.3.2023 of the 15th Independent Appeals Committee. By his application of 31.8.2023, the applicant submitted a subsequent asylum application, claiming that his life continues to be in danger in his country of origin for the reasons he had already mentioned, and he submitted in support of his claims photographs of two arrest warrants (avis de recherche) concerning him, with issuance dates of 19.1.2017 and 23.11.2021. That application was rejected as inadmissible by act IP/102577/7.9.2023 of the R.A.O. of Thessaloniki, pursuant to Article 89(1) of Law 4636/2022, on the ground that the said foreign national had not invoked new elements in that subsequent application. The applicant’s administrative appeal against the latter act was dismissed by the contested decision, on the reasoning that regardless of whether the two warrants submitted in photograph form are considered new elements, since one of them predated the submission of the initial asylum application, they are not essential, that is, capable of restarting the examination procedure of the applicant’s request for the granting of international protection. This is because they consist of photographs of documents whose authenticity and origin are not certified, and, therefore, their probative value is directly linked to the credibility of the relevant claims, which had, however, been definitively found unreliable during the previous administrative procedure. It was further noted that, according to the applicant’s own account, he left his country by air on 19.4.2017, despite the fact that the first arrest warrant against him had already been issued on 19.1.2017.

9. (...), by the application under consideration, the applicant argues that the contested act is inadequately reasoned, since the evidence he submitted with his subsequent application constitutes new and essential elements capable of leading to an examination of his claim on the merits. In particular, the party concerned maintains that those elements are new, as they were not available to him during the examination of his initial application, but were obtained by him in May 2023 from the internet through a friend living in Kinshasa, to whom they had been sent by a relative working in the National Intelligence Service of the Congo. He further adds that those warrants show that the authorities of his country are seeking him as an accused person for attempted coup d’état and illegal possession of weapons, attack against state security, escape of detainees and insurrection, and that the second warrant, issued on 23.11.2021, further proves that, despite the fact that Joseph Kabila has no longer been President of the Democratic Republic of the Congo since January 2019, the authorities continue to seek the applicant. He further claims that the contested act considered the submitted evidence to be non-essential on the ground that the relevant claims had been rejected in the context of the initial application as not credible; however, the connection between the warrants and his initial claims does not automatically mean that such evidence does not fall within the concept of essential new elements under Article 94(2) of Law 4939/2022. On the contrary, as he submits, the new essential elements capable of rendering a subsequent application for international protection admissible may concern factual circumstances that were already assessed during the examination of the initial application, as in the present case, where the warrants he submitted substantiate his original claims regarding the risk of persecution in his country. He further points out that his remaining claims, including those relating to his arrest

and torture, were found credible during the examination of his initial application, and that the warrants submitted may reinforce the assessment that he faces a risk in his country of origin. This is so even though the documents themselves are not certified authentic; they are photographs of genuine documents that he submitted to the competent authority, rather than merely relying on an oral account of the reasons that led him to leave his country. This argument is well-founded and must be upheld. This is because, in the context of the examination of the initial application for international protection, the applicant's claims concerning his arrest and torture had been found credible, whereas only his claims regarding being sought by the authorities after his release were rejected as not credible; the documents he submitted with his subsequent application relate precisely to the credibility of that rejected claim. The issuing body, however, held that the submitted evidence was not essential, on the ground that it sought to prove claims that had been definitively rejected as not credible, without examining whether that evidence could in fact create a reasonable belief that it might lead to the recognition of international protection status, notwithstanding the final rejection of the previous application. Furthermore, for the purposes of that assessment, account was also taken of the applicant's departure from his country by air on 19.4.2017, despite his having stated in his interview of 27.7.2021 that he had left his country using an illegal passport. In view of the above, the contested decision is inadequately reasoned (cf. Council of State decisions 3328/2011, 1524/2009) and must therefore be annulled, and the case remitted to the Administration for a new, lawful assessment, while examination of the remaining grounds of annulment is rendered unnecessary.

(...)

Application is accepted.

AΔ406/2025



1st application - Admissibility - Application for annulment - Syria - Single man - Türkiye as a safe third country - Single member Appeals Committee - Preliminary question before the Council of State - (Non) Legitimate justification - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (Three-Member) Chamber / Annulment proceedings
Decision No: AΔ406/2025
Date of publication: 11.12.2025
Judge Rapporteur: Olga V. Plastira

2. (...), with the present application, which is brought again for hearing following the Court's decision No. AD 278/2024 staying the proceedings, due to a pending preliminary question before the Council of State that had been referred by Decision No. AD534/2022 of the Thessaloniki Administrative Court of First Instance, and in view of the subsequent Judgment No. 1150/2025 of the Plenary of the Council of State, the annulment is sought of Decision No. IP/81756/6.2.2024 of the 2nd Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member composition, by which the applicant's appeal against Decision No. 227773/26.10.2023 of the Asylum Unit of Fylakio was rejected and, ultimately, his application for the granting of international protection was dismissed, and his readmission to Türkiye was ordered. (...)

6. (...), within the meaning of the above provisions, as interpreted by the Court of Justice of the European Union (Case C-134/23, judgment of 4.10.2024, Association 'Greek Council for Refugees' et al.), those provisions allow a Member State to designate, by an act of general application, a country as a generally safe third country for specific applicants for international protection (para. 43), without the validity of that act being dependent on the condition that it be demonstrated that the applicants for international protection concerned are in fact admitted or readmitted to the territory of that third country (para. 46). However, where it is established that the third country which has been designated by a Member State as generally safe does not, in practice, accept the admission or readmission of the applicants for international protection concerned, that Member State may not reject their applications for international protection as inadmissible on the basis of Article 33(2)(c) of Directive 2013/32. Furthermore, that Member State may not unjustifiably delay the examination of those applications and must, inter alia, ensure that such examination is carried out on an individual basis, in accordance with Article 10(3)(a) of the same Directive, and in compliance with the time limits laid down in Article 31 thereof (para. 54). (...)

10. (...), As held in Judgment No. 177/2023 of the Plenary of the Council of State, it follows from the international instruments referred to in the immediately preceding paragraphs that, in principle, Türkiye undertook a legal obligation to accept,

under certain conditions, the readmission from Greece of third-country nationals applying for international protection. However, on the basis of the evidence submitted before the Council of State, it was established that Türkiye does not, in practice, comply with the above legal obligations, since the readmission to Türkiye of applicants for international protection whose applications have been rejected as inadmissible on the ground of the “safe third country” does not take place; on the contrary, as from March 2020 onwards, returns from Greece to Türkiye have been suspended, and it cannot be accepted that this constitutes merely a temporary non-application of the EU–Türkiye Statement of 18.3.2016 by Türkiye.

11. (...), in the present case, the following emerges from the material in the case file: The applicant, (...), a national of Syria, (...), lodged an application for international protection on 20.10.2023 at the Fylakio Reception and Identification Centre (RIC), stating that he does not wish to return to Syria due to the war and to Türkiye because the citizens are racist and he fears deportation. (...) At the beginning of the interview, the above party was informed that Türkiye, which is the country from which he entered Greek territory, is included in the national list of Safe Third Countries and that it is presumed, for the purposes of the Administration, that he would not be at risk of persecution or serious harm in the event of his return there. (...) He left Syria 6–7 years earlier and entered Türkiye irregularly through the Bab Al Hawa area without encountering any problems. He settled in the Zeytinburnu area of Istanbul, in a house which he rented together with other young people. There he worked as a tailor, working 12 hours per day and earning initially 3,000 and subsequently 3,500 Turkish liras per month, without obtaining a work permit or social insurance, as he did not have a kimlik (identity card). He stated that he never attempted to obtain a kimlik, initially because he did not possess the documents required for that purpose and later, when his family sent him certain documents from Syria, because the relevant service was no longer operating in Istanbul; moreover, at the corresponding service in Mersin there were many applicants and long waiting times, and for that reason he did not submit an application. He added that, according to information from fellow nationals, the Turkish State no longer issues kimlik. Similarly, he did not seek to obtain a Syrian passport because the embassy requested USD 300 merely to schedule an appointment in order to initiate the relevant procedure. Furthermore, he stated that one year earlier, while returning home from work, he was arrested together with other foreign nationals by the Turkish police because he did not have documents, and they were all detained for ten days in a prison in Tuzla, where they were housed in containers. There, life was, as he stated, basic, but there was no possibility for detainees to communicate with their relatives. Subsequently, they were given a document and transferred to Urfa in order to obtain kimlik, but the authorities there expelled them in a highly racist manner, telling them that kimlik is issued only to families. After this incident, the applicant returned to Istanbul. He entered Greece in September 2023 from Edirne, crossing the river in an inflatable boat, (...). He had attempted to enter the country four months earlier but did not succeed, and upon his return, he was arrested by the Turkish gendarmerie, detained for eight hours on the road, and then released to return to his city. He further stated that in Türkiye, he faced racist behaviour, mentioning that on one occasion, he was speaking Arabic on the phone and someone told him not to speak Arabic because he was in Türkiye. (...) By Decision No. IP/227773/26.10.2023 of the Asylum Unit of Fylakio of the Ministry of Migration and Asylum, the application for international protection of the said third-country national was rejected as inadmissible, on the grounds that Türkiye constitutes a safe third country for him. Against that rejection, the applicant lodged an administrative appeal, which was dismissed by the contested decision on the same grounds, and his return to Türkiye was ordered.

12. (...), by the application under examination, the applicant submits, inter alia, that his application was unlawfully rejected as inadmissible and was not examined on the merits on the ground that Türkiye constitutes a safe third country for him, since it is a given that that country will not allow him to enter its territory, in view of the indefinite suspension of the readmission procedure for third-country nationals to its territory.

13. (...), in accordance with what was interpretatively accepted in paragraph 6 of the present judgment, an application for international protection may not be rejected as inadmissible on the ground that there exists a safe third country for the applicant, where that third country does not allow the applicant to enter its territory. Moreover, from the information that is known, as also accepted by the Council of State (see also the recent Announcement of 21.3.2025 by the President of the Council of State “regarding the outcome of the deliberation on cases heard by the Plenary on 7 February 2025 concerning the designation of Türkiye as a safe third country”), it follows that, at the material time when the contested decision was issued, Türkiye was already not accepting the return to its territory of third-country nationals (whether asylum seekers or not). The Administration, which under these circumstances bears the relevant burden of proof as regards the possibility of readmission of applicants to Türkiye, did not submit any evidence from which it could be inferred either that readmissions to Türkiye were in fact taking place during that period or that, at that point in time (or even today), the resumption of the implementation of the EU–Türkiye Readmission Agreement or of the corresponding Greek–Turkish readmission mechanism was reasonably to be expected. In view of the above, the contested decision must be annulled, and the case referred back to the Independent Appeals Committee for a new, lawful determination. Furthermore, it is unnecessary to examine the other grounds for annulment. (...)

The application is accepted.

INTERIM MEASURES



Residence permit for exceptional reasons - Interim measures - Pakistan - Family with minor children
- Employment - Links with Greece - School attendance - Application accepted

Administrative Court of First Instance of Piraeus
3rd (Three-Member) Chamber (in Council)
Decision No: NΔ26/2023
Date of publication: 07.06.2023
Rapporteur Judge: Georgios N. Barbagalos
(...)

2. (...), this application seeks to suspend the execution of the documents No 28489, 28492, 28495, 28498/31.12. 2021 of the designated Deputy Head of the Department of Residence Permits for Third Country Nationals of the Directorate of Residence Permits of the Directorate-General for Migration Policy of the Ministry of Immigration and Asylum, by which the applicants were informed that the respective applications No 37712, 37746, 37759, 349879/6. 11.2020, for granting a residence permit for humanitarian reasons, pursuant to the provisions of Article 19A par. 1(f) of Law No. 4251/2014 (Government Gazette A' 80), will not be processed, since they were submitted after the entry into force of Law No. 4686/2020 (Government Gazette A' 96). The suspension is requested until a final decision is delivered on the application for annulment lodged by the applicants against the above mentioned acts, (AKY9/21.2.2023), which is pending before the Court. The present application is, in general, admissible and must therefore be further examined. (...)

5. (...), with the present application the applicants seek the suspension of the execution of the Administration's refusal to examine their applications and grant them a residence permit on humanitarian grounds, arguing that their removal from Greece would cause them irreparable harm, consisting in the complete reversal of the long-standing and strong lifelong ties they have established during their stay in Greece. (...), in light of the above facts and in accordance with the abovementioned provisions, as interpreted in the major reasoning of the present decision (paragraph 2), the Court (sitting in Council) takes into particular consideration that: a) the applicants have been in Greece at least since 2017, (b) they fulfil their tax obligations, c) the first applicant fulfils his insurance obligations and is insured in the e-EFKA, d) they have an A.F.M. (Tax number) and A.M.K.A (insurance number) (e) they have a stable and known place of residence, f) the first applicant is employed and the second applicant is registered in the Unemployment Registry of O.A.E.D, g) their marital relation is assumed from the information contained in the file; furthermore, they have three children, two of whom were born in Greece (see the birth certificates of 8.1.2018 and 12.2.2020 of the registrars of Athens and Polichni District of Thessaloniki, respectively), and h) their minor children have attended Greek schools during the school years 2018-2022 and are still attending during the current school year 2022-2023. Given all the above, the Court (sitting in Council) finds that the applicants are connected to a stable circle of life relationships within the country and, therefore, that the immediate enforcement of the contested acts and, as a consequence, their removal along with their minor children from Greece would cause them irreparable harm, in the event that the application for annulment brought against the abovementioned acts is ultimately successful, consisting in the complete disruption of the overall life ties they have developed during their stay in Greece (cf. Council of State Committee of Suspensions 140/2018). In order to prevent said harm and taking into account, additionally, that from the evidence in the file it does not arise, nor does the Administration claim, that there is a special reason of public order or security or any other reason of public interest, which requires the immediate removal of the applicants and their minor children from the country (cf Council of State, Committee of Suspensions 140/2018, 83, 386/2010, 1220/2009), the Court (in Council) considers as an appropriate measure, under Article 52 (8) of Presidential Decree No 18/1989, that the Administration refrain from any action based solely on the contested acts and resulting in the forced departure of the applicants and their minor children from Greece until the delivery of a final decision on the pending application for annulment (cf. Council of State, Committee of Suspensions 105/2022, 41, 49, 66/2021, 272/2020). (...)

The application is accepted.



Residence permit for exceptional reasons - Interim measures - Sudan - Single man - Serious illness - Risk of interruption of medical treatment - Application accepted

Administrative Court of First Instance of Piraeus
10th (Three-Member) Chamber (in Council)
Decision No: NΔ28/2023
Date of publication: 19.06.2023
Judge Rapporteur: Angeliki K.Stamelu
(...)

1. (...), with the present application, (...), the applicant, a Sudanese national, seeks to suspend the execution of the document No 26903 (File No. 349269/17-12-2021) from the Deputy Head of the Department of Residence Permits for Third Country Nationals of the Directorate of Residence Permits of the Directorate-General for Migration Policy of the Ministry of Immigration and Asylum, with which he was informed that the application No. 26903/3.9.2020 for a residence permit for humanitarian reasons (Article 19A of Law No 4251/2014), will not be processed, as it was submitted after the entry into force of the provisions of Law No. 4686/2020 (A'96). The suspension is requested until a final decision is delivered on the application for annulment against the contested document (AK304/25.2.2022), which has already been scheduled and is pending before this Court (...).

3. (...), (...) the provision of paragraph 8 of article 52 of Presidential Decree 18/1989, as in force, which aims at broadening the scope of interim protection granted within the context of annulment proceedings, provides the Court not only with the possibility to order, when granting a suspension of the challenged act before it, additional measures for the more effective protection of the applicant, but also with the possibility to order other measures, apart from the suspension of execution, in cases where the implementation of the contested act does indeed cause the applicant irreparable or hardly reparable harm (or where the pending annulment application appears manifestly well-founded), but such act is not, as is the case for example with an act of a negative nature, subject to suspension of execution (cf Council of State, Committee of Suspensions 62/2018, 197/2016, 237, 355/2014, 731/2008, 773/2007; cf Council of State, Committee of Suspensions 200/2012, 903/2010, 131/2009, 1435/2008, 132, 167, 883, 908, 969, 989/2007, etc.).

4. (...) With the present application, (...), the applicant claims that the immediate execution of the contested decision will cause irreparable harm, which cannot be remedied if the applicant's associated application for annulment is upheld. In particular, he claims that, in the event of his return to his country of origin (Sudan), he is at risk both due to the current security situation and humanitarian crisis in his country, and due to the health problems he is facing. In support of his claims, he cites and submits, among other things, copies of relevant documents: a) (...) e) the medical report dated 15.9.2020 by the B' Grade Attending doctor of the General Hospital of Thessaloniki "PAPAGEORGIOU" (...), states that the applicant patient suffers from a progressively developed tetraparesis over the past 10 years, with marked spasticity of the lower limbs and a possible diagnosis of hereditary spastic paraplegia; that a genetic test is pending; and that the treatment is symptomatic, consisting of physiotherapy and medication. Finally, compared to a previous examination conducted one year earlier (...), there is a mild deterioration in the muscle strength of both upper and lower limbs, and walking is now bilateral (...).

5. (...) the rejection of the applicant's request for a residence permit, as an act of negative content, is not, in principle, susceptible to suspension of execution, because any suspension would be tantamount to granting the applicant's request by an impermissible substitution of the Court in the work of the Administration (cf Council of State, Committee of Suspensions 62/2018, 180/2015, 243/2013 etc.). However, the Court, taking into account the harm that would be caused to the applicant by the immediate execution of the contested decision and his removal from the country and return to his country of origin (Sudan), where a situation of insecurity and humanitarian crisis prevails, in combination with the health problems he is facing, rules that the application must be accepted and, on the one hand, that the execution of document no. 26903 (...) issued by the Acting Head of the Department for Residence Permits for Third-Country Nationals of the Directorate of Residence Permits of the General Directorate of Migration Policy of the Ministry of Migration and Asylum be suspended until the issuance of a final decision on the application for annulment filed on 25.2.2022 (Case no. AK 304/25.2.2022), and, on the other hand, that as an appropriate interim measure under Article 52(8) of Presidential Decree 18/1989, as amended by Article 35 of Law 2721/1999, the Administration be ordered to refrain, until the issuance of a final decision on the aforementioned application for annulment, from any action based on document no. 26903 (...) issued by the Acting Head of the Department for Residence Permits for Third-Country Nationals of the Directorate of Residence Permits of the General Directorate of Migration Policy of the Ministry of Migration and Asylum, which would result in the applicant's forced departure from the country, (cf Council of State, Committee of Suspensions 140/2018, 246/2017, 32/2008, 1264, 989, 720/2007, 990, 730/2006 etc.). (...)

The application is accepted.

1st application - Eligibility - Interim measures - Guinea - Single man - Serious illness - Physical disability - Risk of interruption of medical treatment - Links with Greece - School attendance - Employment - Maintain stable living conditions - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ105/2023
Date of publication: 28.04.2023
Judge: Kassiani K. Manolakoglou
(...)

2. (...), this application seeks the suspension of the execution of decision no 144471/10.3.2023 of the 7th Independent Appeals Committee of the Appeals Authority of the Ministry of Immigration and Asylum, which rejected the appeal filed by the applicant against decision no 673443/11.11.2022 of the Regional Asylum Office of Thessaloniki and ultimately his application for international protection. The Committee's decision also ordered the applicant's return to his country of origin and set a deadline of 25 days for his voluntary departure from the country. Against the same decision, the applicant has lodged an application for annulment, registered under no AKY136/7.4.2023, which is pending before a three-member Chamber of this Court. (...).

6. (...), in the present application, the applicant claims that he is a person with a disability; and that in Guinea he has no supporting network, nor is there any state provision for persons with disabilities; and that he needs medical attention which he will not receive in his country, due to the shortcomings of the health system; and that in Greece he has developed strong livelihood links during his 5-year stay, having managed to graduate from school, having provided voluntary work, having found a suitable job for his livelihood and living with his Greek partner, who provides him with the necessary support. By invoking the above, he argues that the enforcement of the contested decision and the return measure imposed by it will cause him irreparable harm, consisting of the risk of deterioration of his vision and its complete loss, the risk of being exposed to conditions of destitution due to his disability, and the disruption of the vital ties he has now established.

7. (...), the rejection of an application for international protection is a negative act and, as such, is not subject to suspension of execution, but the return measure imposed on a third-country national is subject to suspension. Moreover, according to the provision of para. 8 of Article 52 of Decree-Law 18/1989 as in force, the competent judge may order any measure appropriate for the protection of the applicant. The disruption of living conditions does not in principle constitute a ground to be examined in relation to the suspension of enforcement or the order of another appropriate measure, when the harm results from an act that, like the contested one, is part of the procedure for the examination of an application for international protection (CoE 694/2012, 3464/2011, 867/2010). In the present case, however, since the contested decision also ordered the administrative removal of the applicant from the country, the particular circumstances and the vital ties that he has developed in Greece must be taken into account, at least in this regard. Specifically, the applicant entered the country as an unaccompanied minor, i.e. as a person belonging to a vulnerable group, and the evidence provided shows that he has a significant impairment of his vision, an impairment that is characterised as irreversible, while further deterioration of his situation is not excluded. He has already been in Greece since 2018 and despite the problems he faces, he has completed his schooling, is employed steadily and has developed social relationships due to his voluntary work. In those circumstances, the Court, taking into account his young age (approximately 22 years old); the fact that he left Guinea at the age of 17; and the fact that it does not appear that he has a support network in that country, considers that, in the particular circumstances of this case, in particular the applicant's visual impairment, there are legitimate grounds for a suspension of the execution of the measure of administrative removal imposed on him by the contested decision as long as a final decision on the application for annulment no AKY136/7.4.2023 is pending (...); and that the Administration should be ordered to refrain from any action based solely on the above decision which would result in his forced departure from Greece. In addition, the Administration is ordered to reissue to the applicant an international protection applicant card, in order to restore the actual situation in which the applicant was before the application for international protection submitted by him was rejected by the contested decision (cf. Council of State, Committee of Suspensions. 940, 573, 172/2006, 73/2007, 731/2008). (...)

The application is accepted.



1st Application - Eligibility - Interim Measures- Afghanistan - Single man - Türkiye as a safe third country - Türkiye not accepting readmissions from Greece - Harm from staying in Greece without legal documents for a long period of time - Risk of Harm - Application accepted

Administrative Court of First Instance of Thessaloniki

11th (One-Member) Chamber

Decision No: NΔ111/2023

Date of publication: 16.05.2023

Judge: Vasiliki E. Tzouvara

(...)

2. (...), this application seeks the suspension of the execution of decision 172209/23-3-2023 of the 3rd One-Member Independent Appeals Committee of the Ministry of Immigration and Asylum. By this decision the appeal of the applicant, an Afghan national, against decision 748618/13-12-2022 of the Thessaloniki Regional Office was rejected and, finally, his application for recognition as a beneficiary of international protection was rejected as inadmissible. The same decision ordered the applicant's readmission to Türkiye, which was considered to be a safe third country for him. The suspension is requested until the final decision on the relevant application for annulment lodged by the applicant before the Court (AKY156/26-4-2023), for the hearing of which no date has been set. (...).

6. (...), in the present application, the applicant claims that the enforcement of the contested decision will cause him irreparable harm because, inter alia, his return to Türkiye will be impossible, as Türkiye has already for a long time been in the practice of not accepting readmission applications, with the result that he would be staying in Greece without legal documents and without access to employment, health care and other state benefits and without the possibility of staying in the accommodation facility.

7. (...), the rejection of the application for international protection is a negative act and, as such, is not subject to a suspension of execution. Therefore, the relevant request submitted by the present application is rejected as legally unfounded. Furthermore, it should be assessed whether there are reasons to order additional measures for the protection of the applicant, in accordance with para. 8 of Article 52 of Presidential Decree 18/1989. To this end, it should be taken into account, in particular, the applicant's allegation concerning the suspension of readmission of applicants for international protection from Greece by the Turkish authorities, combined with the harm that the applicant claims he will suffer if he remains in Greece without legal documents, and as a result without the possibility of continuing to reside in the Accommodation Facility, where he is already residing, and to work in order to earn a living, or if he is detained for an indefinite period of time pending his uncertain readmission to Türkiye. In view of the fact that this ground will have to be examined in detail, as to its legal and substantive merits, at the stage of the main proceedings, the Court deems it necessary to order the Administration to refrain from any action based solely on the contested decision which would result in the applicant's forced departure from Greece, until a final decision on the pending application for annulment is delivered. Furthermore, the Administration is ordered not to remove the applicant's international protection card; or, if that card has already been removed, to return it to the applicant; and, if it has expired, to extend its validity so as to fully restore the applicant's actual situation prior to the rejection of his application for international protection by the contested decision (cf. Council of State, Committee of Suspensions 940, 573, 172/2006, 73/2007). Lastly, the fee already paid must be refunded to the applicant and, in the light of the circumstances, the defendant Minister must be relieved of his court expenses. (...)

The application is accepted.



Subsequent asylum application - Eligibility - Interim measures - Cameroon - Mental health issues
- Single man - Links in Greece - Employment - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ204/2023
Date of publication: 08.09.2023
Judge: Vasiliki E. Tzouvara
(...)

2. (...), with this application seeks to suspend the execution of decision No 106040/21-2-2023 of the 1st one - member Independent Appeals Committee, which rejected the appeal lodged by the applicant, a Cameroonian citizen, as out of time, against decision No 521760/8-9-2022 of the Regional Asylum Office of Thrace and ordered his return to his country of origin or to the country from which he had come. (...).

5. (...), The applicant, born on 17-5-2003, a citizen of Cameroon, initially applied for international protection on 29-6-2020 at the Regional Asylum Office of Samos, claiming that he does not wish to return to his country of origin, because the army wrongly believes that he participated in demonstrations and for this reason he was arrested and tortured. (...). This request of the applicant was rejected by decision No. 312038/13-10-2021 of the Regional Asylum Office of Samos, while the applicant's appeal against the above decision was rejected by the decision of second instance No. 242332/2022/3-5-2022 of the 20th Appeals Committee, on the ground that in this case the existence of a risk of individual persecution of the applicant was not clearly and specifically established. Subsequently, the applicant submitted a subsequent application for international protection at the Regional Asylum Office of Thrace on 12-8-2022, (...). With decision No. 521760/8-9-2022 of the Regional Asylum Office of Thrace, the above-mentioned subsequent application was rejected as inadmissible, on the grounds that the allegations made and the documents submitted by the applicant do not constitute new and essential elements in relation to his previous application. The above decision was notified to the applicant on 10-10-2022, along with the relevant accompanying document, which states that an appeal against it can be filed before the Appeals Authority within five days from the day following the day the decision was notified and that the applicant is entitled to free legal assistance (see the 595155/10-10-2022 proof of service at an Accommodation Facility). Against the above mentioned rejection of the Regional Asylum Office of Thrace, the applicant lodged an appeal before the Appeals Authority on 25-10-2022 (...). With decision No. 106040/21-2-2023 of the 1st one - member Appeals Committee the applicant's above appeal was rejected as out of time, on the ground that it was brought after the expiry of the five-day deadline, i.e. after 16-10-2022, while the applicant's legal memo dated 29-11-2022 does not invoke reasons of force majeure to which the late lodging of the appeal was due. The same decision ordered the return of the applicant to his country or to the country from which he had come.

6. (...), with the present application, the applicant claims that the execution of the contested decision and of the return measure imposed on him will cause him irreparable harm, in case the pending application for annulment is upheld, the grounds of which, according to the applicant, are highly probable to be accepted. With the application for annulment, the applicant claims that his appeal was rejected as out of time by the contested decision illegally, in violation of the right to an effective remedy, because on 11-10-2022, i.e. the day after the notification of the rejection decision of first instance, he submitted electronically an application for free legal assistance in order to appeal against the above decision at the Regional Asylum Office of Thrace; that with this application he also authorised the lawyer who would take over his case to submit the appeal; that the application in question was registered by the Regional Asylum Office of Thrace on 20-10-2022, while the appointment with the lawyer to provide free legal assistance took place on 25-10-2022; and that, subsequently, he, without having been previously informed about the progress of his above appeal, was informed by the Administration of the Accommodation facilities, where he resides, that on 25-10-2022 he must go to the Regional Asylum Office of Thrace, in order to sign the proof of lodging the appeal (...). Furthermore, regarding the harm he would suffer in the event of his return to his country, the applicant claims that his life and physical integrity would be at risk, as he is wanted by the authorities of his country. He also argues that his already burdened mental health condition would be endangered, as he experiences depressive episodes, is receiving relevant medication, and exhibits symptoms of post-traumatic stress disorder. In addition, he claims that he has been residing in the country since 2019, having developed social and professional ties, as he is employed as a storekeeper, while also participating in an amateur football team.

7. (...), the rejection of the application of international protection is an act with negative content and, therefore, it is not susceptible to suspension of execution. However, the Court in council or the competent judge may, in accordance with

the provision of Article 52 (8) of Presidential Decree No. 18/1989, as in force, order any appropriate measure for the protection of the applicant. In the present case, in those circumstances, taking into account, in particular, the applicant's mental health, as inferred from his claims and the documents provided, mainly the above medical reports, from which it appears that the applicant suffers from the abovementioned disorders of his mental health, that he is receiving relevant medication and that he is being monitored by doctors at the Kavala Hospital; the fact that he maintains a legal job in the country; as well as that the reasons presented in the application for annulment do not appear to be manifestly unfounded; whereas the balancing of the harm to the applicant and the public interest shows that the negative consequences of granting the request for suspension do not outweigh the benefit to the applicant, which is to avoid the deterioration of his mental health condition and the risk to his life, the Court finds it appropriate to order the suspension of the execution of the return measure imposed against the applicant, as well for the Administration to refrain from any action based, exclusively, on the contested decision, which would result in his forced departure from Greece, until a final decision is delivered on the application for annulment (AKY248/2023). (...).

The application is accepted.

NΔ212/2023



Second subsequent asylum application - Eligibility - Interim measures - Algeria - Safe country of origin - Single man - Serious illness - Risk of interruption of medical treatment - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ212/2023
Publication date: 04.10.2023
Judge: Kassiani K. Manolakoglou
(...)

2. (...), with this application, the suspension of the execution of the decision No 302303/12.6.2023 of the 13th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum is sought, which rejected the appeal lodged by the applicant against the decision No 96537/15.2.2023 of the Asylum Unit of Safe Countries of Origin, by which the second subsequent application for international protection had been rejected as inadmissible. By the Committee's decision, the measure of return was also taken against the applicant and a deadline of 7 days was set for his voluntary departure from Greece. Against the same decision, the applicant has lodged an application for annulment (266/2023), which is pending before the three-member Composition of this Court. (...).

4. (...), in the present case, the information on the file shows the following: The applicant, an Algerian citizen, born on 15.5.1967, submitted on 30.7.2019 to the Regional Asylum Office of Thessaloniki, an application for international protection, in which he stated, among other things, that he does not wish to return to his country of origin because he belongs to the Berber party and will be imprisoned in Algeria for 10 years under torture. (...). His application was rejected as unfounded by decision No 27185/16.9.2020 of the Regional Asylum Office of Thessaloniki, against which the latter appealed. By decision No 468737/20.12.2021, (...) his other claims about the risk of persecution due to his participation in the MAK movement were dismissed as not credible. (...). In light of the above and taking into account that with the decision No 1302/20.12.2019 of the Ministers of Foreign Affairs and Citizen Protection Algeria was included in the list of safe countries of origin, the Committee considered that the applicant's claims assessed as not credible cannot overturn the characterization of his country as safe and therefore the conditions for the recognition of his refugee status are not met. (...) on 21.3.2022 the applicant had submitted a second application for international protection, during the registration of which, he stated that he was wanted by the government of his country, because he belongs to the Berber tribe and to the Berber party, the movement for their independence. (...). By decision No. 193064/5.4.2022 of the Regional Asylum Office of Thessaloniki, this application was rejected as inadmissible, while with decision No. 632203/24.10.2022 of the 3rd Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum, the appeal sought against the decision was also rejected. (...). On 8.2.2023, the applicant submitted a third request for international protection, during the registration of which he stated that the police authorities are looking for him as a member of the tribal organisation MAK, which has been classified as terrorist by the State, despite its democratic nature. (...). In a related question, he noted that he had not presented all of the above with the previous applications he had submitted,

that there were no previous decisions and that now a decision was issued to classify the above organisation as terrorist and also to impose the death penalty on 49 people. (...). The 13th Independent Appeals Committee (...) considered, taking into account the facts of the case based on the evidence presented as new, that the most recent statements that the applicant relied on to prove his participation in the MAK movement and the persecution of its members by the Algerian authorities, were not sufficient to restart the examination process of the application for international protection he submitted, because they did not differ from the information he had already provided, (...). With these facts, the appeal was rejected by the decision No. 302303/12.6.2023, a return measure was taken against the applicant and a deadline of 7 days was set for his voluntary departure from Greece.

5. (...), with the present application, the applicant cites quotes from international sources, according to which since September 2019, arrests targeting political activists in Algeria have increased significantly, that since spring 2021, the Movement for the Self-Determination of Kabylia (MAK) was designated by a decree as a terrorist organisation and that hundreds of its activists were subsequently arrested, and that the wave of arrests peaked in November 2022 when 54 people were sentenced to death, allegedly involved in the lynching of a young man, in arson attacks in Kabylia and in participation in the MAK. On 14.11.2022 the leader of the movement, Ferhat Mehenni, who lives in France, was sentenced to life imprisonment for creating a terrorist organisation and undermining the country's territorial integrity. In addition, the applicant submits the certificate dated 2.10.2023 from the Pulmonology University Clinic of "G. PAPANIKOLAOU" General Hospital of Thessaloniki, by which it appears that from 7.9.2023 he has been hospitalised in isolation at the above clinic, suffering from tuberculosis, while subsequently will follow treatment at home. In light of the foregoing, in the contested application and also during the oral examination of the lawyer who signed the application, it was argued that the execution of the return measure imposed against the applicant will cause him irreparable harm, because, on the one hand, in his country his life and physical integrity will be endangered, since he is already targeted as a member of the MAK and will be arrested, tortured and sentenced to a severe sentence, without the guarantees of a fair trial, and on the other hand, his health condition will deteriorate, for which he is hospitalised in isolation at the present.

6. (...), the rejection of a subsequent application for international protection is an act of negative content and, therefore, is not subject to suspension of execution, but the measure of administrative removal imposed on a third country the citizen is subject to suspension. In the present case, from the evidence presented, it shows that the applicant, a citizen of Algeria, is being treated at the "G. PAPANIKOLAOU" General Hospital, having been diagnosed with tuberculosis, a sufficiently serious disease, according to the judgement of the Court, which, according to the medical certificate presented, also requires the continuation of the treatment he is receiving even after his discharge from the above hospital. In light of the foregoing, it is ruled that, due to the applicant's state of health, it is necessary to suspend the execution of the return measure taken against him, until the issuance of a final decision on the application for annulment (AKY266/2023), in order to prevent possible irreparable damage to his health, given that neither the reasons presented in the above application for annulment appear manifestly unfounded, nor does it appear that there are serious reasons of public interest that require the immediate execution of the measure. The Administration is obliged to refrain from any action based exclusively on the contested decision of the 13th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum, which would result in the applicant's forced departure from the country, until the above time point, (...)

The application is accepted.

NΔ266/2023

1st application - Eligibility - Interim measures - Burkina Faso - Single man - Harm from staying in Greece without legal documents for a long period of time - Links in Greece - Employment - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ266/2023
Publication date: 10.11.2023
Judge: Vasiliki G. Dinoka
(...)

2. (...), with the contested application, (...), the applicant seeks to suspend the execution of the decision No. 287927/07.06.2023 of the 4th one- member Independent Appeals Committee of the Ministry of Migration and Asylum, which rejected as

manifestly unfounded the appeal No. 197590/05.04.2023 he lodged against the decision No. 169390/22.03.2023 of the Regional Asylum Office of Thessaloniki by which the second subsequent request for international protection was rejected as inadmissible. By the same decision of the Committee, the measure of return to his country of origin was also taken against the applicant. (...).

5. (...), with the contested application, the applicant seeks to suspend the execution of the above decision, otherwise to order measures against his forced departure from Greece, arguing that the execution of the contested decision and the return measure imposed on him will cause him irreparable harm in case of success of the pending application for annulment. By this latest application for annulment, the applicant claims that the contested decision was issued with inadequate reasoning in violation of the Committee's obligation to conduct an ex nunc examination of the facts due to the civil conflict in his country of origin (Burkina Faso) at the time of the issuance of the contested decision. Furthermore, regarding his harm, the applicant claims that the social circle he has developed in the country will be impacted and that given that the measure of return taken against him cannot be implemented, as forced returns to his country of origin are not carried out, he will be forced to remain in the country under a regime of insecurity and impoverishment, deprived of legal documents, the possibility to work, to get insurance, to rent an apartment and therefore he will lose all means of livelihood. As he claims he has resided in Greece for more than five (5) years; has integrated into Greek society; has learned the Greek language; and for the last two years has been working with full-time contracts for specific employers, who intend to continue to employ him seasonally if he remains legally in the country. Furthermore, the applicant claims that in the event of his return to his country of origin before the examination of his application of annulment, his procedural position will worsen in violation of Article 20 of the Constitution and Article 6 of the E.C.H.R. and that in case it is upheld, it will be practically impossible for him to return to Greece. Finally, the applicant claims that due to the security situation in his country of origin, his physical integrity is at risk due to the indiscriminate violence there, otherwise he is exposed to conditions of poverty since he has no supportive network there. (...).

6. (...), the rejection of a subsequent application for international protection is an act of negative content and, therefore, it is not subject to suspension of execution, but the removal measure imposed on a third country citizen is subject to suspension. In addition, according to the provision of Article 52 (8) of Law No. 18/1989, as in force, the competent judge may order any appropriate measure for the protection of the applicant. And although, as has been consistently upheld, the reversal of the living conditions that third country nationals have established in Greece cannot in principle constitute grounds for suspending the execution of a decision issued in the context of the procedure for examining an application for political asylum or an application for subsidiary protection (cf Council of State, Committee of Suspensions 103/2011, 1197/2010, 902/2010, 66/2010, 942/2009, 1424,1421/2008), nor the grounds put forward in the application for annulment appear to be manifestly well-founded, however in this case, the Court, taking into account on the one hand that he entered Greece in the year 2018 and submitted an application for international protection on 30.08.2018, and since then he has been residing in the country, albeit under a tolerance regime, that he works and is insured, and on the other hand that the claims presented in the application for annulment are not manifestly unfounded, and that the balancing of the damage to the applicant and the public interest shows that the negative consequences of accepting the application for suspension are not more serious than the benefit to the applicant, which consists in avoiding the risk to his life and physical integrity, deems it appropriate to order, until the issuance of a final decision on the application of annulment (AKY348/02.10.2023), the suspension of the execution of the return measure imposed against the applicant by the contested decision No. 287927/07.06.2023 of the 4th Independent Appeals Committee of Ministry of Migration and Asylum, as well as for the Administration's to avoid any action based exclusively on the above decision, which would result in his forced departure from Greece. (...)

The application is accepted.



Subsequent asylum application - Admissibility - Interim measures - Ghana - Safe country of origin - Single mother with minor child - Mental health issues - Gender-based violence - Risk of interruption of medical treatment - Best interest of the child - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ271/2023
Date of publication: 22.11.2023
Judge: Kassiani K. Manolakoglou
(...)

2. (...), the present application seeks to suspend the execution of the decision No. 305084/2023/13.6.2023 of the 16th one- member Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum, which rejected the appeal lodged by the applicant against the decision No. 98077/16. 2.2023 of the Ioannina Asylum Unit, which had rejected the subsequent application for international protection submitted by the applicant for herself and on behalf of her minor daughter as inadmissible. The Committee's decision also ordered the return of the applicant and her minor child to their country of origin [Ghana].

5.(...), the present application, as elaborated in the legal memo submitted, states that the applicant was the victim of abuse by her uncle and exploitation by her partner (...), that as a result of her traumatic experiences, including the loss of her first child, she has serious mental health problems and is regularly followed- up by a psychologist of the National Public Health Organisation, who regularly refers her to the Psychiatric Clinic of the University General Hospital of Ioannina; that she is taking medications; and that she is raising her minor daughter alone. In the light of the above, the applicant submits that their return to their country of origin will cause them irreparable harm, since: 1. the applicant will not have access to the medical treatment required for her condition, with the risk of a serious deterioration of her health; 2. both her and her minor daughter will face persecution and systematic discrimination, the former as a single mother, lacking a supporting network, and the latter as an illegitimate child born out of wedlock; and 3. the applicant's uncle, who systematically abused her, is in the country. In addition, the applicant claims that no returns are happening to Ghana, so that the execution of the contested decision and, consequently, the deprivation of the benefits which she and her child were receiving (in particular housing, food and medical care) will expose them for an indefinite period of time to inhumane conditions, as they will be placed in a state of homelessness and absolute destitution. Finally, the applicant claims that the disruption of her treatment would lead to a deterioration of her mental health, with the risk that she would again become a victim of exploitation. She requests the suspension of execution of the contested decision or else the adoption of all appropriate measures for the temporary protection of her and her child, in particular the continuation of housing and financial assistance provided under the material reception conditions in cash and in kind (food, financial assistance) and the issuing of a Temporary Social Security Number or the taking of any appropriate measure for the continuation of health care coverage. (...).

6 (...), the rejection of an application for international protection is a negative act and, as such, is not subject to suspension of execution, but the return measure imposed on a third-country national is subject to suspension. In any case, pursuant to Article 52 (8) of Law No 18/1989, as amended, the competent judge may order any measure appropriate for the protection of the applicant. And although the disruption of living conditions does not, in principle, constitute a ground to be considered in relation to the suspension of execution or the ordering of another appropriate measure when the harm results from a decision which, like the contested decision, is part of the procedure for examining an application for international protection (Council of State 694/2012, 3464/2011, 867/2010), it is nevertheless taken into account when the suspension of an administrative return measure is requested. In this regard, it is clear from the evidence submitted that the applicant is facing serious mental health problems, for which she is followed up by a psychologist of the National Public Health Organisation; regularly visits the outpatient clinic of the Psychiatric Clinic of the General University Hospital of Ioannina; and receives medications, which continues to be modified by her treating physicians, because her condition has not been fully stabilised. Moreover, the latter has now taken over exclusively the care of her daughter, who is approximately three years old, (...), whose best interests requires that her mother's ability to care for her be ensured before their departure from Greece, where they are staying at the Accommodation Facility in Katsikas, Ioannina, receiving benefits for their decent living and support from mental health professionals. In view of the fact that this is a single-parent family, it is likely that the execution of the return measure, in the present circumstances, would cause irreparable harm to the applicant and her child, since it is not clear whether the former is able to look after the minor on her own and it does not appear that they have a supporting network in their country of origin in order to receive the necessary material and psychological assistance, at least during the period of their adaptation. Besides, the sudden change of environment is likely to cause a deterioration in the applicant's health, which would have a direct impact on the

life of the minor child, while the possibility of mother and child being exposed to conditions of poverty in Ghana cannot be excluded, as the former may face serious difficulties in earning a living in her country of origin as a person in poor mental health, responsible for the care of a child of only 2 years and 9 months of age. In order to prevent that harm, the Court considers that there is a legitimate ground for suspending the execution of the return measure imposed on the applicant and her minor child (...). In addition, in order not to expose the latter to conditions contrary to human dignity, deprived of accommodation, food, health care and any other means necessary for their survival, during the suspension of the return measure, it is appropriate to ensure the continuation of the reception benefits they have been receiving, which, in accordance with accompanying document No 305084/13. 6.2023, would be discontinued within 30 days of the notification of the contested decision, so that they could continue to receive accommodation, food, medical care and any other benefits necessary for their dignified living conditions. In light of the above, the application in the present case must be upheld and it must be ordered that the execution of the return measure imposed by the contested decision on the applicant and her minor child be suspended and that the Administration refrain from any action, based exclusively on that decision, which would result in their forced departure from Greece, until a final decision on the application for annulment (AKY364/2023) is delivered. Finally, the Administration is ordered to ensure that the applicant and the minor continue, during the period of suspension of the return measure, to receive the benefits necessary for their dignified living conditions, as set out immediately above. (...)

The application is accepted.

NΔ332/2023



Subsequent asylum application - Admissibility- Interim measures - Democratic Republic of Congo
- Single man - Mental health issues - Links with Greece - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki

11th (One-Member) Chamber

Decision No: NΔ332/2023

Date of publication: 21.12.2023

Judge: Olga V. Plastira

(...)

2. (...), with the present application, the suspension of execution of the decision No. IP/176484/9-10-2023 of the 17th one- member Independent Appeals Committee of the Ministry of Migration and Asylum is sought, which rejected the applicant's appeal against the decision No. IP/102577/7-9-2023 of the Regional Asylum Office of Thessaloniki and, thus, his application for international protection. By the same decision, the measure of return was imposed on him. (...).

5. (...), the information on the file shows the following: the applicant, born on 10/1/1984, a citizen of the Democratic Republic of the Congo, a Catholic Christian and a member of the Mongala tribe, submitted an application for international protection on 4/7/2018 before the Regional Asylum Office of Lesbos, stating that he does not wish to return to his country of origin because he was arrested by the police of his country, imprisoned for 3 weeks, escaped and is now wanted and his life is in danger. (...). By decision no. 161358/21-3-2022 of the Alimos Regional Asylum Office, the application of the said foreign national was rejected. While his claims regarding his origin, personal, family, and professional situation, as well as those related to his participation in a protest march, his imprisonment, and his torture were accepted, his claim concerning the issuance of an arrest warrant was not accepted, as it was deemed that the applicant did not provide a convincing explanation as to why he was released by the authorities despite the existence of the said warrant against him. Taking into account the applicant's low political profile, whose political activity was limited to mere participation in protest marches, it was considered that there was no well-founded and justified fear of arrest or harm to the applicant upon his return to his country of origin. The applicant's appeal No. 759244/16-12-2022 against that rejection decision was rejected by decision No 147682/13-3-2023 of the 15th Independent Appeal Committee as out of time. With his application of 31/8/2023, the applicant filed a subsequent application for asylum, claiming that his life was still in danger in his country of origin for the reasons he had already mentioned, and he submitted in support of his claims photographs of two arrest warrants (avis de recherche) concerning him, dated 19/1/2017 and 23/11/2021. This application was rejected by the Regional Asylum Office of Thessaloniki by its decision No IP/102577/7-9-2023 as inadmissible, pursuant to Article 89 (1) of Law No 4636/2022, considering that the foreign national in question did not invoke new elements in his subsequent application. The appeal lodged by that applicant against the latter decision was dismissed as inadmissible

by the contested decision, on the ground that, irrespective of whether the two photos of arrest warrants produced are to be regarded as new evidence, since one of them predates the submission of the initial application for asylum, they are not essential, that is to say, they are not capable of reopening the procedure for examining the applicant's application for international protection. (...)

6. (...), with the present application, the applicant seeks to suspend the execution of the last decision of the Appeals Committee, arguing that its execution and his return to his country of origin would cause him irreparable or difficult to repair harm. In particular, he claims that if he is to be returned to his country of origin, he will not be able to return to Greece if the contested decision is eventually annulled. In any case, his return would, he claims, put his life and physical integrity at risk, given that the authorities of his country still persecute him, and threaten his mental health, which has already been disturbed by the events he has experienced. He also claims that his return to his country of origin would violently overturn the living arrangements he has established in Greece, where he has been living since 2018 and currently rents a house in Lagada, Thessaloniki. In order to prove his allegations, he submits, inter alia, copies of: a) the medical opinion dated 28/09/2018 of a private psychiatrist, according to which he suffers from post-traumatic disorder and psychotic syndrome, and has been given relevant medication b) the psychosocial report dated 27/11/2023 by the psychologist of the Amygdaleza Immigration Detention Centre, according to which the applicant appears to be a vulnerable person, who has experienced traumatic experiences and expresses depressive feelings, c) photographs of the two warrants d) proof of submission of a property rental information statement from the Independent Public Revenue Authority (A.A.D.E.), which shows the joint rental of a house in Lagada, Thessaloniki, with other persons.

7. (...), the rejection of an application for international protection is a negative act and is therefore not subject to suspension of execution. However, the Court in council or the competent judge may, in accordance with the provision Article 52 (8) of the Presidential Decree No 18/1989, as amended, order any measure appropriate for the protection of the applicant. In this case, taking into account the state of the applicant's mental health, according to the above-mentioned documents, and taking into account the fact that the hearing of the application for annulment has already been scheduled in a short period of time (14-3-2024), the Court considers that it is likely that the forced departure of the applicant from Greece based on the contested decision, and the execution of the return measure imposed on him, will cause him harm which may not be remedied if the above-mentioned pending application for annulment is upheld. It is therefore necessary to order the suspension of execution of the contested decision, in so far as it imposed the measure of return on the applicant and, at the same time, to order the Administration to refrain, from any action based exclusively on the contested decision, which would result in the applicant's forced departure from Greece, until a final decision on the pending application for annulment is delivered. Furthermore, the Administration is ordered not to proceed with the removal of the card for international protection issued to the applicant or, if that card has already been removed, to return it and, if it has expired, to extend its validity in order to fully restore the applicant's actual situation prior to the rejection of the application for international protection by the contested decision (cf Council of State, Committee of Suspensions 940, 573, 172/2006, 73/2007). (...)

The application is accepted.

NΔ422/2023   

1st application - Admissibility - Interim measures - Afghanistan - Family with minor children - Mental health issues - School attendance - Türkiye as a safe third country - Application rejected

Administrative Court of First Instance of Athens
23th (One-Member) Chamber
Decision No: NΔ422/2023
Date of publication: 30.06.2023
Judge: Pavlos E. Anthymidis
(...)

1. (...) with this application, (...) the suspension of execution of decision no. 38947/20.1.2023 of the 14th Independent Appeals Committee, sitting in a single-member formation, is requested. This decision rejected the appeal of the applicants, nationals of Afghanistan, against decision no. 707794/25.11.2022 of the Lesvos Regional Asylum Office (RAO),

and ultimately rejected their request for recognition, for themselves and their children, as beneficiaries of international protection. The same decision ordered the return of the applicants. The suspension is requested until a final decision on the relevant application for annulment has been taken, (...).

2. (...), in the present case, the information on the file shows the following: The two applicants, Afghan nationals and husband and wife, presented themselves on 10.11.2022 (...) at the Regional Asylum Office of Lesbos and submitted an application for international protection for themselves and on behalf of their four minor children, stating that they had left Türkiye because their residence permit there had not been renewed. The relevant application was rejected at first instance as inadmissible, as it was considered that Türkiye could qualify as a “safe third country” for the applicants concerned. (...). The relevant Independent Appeals Committee took into account that the applicants did not encounter any problems during their stay in Türkiye, (...). It was further taken into account that the available international information show, inter alia, that Türkiye's legal framework provides that returned Afghans are protected from refoulement and that Türkiye does not have a systematic policy of refoulement. The contested decision therefore rejected the applicants' application and ordered their return. Against the contested decision, the applicants have lodged, as already mentioned, an application for annulment (AK 369/2023), which is pending. (...).

3. (...), the applicants, in the present application, request the suspension of execution of the above mentioned decision of the Independent Appeals Committee, claiming, inter alia, that in case of their return to Türkiye, they will be deported to Afghanistan. They also claim that they feel safe in the accommodation facility where they are staying and are beginning to establish life ties in the country. Furthermore, their children have started attending school and are learning the Greek language. Furthermore, they have access to a satisfactory health system, as the applicant's [the wife] psychological state is not good, while one of their minor children occasionally shows symptoms of fever. In order to prove their claims, the applicants submit, inter alia, the psychosocial report dated 13.4.2023 and certificates of their children's attendance at a Greek school. (...), the rejection of the application for international protection is an act of negative content and therefore, is not susceptible to suspension of execution, because any suspension would be tantamount to fully satisfying the applicant's request by the Court, in substituting the Administration in the requests rejected by the contested decision (cf Council of State, Committee of Suspensions 95/2018, 169/2016, 174/2015). Moreover, the provision of Article 52 (8) of Presidential Decree No 18/1989, which allows the Court to order measures other than suspension of enforcement in order to prevent irreparable or difficult-to-remedy harm caused by a decision not subject to suspension of execution, cannot be applied in the present case. Specifically, with regard to the alleged health condition of the applicant [wife] and one of their children, no updated medical reports are submitted that would indicate their condition is so severely burdened as to make their removal from Greece prohibitive. Nor is it demonstrated that they would be unable to receive appropriate medical care in the event of their return to Türkiye. Furthermore, the applicants' claim concerning the disruption of the life ties, which they and their children have developed in Greece, is rejected as unfounded, given that, as it has been consistently upheld, any disruption of the living ties that third country nationals have established in Greece may constitute grounds for suspension of execution only in the context of a decision adopted under the common legislation on foreign nationals and not in the context of a decision adopted on an application for asylum or an application for subsidiary protection (cf Council of State, Committee of Suspensions 103/2011, 1197/2010, 902/2010, 66/2010, 942/2009, 1424, 1421/2008, etc.). Furthermore, from the evidence produced, it does not appear that the applicants' children are unable to continue their education in Türkiye, nor do the applicants and their children present evidence of their strong integration in Greece, so as to suggest that their eventual removal would entail adverse consequences for them or would constitute their uprooting from the country, which would amount to a violation of Article 8 of the European Convention on Human Rights, ratified by Law No 53/1974 (Government Gazette A'256) (cf Administrative Court of Second Instance of Thessaloniki 101/2028, recital 7). Furthermore, the applicants claim, in a vague and unsubstantiated manner, that they and their children are at risk of being persecuted in Türkiye, given that they didn't present specific facts of their individual persecution during their stay in that country prior to their entry into Greece, nor other facts and circumstances concerning them and their children individually (such as death sentence, subjection to torture, serious threat to their lives), from which a well-founded fear of individual persecution or a risk of their being refouled to Afghanistan could rise, taking into account the facts adopted by the contested decision, on the basis of which it was considered that Türkiye is a safe country for the applicants. In addition, there is no evidence that the Turkish authorities are unable or unwilling to provide them with protection in case of persecution by non-State actors (cf. Council of State (Plenary) 2347/2017, Council of State, Committee of Suspensions 103/2011, 281/2010, 941/2009, 1437, 88/2008, Administrative Court of Second Instance of Athens (in Council) 308/2019, 65/2015, 118/2014). Based on the above, there is no indication of an objective inability of the applicants and their minor children to return to Türkiye due to force majeure, or that the non-refoulement clause of Article 3 of the ECHR, or the conditions of Article 3 of the New York Convention of 10 December 1984 (Official Gazette A' 116), apply to their case. Nor is there any indication of irreparable or seriously irreparable harm to them in the event of execution of the contested decision. In light of the above (...), the Court rules that there is no ground for accepting the application for suspension under consideration (...).

The application is rejected.



1st application - Eligibility - Interim measures - Sierra Leone - Single mother with minor child - Gender-based violence - Female Genital Mutilation - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ456/2023
Date of publication: 04.08.2023
Judge: Theodora S. Gavra
(...)

1. (...), with the present application, (...), the applicant seeks to suspend the execution of the decision No 667096/9.11.2022 of the 13th One-Member Independent Appeals Committee, by which the appeal No. 564029/27.9.2022 lodged by the applicant, a Sierra Leone citizen, individually and on behalf of her minor child, (...), against the decision No. 502863/31.8.2022 of the Regional Asylum Office of Samos, was rejected and the measure of return, with voluntary departure, within a time limit, from Greek territory was imposed on them. (...).

2. (...), in the present case, the information on the file shows the following: The applicant appeared on 1.7.2022 at the Reception Center of Samos and submitted an application for international protection; on 23.8.2022 she appeared again for the registration of her abovementioned minor child. During the registration of her application she expressed her unwillingness to return to her country of origin fearing for her life because she was forced to join the Sowe society after the death of her mother as she is the eldest daughter and they wanted her to take her [mother's] place. Concerning her minor child, the applicant stated that she has no family and no one who could support her and her child and that the latter would face the same problems as she would if she were to return to Sierra Leone.

The applicant was considered vulnerable, as a single mother, a victim of female genital mutilation, (...). After the above-mentioned application for international protection, the decision No. 502863/31.8.2022 of the Regional Asylum Office of Samos was issued rejecting the application. Against this rejection the applicant lodged the appeal, (...). With the contested decision, the appeal was dismissed on the ground that the conditions for recognising the applicant and her minor child as beneficiaries of international and subsidiary protection were not met. (...). Furthermore, regarding the fact that the applicant had undergone female genital mutilation at a young age, it was found that, after researching available sources on the practice of women undergoing clitoridectomy, it is not confirmed that this practice is applied to adult women who have already undergone female genital mutilation. In view of the above, it was considered that the applicant does not meet the requirements of Article 1A (2) of the 1951 Convention and therefore, she is not entitled to be recognised as a refugee. (...) The applicant lodged an application for annulment against the above mentioned decision of the 13th Independent Appeals Committee before the Court (AK80/2023) (...).

3. (...) with the present application, the applicant seeks to suspend the execution of the contested decision, arguing that it is certain that the above mentioned application for annulment will be upheld. Moreover, she claims that the immediate execution of the contested decision will cause her irreparable harm, given that she is a single mother who has taken sole care of her unidentified father's infant, aged 6 months, which she conceived after being raped by her trafficker during her journey. The traumatic event of her rape has caused her, as she claims, intense anxiety and depressive feelings, which have burdened her in her efforts to raise her minor child in the best possible way. In addition, she claims that, in the event of their return, it is highly likely, based on recent international sources on children's rights in Sierra Leone, that her child would be deprived of access to health services, education and be exposed to a multitude of diseases, malnutrition and generally unsuitable living conditions and would be a victim of child labour exploitation and trafficking for sexual exploitation. The likelihood of the above risks is further aggravated in their case by the fact that her child, as a child born in another country, out of wedlock and to a father who is not a national of her country of origin, will not be able to be recognised as a citizen of Sierra Leone. Furthermore, the applicant claims that during her stay in Greece she was informed that an arrest warrant had been issued against her in her country of origin, with the result that she risks being arrested from the moment she returns. Finally, according to her allegations, in Sierra Leone she will not receive the psychosocial support she needs in view of her difficult psychological situation, nor does she have a supportive family network. In support of the above claims, she cites and submits, among other things, the psychosocial history report dated 1.2.2023 by the Social Worker of the National Public Health Organization (EODY) at the Reception and Accommodation facility of Agia Eleni (...).

4. (...), in light of the above, the Court rules, firstly, that the application for annulment No AK80/2023 lodged by the applicant against the contested decision, is not manifestly founded, since the grounds put forward in that application are not based on settled case-law or on the case-law of the Plenary Session of the Council of State and, thus, requires a thorough examination of the legal and factual aspects of the case (cf Council of State, Committee of Suspensions 35/2017 (Plenary), 324, 154/2018, 65/2016, 24/2016, 178/2015, 150, 231, 15, 312/2014, 294, 489/2013, 496/2011, 15/2015,

329/2016 etc.). However, in relation to the irreparable damage alleged by the applicant, taking into account the particular circumstances of the latter and in particular the fact that in the current period the applicant is, according to common experience and regardless of other circumstances, in a vulnerable situation, due to the fact that she has taken on the increased care of her one-year-old infant exclusively,, who was conceived as a result of rape and is deprived of paternal care and that in her country of origin the latter lacks any supportive family environment, given the death of her parents and the non-existence of relations with her brother while, on the contrary, in Greece she feels that she has created a friendly network, which can support her emotionally and materially, the Court rules that, in view of these special conditions, the removal of the applicant from Greece in the present circumstances would cause her serious and irreparable harm. In order to prevent such harm and taking further into account that the above application for annulment is not manifestly inadmissible or unfounded, the Court rules that, in accepting the application, the Administration should be ordered, until a final decision on the pending application for annulment is delivered, to refrain from any action based solely on the contested decision and entailing the forced departure of the applicant from Greece (cf Council of State, Committee of Suspensions 140/2018, 246/2017 etc.). Moreover, the Administration is ordered not to proceed with the removal of the international protection card issued to the applicant or, if that card has already been removed, to return it and, if it has expired, to extend its validity so as to fully restore the applicant's actual situation prior to the rejection of her application for international protection by the contested decision (cf Council of State, Committee of Suspensions 1198/2010, 731/2008, 73/2007). (...)

The application is accepted.

NΔ457/2023  

1st application - Admissibility - Interim measures - Afghanistan - Türkiye as a safe third country - Family with minor children - Best interest of the child - School attendance - Risk of harm - Application accepted

Athens Administrative Court of First Instance
10th (One-Member) Chamber
Decision No: NΔ457/2023
Date of publication: 08.08.2023
Judge: G. Kritikou Mandani
(...)

1. (...), with the present application, (...), the applicants, individually and on behalf of their minor children, seek to suspend the execution of decision of second instance No 58403/2023/30.1. 2023 of the 20th Independent Appeals Committee, by which their appeal dated 20.12.2022 against the decision No. 735634/7.12.2022 of the Regional Asylum Office of Lesbos was rejected. By the latter decision, their applications for international protection dated 17.11.2022 had been rejected in the first instance.(...).

2. (...), in the present case, the information on the file shows the following: The applicants, husband and wife, citizens of Afghanistan as they declared, lodged applications for international protection on 17.11.2022 at the Regional Asylum Office of Lesbos, individually and on behalf of their minor children, during the registration of which they stated that they had left Türkiye, due to the difficulties in obtaining a residence permit and the consequent fear of deportation. The above applications were rejected as inadmissible by decision no. 735634/7.12.2022 of the Lesbos Regional Asylum Office, pursuant to Articles 89 and 91 of Law 4939/2022, and their readmission to Türkiye was ordered. Against this decision, the applicants filed an administrative appeal dated 20.12.2022 with a request to remain in the country, which was rejected as inadmissible by decision no. 58403/2023/30.1.2023 of the 20th Independent Appeals Committee. In particular, the Committee (...) ruled that [Türkiye] is a safe third country for them and ordered their readmission to it. Moreover, the Committee considers that Article 91 (5) of Law No 91(5). 4939/2022 does not apply in this case, due to the existence of a legal and factual obstacle which makes the readmission of the applicants to Türkiye impossible, in view of the Turkish authorities' alleged refusal to accept asylum seekers from Greece or the statement by the Minister for Migration and Asylum that the procedure for returning asylum seekers to Türkiye had been discontinued as from 15.3.2020, given that the above attitude of Türkiye does not constitute a prohibition of entry into its territory specifically to the applicants, within the meaning of the above article, but a general policy of that country with regard to the management of refugee flows in its territory. Against the latter decision, the applicants lodged an application for annulment (AK469/2023) (...). With the present application, the applicants request the suspension of execution of the contested decision, claiming, among other

things, that in the event of their forced departure from Greece, it would be practically impossible for them to return, even if the above-mentioned application for annulment is successful, in violation of Article 20(1) of the Constitution and Article 6(1) of the ECHR. They further claim that Türkiye is not a safe third country for them and that if they are readmitted to Türkiye, they will be returned to Afghanistan, where their lives and physical integrity are at risk from the Taliban. Moreover, in case of execution of the contested decision, they will be deprived of their legal documents of residence in Greece, they will not have access to health care and the labour market, and their minor children will be forced to stop attending Greek school. In this regard, they invoke and submit the certificates of attendance of their minor children in the 5th and 6th grade, respectively, of the Primary School of Agios Ioannis of Zitsa dated 7.4.2023.

3. (...), the contested decision, as an act of negative content is, in principle, not susceptible to suspension of execution, because this would be tantamount to fully satisfying the rejected applications for international protection by the Court, in substituting the Administration. However, taking into account in particular that the the Council of State (Plenary Session), (...), in its decision No 177/2023, submitted the following preliminary questions to the Court of Justice of the European Union: "a) Is Article 38 of Directive 2013/32/EU, read in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, to be interpreted as precluding national (regulatory) legislation designating a third country as generally safe for certain categories of applicants for international protection, where that third country is under a legal obligation to allow the readmission to its territory of those categories of applicants for international protection, but has refused to readmit them for a long period of time (in this case, more than twenty months) and it does not appear that the possibility of changing the country's position in the near future has been adequately considered? Or (b) Is it to be interpreted as meaning that readmission to the third country is not a cumulative condition for the adoption of the national (regulatory) act designating a third country as generally safe for certain categories of applicants for international protection, but is a cumulative condition for the adoption of the individual act rejecting a particular application for international protection as inadmissible on the ground of "safe third country"? Or (c) Is it to be interpreted as meaning that readmission to the "safe third country" must be established only at the time of enforcement of the decision, where that decision to reject the application for international protection is based on the "safe third country" ground?; and further taking into account, in accordance with Article 3(1) of the New York International Convention on the Rights of the Child [signed on 26.01.1990 and ratified by Law No 2101/1992 (Government Gazette A' 192), Council of State 1636, 756/2002], the best interest of the applicants' minor children, aged 12 and 11, who live in Greece and attend a Greek school, and the fact that the lodged application for annulment is not manifestly inadmissible or unfounded, the Court rules that there are legitimate grounds in this case for ordering, in accordance with Article 52(8) of the Presidential Decree 18/1989 (Government Gazette A' 8), the measures specifically mentioned in the operative part of the decision, until a final decision on the application for annulment is delivered, and that the applicants should be reimbursed of the fees paid (Article 36(4) of Presidential Decree No 18/1989). (...)

The application for suspension is accepted.

NΔ466/2023



1st application - Eligibility - Interim measures - Somalia - Single man - Serious illness - Maintain family unity - Links in Greece - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ466/2023
Date of publication: 10.08.2023
Judge: Ioannis P. Georgakopoulos
(...)

1. (...), with the present application, (...) the applicant (...) seeks to suspend the execution of the decision of second instance No. 100028/17.2.2023 of the 4th Independent Appeals Committee, by which his appeal dated 14.11.2022 against the decision No. 602471/12.10.2022 of the Asylum Unit of Nikaia, by which his application for international protection was rejected.

2. (...), in the present case, the information on the file shows the following: The applicant submitted the application for international protection No 6388/15.2.2021 before the Regional Asylum Office of Thessaloniki, (...) the above applicant

was rejected in the first instance as unfounded. He lodged an appeal against that decision before the 4th Independent Appeals Committee on 14.11.2022. In the abovementioned interviews the applicant claimed, inter alia, that he is single, his father is deceased, his mother and one of his brothers are in Greece as asylum seekers, while he stated that one of his brothers and one of his sisters live in Somalia and another brother is missing. The applicant left his country with his mother and brother on 29.9.2019 and flew to Türkiye, from where they entered Greece on 1.3.2020 via the island of Chios. (...), The applicant stated that he suffers from diabetes, while regarding his mother's health condition, he declared that she suffers from diabetes and high blood pressure, is blind in her left eye, and has amnesia. In support of these allegations, the applicant submitted relevant medical documents. As to the reasons that led him to leave his country of origin, the applicant stated that he left because he was in danger from the relatives of two people killed in a car accident caused by his father and from Al Shabaab (...).

By the contested decision of the Committee, the applicant's above-mentioned appeal was rejected with regard to his inclusion in refugee status, on the grounds that the abovementioned claims put forward by the applicant were deemed unreliable (...). As regards to subsidiary protection status, the applicant's application was similarly rejected, (...). Finally, the contested decision imposed on the applicant the measure of return with voluntary departure from the country within a period of ten days from the notification of the decision, in accordance with Article 22 of Law No 3907/2011. The applicant lodged an application for annulment against the contested decision before the Court (AK491/2023), which is pending (...). By the present application, the applicant seeks to suspend the execution of the above decision, until a final decision on the pending application for annulment is delivered by the Court, claiming that the immediate execution of the contested decision will cause him irreparable, immediate, imminent and personal harm. This is because if he returns to his country of origin he will again be subjected to rampant violence by the relatives of the victims of the road accident caused by his father and he further claims that he will be persecuted by the Islamist group of Al Shabaab and his life and physical integrity will be in imminent risk. According to his claims, Somalia is currently experiencing indiscriminate violence and a food crisis, and that he is particularly vulnerable due to his health problems. In addition, he claims that should he return to Somalia, his ties with the rest of his family would be broken, as he would be separated from his mother and niece, who have been granted international protection and with whom he has been living together as a family and with whom he has a close emotional bond to date. Together with his brother, he has taken care of his mother, who has serious health problems. For these reasons, the applicant requests the re-issue of the asylum seeker's card pending the decision on the application for annulment.

3. (...), the rejection of an application for international protection is a decision with negative content and therefore not subject to suspension of execution. However, the Court in council or the competent judge may, in accordance with the provision of Article 52 (8) of Presidential Decree No 18/1989, as amended, order any measure appropriate for the protection of the applicant. In the present case, the Court, taking into account that the applicant's mother has been granted subsidiary protection status, she herself suffers from serious health problems and requires the care of her family members, that the applicant's brother and his niece are in Greece, and his niece was granted refugee status, therefore, in order to maintain family unity, considers it necessary to order the Administration to refrain from any action based exclusively on the contested decision, and which will result in the forced removal of the applicant from Greece, until a final decision is delivered on the pending application for annulment. Furthermore, the Administration is ordered not to proceed with the removal of the asylum seeker card or, if the card has already been removed, to return it and, if it has expired, to extend its validity in order to fully restore the actual situation in which the applicant was before the rejection of the application for international protection by the contested decision (cf Council of State, Committee of Suspensions 940, 573, 172/2006, 73/2007). (...)

The application is accepted.



1st application - Admissibility - Interim measures - Somalia - Türkiye as a safe third country - Family with minor children - Maintain family unity - Best interest of the child - Harm from staying in Greece without legal documents for a long period of time - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ502/2023
Publication date: 28.09.2023
Judge: Theodora S. Gavras
(...)

1. (...), the present application, (...), seeks to suspend the execution of the decision No 48580/25.1.2023 of of the 13th one-member Independent Appeals Committee, which rejected the appeal of the applicants and their minor child dated 15.12.2022 (...), according to their statement Somali citizens, against the decision No 710429/25.11.2022 of the Regional Asylum Office of Lesbos, and ordered their return to their country of origin. (...).

2. (...), in the present case, the information on the file shows the following: The applicants, citizens of Somalia according to their declaration, submitted an application for international protection on 11.11.2022 before the Regional Asylum Office of Lesbos for themselves and on behalf of their minor child, (...). After that, by decision No 710429/25.11.2022 of the Regional Asylum Office of Lesbos, their application for international protection was rejected as inadmissible, in accordance with Article 89 of Law No 4939/2022, as it was considered that the conditions set by the legislation, so that Türkiye can be classified as a "Safe Third Country" for the applicants, are fulfilled cumulatively. By the same decision, their return was ordered. Against this decision, the applicants lodged an appeal dated 15.12.2022 (...). The appeal was discussed on 12.1.2023 before the 13th one-member Independent Appeals Committee (...) and was rejected with the contested decision. In particular, (...) the Committee ruled that Türkiye is considered a safe third country for them, rejecting their alleged claims to the contrary and that correctly and legally the decision No 710429/25.11.2022 of the Regional Asylum Office of Lesbos rejected their application for international protection as inadmissible. (...).

3. (...), with the present application, the applicants seek to suspend the execution of the contested decision until a final decision is delivered by the Court on the pending application for annulment that they lodged against it (AK419/2023), presenting, first of all, that the latter is strongly likely to be upheld. The above claim must be rejected as unfounded, given that the reasons presented in the application for annulment are not based on established jurisprudence or on jurisprudence of the Plenary Session of the Council of State, and they require a further thorough examination of the legal and factual part of the case (cf Council of State, Committee of Suspensions in Plenary Session 232-230, 162-160, 25-21/2019, 411-410/2018, 35/2017, Council of State, Committee of Suspensions 197, 80/2020, 38/2019, 54/2017, 24/2016 etc.).

4. (...), furthermore, the applicants argue that the immediate execution of the contested decision will cause them irreparable harm, since it will result in them being forced into a situation of total exclusion and destitution. In particular, they argue that Türkiye has refused for a long period of time (exceeding twenty months) the readmission of applicants for international protection and that this position is not expected to change in the near future; and that their stay in Greece without legal documents, as a result of the execution of the contested decision, will result in them being unable to gain access to work, insurance, health care and in general to state benefits, such as financial assistance, housing and food, which are granted to asylum seekers, with the direct consequence of depriving them of any possibility of a dignified living and survival, in accordance with article 3 ECHR.

5. (...), the contested decision, inasmuch as it rejects the applicants' claims, constitutes a negative act which is not subject to suspension of execution, because any suspension of its execution would be tantamount to fully satisfying the rejected applications for international protection by the Court, in substituting the Administration (cf Council of State, Committee of Suspensions 95/2018, 169/2016, 174/2015). Moreover, taking into account that on 19.3.2023 the second child of the applicants was born in Greece, for which a request for international protection is pending, and further the need to preserve the family unity of the applicants and their children and protect their best interests, the court rules that the immediate removal of the applicants and their child (...) from the country, as a consequence of the execution of the contested decision, will cause them irreparable harm, in case the relevant application for annulment is upheld. In order to prevent this harm, the Court considers that, in the light of the above, the Administration should be ordered to refrain from any action based exclusively on the contested decision entailing the forced departure of the applicants and their child (...).

from Greece, until a final decision on the above application for annulment is delivered (cf. Council of State, Committee of Suspensions 140/2018, 246/2017, 214/2009, 841, 485/2008 etc.). Further, the Administration must be ordered to provide the applicants and their child (...) with valid international protection cards (cf. Council of State, Committee of Suspensions 1198/2010, 731/2008, 73/2007, 940, 573, 172/2006). (...).

The application is accepted.

NΔ589/2023



1st application - Admissibility- Interim measures - Afghanistan - Family with minor children - Mental health issues- Türkiye safe third country - Harm from staying in Greece without legal documents for a long period of time - School attendance - Best interest of the child - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

21st (One-Member) Chamber

Decision No: NΔ589/2023

Publication date: 21.11.2023

Judge: Kalliopi Th. Maragou

(...)

1. (...), with the present application, (...), the suspension of the execution of the decision No. IP/98141/6.9.2023 of the 4th one-member Independent Appeals Committee is sought, which rejected the appeal lodged on 12.7.2023 by the applicants against the decision No. 308281/14.6.2023 of the Regional Asylum Office of Lesbos. The latter had rejected, in the first instance, the application dated 28.4.2023, submitted by the applicants, individually and on behalf of their minor children, for international protection. (...).

3. (...), in the present case, the information on the file shows the following: The applicants, citizens of Afghanistan, submitted before the Regional Asylum Office of Lesbos the application dated 28.4.2023, requesting that they and their minor children be granted international protection. (...). By the decision No. 308281/14.6.2023 of the Regional Asylum Office of Lesbos, the above application of the applicants was rejected as inadmissible, according to Article 89 of Law No 4939/2022, as it was considered that the conditions of Article 91 of Law No 4939/2022 are cumulatively met, so that Türkiye can be characterised as “safe third country” for them. Against this decision, the latter filed, individually and on behalf of their minor children, an appeal dated 12.7.2023, which was rejected, with the contested decision, on the same grounds as above, while their readmission to Türkiye was also ordered. Against this last rejection decision, the applicants, acting individually and on behalf of their minor children, have lodged, before this Court, an application for annulment dated 24.10.2023 (AK 1110/24.10.2023), (...).

4. (...), with the present application, the applicants seek to suspend the execution of the contested decision, arguing inter alia that, from its immediate execution, they will suffer irreparable harm, given the fact that Türkiye currently refuses readmission of asylum seekers from Greece and, therefore, it is very likely that they, with their minor children, will remain in the country, for an indefinite period of time, without legal documents, in a state of complete deprivation of basic rights, social exclusion and impoverishment, in violation of article 3 of the ECHR. They claim that, on the basis of the contested decision, they no longer have legal documents, and, thus, they are not allowed to rent a house or stay in a temporary accommodation facility, nor to work legally. In addition, the financial aid they were receiving has stopped and the food distributed to them was limited, resulting in the nutritional needs of their family to be covered thanks to the help of non-profit organisations, which provide them with a few basic food items, twice a month. Furthermore, they claim that they no longer have access to health care and psychosocial support services, while their youngest child, (...), has a heart problem and was referred for more specialised medical tests, and the same child exhibits socially isolating behaviours and difficulties with emotional expression and interaction, according to the report of the psychologist of the controlled accommodation facility of Alexandria dated 2.8.2023. In addition, citing the same report, they claim that they themselves are in a fragile psychological state and are experiencing intense concerns, due to the rejection of their request for asylum. Finally, the applicants point out that all eight of their minor children attend a Greek school and, in the case of

the immediate execution of the contested decision, they will be forced to interrupt their studies and be cut off from the education, which they managed to join with a great deal of persistence and diligence, and, as a result, will experience frustration and complete disappointment, causing irreparable damage to their fragile psychology (...).

5. (...), the rejection of the request of the applicants and their minor children for international protection as an act of negative content, is not, in principle, subject to suspension of execution, because any suspension would be tantamount to fully satisfying the rejected applications for international protection by the Court, in substituting the Administration in its work (cf Council of State, Committee of Suspensions 95/2018, 169/2016, 180/2015, 243/2013 etc.). However, taking into account, on the one hand, the burdened psychological situation of the applicants, who are experiencing intense stress, as parents of eight minor children, temporarily hosted in a foreign country, and on the other hand, the best interest of the children in question, which dictates that they continue their attendance at the respective Greek educational institutions, during the current school year, and, further considering the state of health of the child (...), who needs further monitoring by a specialist paediatrician, the Court considers that the immediate execution of the contested decision, resulting in the removal of the above-mentioned persons from Greece, would cause them harm which would be difficult to repair if the application for annulment were upheld. In order to prevent this harm, given the fact that the relevant application for annulment does not appear to be manifestly inadmissible or unfounded, while it is to be heard in the immediate future, the Administration, pursuant to Article 52 (8) of the Presidential Decree 18/1989, must be ordered a) to refrain from any action based exclusively on the contested decision, which would result in the forced departure of the applicants and their minor children from the country (cf Council of State, Committee of Suspensions 140/2018, 246/2017, 214/2009, 485/2008 etc.) and b) to give the applicants and their minor children - in the event that these have already been removed or expired - valid international protection applicant cards (cf Council of State, Committee of Suspensions 1198/2010, 731/2008, 167/2007, 940/2006), until a final decision on the pending application for annulment is delivered. (...).

The application for suspension is accepted.

NΔ629/2023



1st application - Eligibility - Interim measures - Somalia - Couple - Gender-based violence - Female Genital Mutilation - Serious illness - Risk of interruption of medical treatment - No procedural damage if the applicants are not present in the hearing of the application for annulment - Application rejected

Administrative Court of First Instance of Athens

21st (One-Member) Chamber

Decision No: NΔ629/2023

Date of publication: 05.12.2023

Judge: Kalliopi Th. Maragou

(...)

1. (...), with the present application, (...), it is sought to suspend the execution of decision No. 210269/11.4.2023 of the 6th one - member Independent Appeals Committee, by which the appeal dated 1.2.2023 lodged by the applicants against decision No. 697332/21.11.2022 of the Asylum Unit of Nikaia was rejected. By the latter, their application for international protection dated 19.04.2021 had been rejected in the first instance.(...).

3. (...), in the present case, the information on the file shows the following: The applicants, spouses and citizens of Somalia, according to their statement, submitted the application dated 19.4.2021 before the Regional Asylum Office of Thessaloniki, requesting to be granted international protection. During the registration of their application, they stated that they did not wish to return to their country of origin because the second applicant belongs to a dominant tribe, while her husband, the first applicant, belongs to a minority tribe and her family did not approve of their marriage; they tortured the applicant and threatened to murder them (...). By decision No 697332/21.11.2022 of the Asylum Unit of Nikaia, the above application of the applicants (...) was rejected as unfounded and their return was ordered. Against the above decision, on 1.2.2023 the applicants lodged an appeal, which was rejected as out of time by the contested decision, while their return to their country or to the country from which they came from was ordered. Against the latter rejection decision, they have

lodged before this Court, the application for annulment dated 1.8.2023 (AK 839/1.8.2023), in which they put forward, as grounds for annulment: 1) unlawful notification of the first instance rejection decision; timely lodging of the appeal; and 2) infringement of the right to an effective remedy, enshrined in Articles 13 ECHR and 47 of the Charter of Fundamental Rights of the European Union, as well as of the rights of defence, enshrined in Article 47 (2) of the same Charter.

4. (...), with the present application, the applicants seek to suspend the execution of the contested decision, claiming that their forced removal from Greece would cause them irreparable harm, otherwise difficult to remedy, if their application for annulment is upheld. Firstly, they argue that in the event of immediate execution of the contested decision, their procedural position would deteriorate during the hearing of the relevant application for annulment, which would constitute a) a direct violation of Article 20 para. 1 of the Constitution (right to judicial protection) and Article 95 of the Constitution (right to apply for annulment); (b) infringement of Article 6(1) ECHR (right to a fair trial); and (c) infringement of Article 2(3) (a) of the International Covenant on Civil and Political Rights (right to an effective remedy against acts of the administrative authorities). Furthermore, relying on the case-law of the European Court of Human Rights (case of 5.2.2002, *Čonka v. Belgium*, application no. 51564/99), they claim that, within the meaning of Article 13 ECHR, it is imperative for the effective examination of applications for international protection that a remedy with suspensive effect be provided against decisions which result in the removal of applicants, because of the irreversible damage which may be caused in the event of the immediate execution of those decisions (e.g. difficulties in communicating with the applicants' Greek lawyer, in gathering evidence in support of their legal interests, etc.). Moreover, the applicants argue that, given that both of them suffer from chronic health issues, the first from a gastrointestinal condition requiring regular monitoring, and the second from a gynecological condition resulting from the mutilation of her genital organs, the immediate execution of the contested decision would result in them being deprived of the medical care they are currently receiving, which would consequently lead to a deterioration of their health. In support of the above claims, they cite and submit, among other things, a copy of the certificate dated 8.3.2023 issued by obstetrician-gynecologist Glykeria Karatasiou of the Greek branch of "Doctors of the World," which confirms that, based on the clinical examination of the applicant, it was found that she has previously undergone clitoridectomy.

5. (...) based on the applicants' claims during the administrative procedure for the examination of their application for international protection, which, moreover, are not further specified in the present application, nor supported by any evidence, in combination with the international sources cited by the Administration regarding the current situation in Somalia, there is no indication of irreparable or seriously irreparable harm to them in the event of their return to their country of origin due to a risk to their lives. Specifically, it does not appear that the applicants are at risk, in the event of their return to Somalia, of being subjected to torture or to other inhuman or degrading treatment or punishment, in violation of Article 3 of the European Convention on Human Rights and Fundamental Freedoms (ECHR). Consequently, there is no ground for a suspension and, as a result, the argument that the suspension is required by Article 13 ECHR on "effective remedy" should be rejected. This is because this provision does not impose the suspension of the execution of removal measures imposed on a foreign citizen, if it is examined and found by a body which provides the guarantees of independence and impartiality referred to in the same Article 13, such as the present Council of the Court, that there is no infringement of Article 3 ECHR (cf Council of State, Committee of Suspensions 334/2009, Council of State, Committee of Suspensions 143/2007 and judgments ECtHR 11.7.2000, *Jabari v. Türkiye*, application no. 40035/98, 11.1.2007, *Salah Sheekh v. Netherlands*, 1948/04, 11.12.2008, *Muminov v. Russia*, 42502/06). In any event, Article 13 ECHR does not require Contracting States to grant an applicant for asylum access to a remedy with automatic suspensive effect, as the applicants wrongly assume in the present case, since this would lead to a violation of the relevant provisions on granting international protection (see recital 71 of the ECHR judgment of 5 February 2002, *Čonka v. Belgium*, application no. 51564/99). For the same reasons, the abovementioned arguments concerning the applicants' procedural damage during the hearing of the relevant application for annulment, in which, moreover, they may be adequately represented by their lawyer, are also rejected. Finally, apart from the abovementioned medical certificate - which, however, does not mention any current serious gynaecological problem of the applicant, related to her past genital mutilation - the applicants do not produce any medical documents proving the health problems they allege, thus their claim in that regard is rejected. Following all the above, there is no legitimate ground for the application of the abovementioned provision Article 52 (8) of Presidential Decree No. 18/1989, given that the contested decision, as an act of negative content, and is subject to suspension of execution (cf Council of State, Committee of Suspensions 105/2022, 183/2021, 279/2020, 62/2018, 180/2015 etc.). (...)

The application for suspension is dismissed.



1st application - Admissibility - Interim measures - Syria of Kurdish origin - Single woman - Türkiye as a safe country - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

23rd (One-Member) Chamber

Decision No: NΔ2/2024

Date of publication: 10.01.2024

Judge: Anastasia N. Koliopoulou

(...)

1. (...), with present application, (...) the suspension of execution is lawfully requested of decision no. 39059/31-7-2023, issued at second instance by the 1st Independent Appeals Committee (single-member composition) of the Appeals Authority of the General Secretariat for Migration Policy, by which: a) the administrative appeal dated 26-4-2023 of the applicant, who claims to be a Syrian national, against decision no. 161298/18-3-2023 of the Lesvos Regional Asylum Office was rejected as unfounded; b) her application for international protection was rejected as inadmissible under Article 89 of Law 4636/2019; and c) her readmission to Türkiye was ordered, without being granted a deadline for voluntary departure. (...).

2. (...), from the information in the case file, the following can be deduced: On 13-2-2023, the applicant applied for international protection before the Regional Asylum Office of Lesvos. During her registration, she stated that she was born on 12-1-1994, is a Syrian national of Kurdish origin, that she cannot return to her country “for security reasons, due to the war she does not feel safe in her country and has no access to education and work” and that she left Türkiye due to “lack of asylum and for reasons of discrimination”. By decision No. 161298/18-3-2023 of the Regional Asylum Office of Lesvos, the said application was rejected as inadmissible, following article 89 of Law No. 4939/2022, because it was found that the conditions set by the legislation for Türkiye to be classified as a “safe third country” for the applicant were met, by Article 91 of Law No. 4939/2022. The applicant submitted the 234682/26-4-2023 appeal, which was rejected by the already-challenged decision of the 1st Independent Appeal Committee. (...).

3. (...) By the present application, the applicant requests the suspension of execution of the above act until the issuance of a final decision by the Court on the pending annulment application, arguing that the immediate execution of the aforementioned decision and her consequent readmission to Türkiye would cause her irreparable harm, in the event that the annulment application is successful, as it would endanger her life for the reasons she invoked in her abovementioned application for international protection. Moreover, it claims that already from March 2020, Türkiye does not accept the return of migrants/refugees who entered Greece irregularly from its territory, making its readmission to Türkiye objectively impossible.

4. (...), the contested decision, by which the applicant's application for international protection was rejected as a negative act, is not eligible for suspension of enforcement because this suspension would indeed be equivalent to the satisfaction by the Court by substituting the Administration, of the application rejected by that decision (see Committee of Stays of Proceedings of Council of State 62/2018, 197/2016, 180/2015, 243/2013, 529/2010, etc.). Therefore, to prevent such damage and given that, on the one hand, it is not apparent from the information in the file, nor does the Administration, in its relevant report, rely on the existence of reasons of public interest which, when weighed against the above damage, would prevent the admission of the application in question (Suspension Committee, Council of State 62/2018, 637/2011, 964/2010), on the other hand, since the aforementioned application for annulment is not manifestly inadmissible or unfounded, it must, in this case, be ordered, at the Court's discretion, as an appropriate measure pursuant to Article 52(8) of Presidential Decree 18/1989, as in force, that the Administration refrain, until the publication of a final decision on the above pending application for annulment, from any action based solely on the contested decision which would result in the applicant's forced departure from Greek territory and her readmission to Türkiye. Furthermore, the Administration should be ordered to reissue to the applicant an applicant's international protection card (in case it has been withdrawn) to restore the actual situation in which she was before the rejection, by the contested decision, of her application for international protection (Council of State Council of State Committee of Suspensions 1198/2010, 731/2008, 73/2007, 172/2006). (...)

The application is accepted.

1st application - Eligibility - Interim measures - Afghanistan - Single man - Harm from staying in Greece without legal documents for a long period of time - Links with Greece - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ35/2024
Date of publication: 19.01.2024
Judge: Stylianos I.Papadopoulos
(...)

2. (...), this application seeks the suspension of the execution of the decision No. 87019/31.8.2023 of the 5th Independent Appeals Committee of the Ministry of Immigration and Asylum, composed of three members, by which the applicant's appeal against the decision No. 189198/31.3.2023 of the Thessaloniki Regional Asylum Office (RAO) was rejected as unfounded.

4. (...) in the present case, the following emerges from the administrative file: the applicant, born on 22.10.1996, a national of Afghanistan, submitted an application for international protection on 21.1.2020 at the Lesbos Regional Asylum Office (...). As to his religious beliefs, he declared himself a Shia Muslim, and as to his ethnic origin, he declared that he belonged to the Hazara ethnic group. (...). He further stated that he does not wish to return to his country for three reasons: a) because he has not lived in Afghanistan, b) because he is a Shia Hazara; and c) because his life is in danger based on the security situation. Regarding the difficulties he would face today in case of his return to Afghanistan, he testified, inter alia, that all Hazara Shiites are currently in danger in Afghanistan because of the security situation from the Taliban and that he fears that he will be beheaded because of his religion, and then stated that his life is in danger in Afghanistan because he fought, between 2015 and 2018, with the Fatemiyoun corps in Syria (...). The applicant's application for international protection status was rejected as unfounded by decision 98/31.3.2023 of the Regional Asylum Office of Thessaloniki, which further ordered his return to his country of origin. Against this decision, the applicant filed an appeal dated 18.5.2023, which was rejected by decision No. 87019/31.8.2023 of the 5th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member formation. In particular, in the latter decision, the above factual allegations of the applicant were accepted as credible. It was reasonably presumed that in case of his return to his country of origin, he would be subject to persecution based on his race (Hazara), his religion (Shia) and ascribed political beliefs (as a member of the Fatemayoun who call themselves sectarians and collaborators of Iran), by the Taliban and/or other armed groups such as those active in the region, and is therefore entitled in principle to be recognised as a refugee. However, it was held that there was, following Article 11 para. 2 point a) of the Law No. 4939/2022 (Government Gazette A 111), a ground for exclusion from the refugee status since he had committed a war crime and, in particular, had used and had under his command and control children under the age of 18 years, but also under 15 years, during the period (years 2017 to 2019), when he served as a sergeant major in Syria in the context of armed conflict. Furthermore, it was considered that the applicant fulfilled the conditions of a beneficiary of subsidiary protection because in case of return to his country of origin (Afghanistan), he risked being sentenced to the death penalty and executed by the Taliban regime, but again, according to Article 16 para. 1(a) of Law No. 4939/2022, the same ground for exclusion as set out above applies. However, as regards his return to his country of origin (Afghanistan), it was accepted that this, following the provisions of Article 100 para. 10 of Law No. 4939/2022 and 24 par. 1 a) of Law No. 3907/2011 (Government Gazette A' 7), as in force, is contrary to the principle of non-refoulment because, in the event of a return, he risks being sentenced to the death penalty and executed while Article 3 ECHR does not provide for grounds for exclusion similar to those provided for the granting of international protection. Given this, his removal was compulsorily suspended and no decision to return to his country of origin was issued.

5. (...), with the present application, it is argued that, in execution of the contested decision, the applicant's international protection applicant card was taken from him, without a simultaneous order for return to his country of origin, resulting in his having no identification document in the country and being unable to work legally, rent accommodation, obtain insurance, or have access to healthcare. For these reasons, as the applicant claims, it is practically impossible for him to survive, earn a living, live with dignity, seek integration into Greek society, and organise his life in the country in any way while every time he is subjected to a police check on the street he ends up in the detention centre for foreigners, where he remains for hours until his identity is verified and he is released. Because of the above, the present application requests the Court to take all appropriate measures to enable him to continue to possess legal documents and access to basic rights and services and, in particular, to reissue his international protection card until a final decision is published on the

application for annulment lodged by him against the contested decision under file number AKY452/11.12.2023, which is pending. Moreover, in the latest application for annulment, the applicant claims that he was unlawfully found to have committed the war crime of using underage children in armed operations in Syria in the years 2017 to 2019.

6. (...) according to para. 8 of Article 52 of Decree-Law 18/1989, as in force, the competent judge may order any measure appropriate for the protection of the applicant. Given this and taking into account: (a) that no decision has been issued to return the applicant to his country of origin, as this would be contrary to the principle of non-refoulement, (b) that he or she cannot, therefore, be removed from the country; (c) that depriving the applicant of access to the labour market, insurance, and healthcare due to lack of legal residence documents in the country would cause him or her irreparable harm; and (d) that the grounds put forward in the application for annulment are not manifestly unfounded, the Court considers that the Administration should be ordered to reissue to the applicant, pending a final decision on the application for annulment AKY452/11.12.2023, the applicant's international protection card, which is a necessary document for the exercise of his legal rights and for ensuring at least a minimum level of decent living. (...)

The application is accepted.

NΔ37/2024



1st application - Eligibility - Interim measures - Sierra Leone - Couple - Mental health issues - Risk of interruption of medical treatment - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

23rd (One-Member) Chamber

Decision No: NΔ37/2024

Date of publication: 24.01.2024

Judge: Sotiria-Spyridoula G Katsika

(...)

1. (...), with the present application, (...) the suspension of execution is lawfully requested of decision No. IR/52641/9.8.2023, issued at second instance by the 21st Independent Appeals Committee in a three-member formation, which rejected as unfounded the administrative appeal filed by the applicants, citizens of Sierra Leone, against decision No. 237274/26.4.2023 of the Lesvos Regional Asylum Office (RAO), by which their application for international or subsidiary protection had been rejected. The contested decision also ordered them to return to their country of origin by voluntary departure from the Greek territory within 20 days of the service of that decision. (...).

2. (...), in the present case, the following is apparent from the information in the file: the applicants appeared before the Reception and Identification Service of Lesvos and submitted an application for international protection dated 27.3.2023, stating that they had left their country of origin and did not wish to return to it for security reasons. Their application was rejected by the decision of the RAO Lesvos with the protocol number 237274/26.4.2023 as unfounded, (...). Against the above decision, the applicants filed appeal No. 325520/22.6.2023, which was rejected as unfounded by the contested decision. In particular, the Committee found that it was not satisfied with the truth of the allegations put forward by the applicants concerning the reasons why they left Sierra Leone, in particular as to the risk to the life and physical integrity of the second of them because she refused to take her mother's place in the Bondo secret organisation and as to the risk to the lives of both of them because they were wanted by the Bondo and Poro communities and by the police. (...).

3. (...), with the present application, the applicants seek to suspend the enforcement of the above decision, arguing that any return to Sierra Leone, as a consequence of its immediate enforcement would cause them irreparable harm if the relevant application for annulment is successful. This is because their health will be put at risk, as they will no longer have access to healthcare and will, therefore, be deprived of the medicines they need to treat their health problems. In support of their claims, they submit, among other things, the following documents: a) the residence certificate of 13.9.2023 issued by the Administrator of the Controlled Temporary Accommodation Facility for Asylum Seekers in Ritsona, (...), b) the medical certificate of 19.6.2023 of the Obstetrics and Gynaecology Clinic of the General Hospital of Larissa, which confirms that the second of the applicants underwent on 16.6.2023 a surgical operation "conception and removal of the right ovary -within which a pregnancy was detected- and the right fallopian tube", c) the Psychological Assessment of 31.7.2023 by the Psychologist of the Koutsocheros Facility of Larissa, (...), according to which the second of the applicants "receive psychological support services since her arrival at the Facility, as she has symptoms compatible with mixed anxiety and

depressive disorder. She is also a survivor of sexual abuse in prison in Türkiye, where she was detained with her 6-month-old daughter, who died in prison after contracting a virus. (...) Besides, during the duration of her stay at the Koutsochero Open Reception Facility, her psychological condition deteriorated as an ectopic pregnancy was induced. She has been referred and monitored by the Psychiatric Clinic of the University Hospital of Larissa and has been receiving medication since 7.7.2023, in combination with psychological monitoring. ...,” d) the 3.8.2023 medical certificate of the medical officer of the Psychiatric Clinic of the University Hospital of Larissa, which confirms that the second of the applicants suffers from post-traumatic stress disorder and is under continuous medication and regular medical monitoring, e) the referral form of 24.5.2023 for the first of the applicants for examinations and orthopedic assessment, due to reported pain in the knee and shoulder blades from a year after a beating, and f) the 30.8.2023 prescription of analgesics to the first of the applicants by the orthopedic doctor (...).

4. (...), taking into account that, as evidenced by the submitted documents, the applicants suffer from various health problems for which they are receiving medical treatment, specifically, the second applicant suffers from mixed anxiety and depressive disorder, for which she is receiving both medication and psychological support services, and she recently underwent surgery to remove her right ovary due to an ectopic pregnancy; while the first applicant is receiving medication for muscular pain, and further considering the state of the healthcare system in Sierra Leone, finds that the implementation of measures leading to their forced removal from the country, as a consequence of the aforementioned decision, may cause them harm that would be difficult to remedy, should the related annulment application be successful (see Suspension Committee Council of State 279/2020, 62/2018, 246/2017, 180/2015), as it may endanger their already burdened health condition, as they reasonably claim in the present application. Therefore, in order to prevent such damage and given that, on the one hand, it is not apparent from the information in the file, nor does the Administration, in its relevant report, rely on the existence of reasons of public interest which, when weighed against the above damage, would prevent the admission of the application in question (Suspension Committee, Council of State 62/2018, 637/2011, 964/2010), furthermore, since the above application for annulment is not manifestly inadmissible or unfounded, the Court considers that, in the present case, it is appropriate to order, as a suitable measure under Article 52(8) of Presidential Decree 18/1989, as in force, that the Administration refrain, until the issuance of a final decision on the above pending annulment application, from any action based solely on the contested decision that would result in the forced departure of the applicants from Greek territory. (...)

The application is accepted.

NΔ38/2024 

1st application - Eligibility - Interim measures - Iran - Single man - Mental health issues - Links with Greece - Risk of interruption of medical treatment - Application accepted

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ38/2024
Date of publication: 24.01.2024
Judge: Sotiria-Spyridoula G. Katsika
(...)

1. (...) with the present application, (...) the suspension of execution is requested of decision No. IR/19634/17.7.2023, issued at second instance by the 4th Independent Appeals Committee, sitting in a three-member formation, which rejected as unfounded the administrative appeal filed by the applicant, a citizen of Iran, against decision No. 708415/25.11.2022 of the Nikaia Independent Asylum Unit, by which his application for recognition as a beneficiary of international or subsidiary protection had been rejected. The contested decision also ordered his return to his country of origin with immediate removal from Greek territory. (...)

2. (...), in the present case, the following is apparent from the information in the file: the applicant appeared on 17.6.2021 at the Regional Asylum Office (RAO) of Thessaloniki and submitted a request for international protection, (...). His application was rejected by the decision of the A.K.A. of Nikaia with protocol number 708415/25.11.2022 as unfounded, (...). Against the above decision, the applicant filed appeal No. 708415/25.11.2022, which was rejected as unfounded by the contested decision. Specifically, the Committee found that the claims made by the applicant regarding the reasons for which he left

his country were unreliable. In particular, the Committee was not convinced that he had been sentenced by a criminal court to 80 lashes for consuming alcohol in a public place, that he was initially a member of the Sepah organization from which he later withdrew, and that he subsequently converted to Christianity. It therefore considered that his fear that his life would be in danger if he were to return to his country of origin (...) was not justified, and therefore the conditions for his recognition as a refugee were not met. (...).

3. (...), with the present application the applicant seeks to suspend the enforcement of the above decision, arguing that any return to Iran, as a consequence of its immediate enforcement, would cause him irreparable harm if the relevant application for annulment is successful. This is because, on entering Iran, he is certain to be arrested by the Iranian police, and will subsequently be subject to the 80 lashes imposed on him, which will endanger his health, as he suffers from deafness, spondyloarthritis, discopathy, myelopathy, and peripheral neuropathy, while at the same time suffering from depression. Moreover, according to international sources, there have been cases of prisoners who have died during the execution of sentences such as the above. He further claims that if he returns to his country of origin, he runs the risk of being further targeted by Sepah, which is cooperating with the Iranian police, and subsequently arrested, prosecuted on charges of being a traitor, and sentenced to penalties ranging from several months' imprisonment to the death penalty. A similar risk, he claims, is also run if his conversion to Christianity becomes known. Moreover, he claims that the life ties he has developed in Greece will be completely reversed. Finally, he claims that he will no longer have access to health care, which will have a direct impact on his health, as he receives medication for the treatment of the aforementioned diseases, while frequent laboratory and X-ray diagnostic tests are required.

4. (...), the contested decision, by which the applicant's application for international or subsidiary protection was rejected, as an act of negative content, is not eligible for suspension of enforcement, because this suspension would in fact amount to the satisfaction by the Court, by substituting the Administration, of the application rejected by that decision (Committee of Stays of Proceedings of Council of State 62/2018, 197/2016, 180/2015, 243/2013, 529/2010 etc.) Furthermore, his allegation concerning the reversal of the lifelong ties he has developed in Greece must be rejected as irrelevant, since, as has been consistently held, the possible reversal of the relations established by foreigners in Greek territory may constitute a ground for suspension of the enforcement only of the decision issued pursuant to the common legislation on foreigners and not of the decision issued during the procedure for examining an application for asylum or an application for subsidiary protection (Committee of Stays of Proceedings of Council of State 103/2011, 1197, 902,66/2010, 942,213/2009, 1424/2008 etc.). However, taking into account that, as revealed by the evidence provided, the applicant presents various health problems, namely, he suffers from hearing loss, on the right side, for 10 years, with worsening since 2 years, from spondyloarthritis, OM SS-discopathy, as well as from thyroid, while in 2023 he was recommended for a neurosurgical evaluation and an evaluation by an endocrinologist, and he is receiving medication for anxiety disorder and reactive depression, the Court considers that any measures taken to force him to leave the country as a consequence of the above decision would be likely to cause him damage that would be difficult to repair, should the application for annulment be successful (Committee of Suspensions Council of State 279/2020, 62/2018, 246/2017, 180/2015), as it may endanger his already aggravated state of health, as he rightly claims in the present application. To prevent such harm, and given, on the one hand, that the case file contains no indication -nor does the Administration allege in its relevant statement of views- that there are reasons of public interest which, when weighed against the abovementioned harm, would preclude acceptance of the present application (cf. Council of State interim orders 62/2018, 637/2011, 964/2010), and, on the other hand, that the above annulment application is not manifestly inadmissible or unfounded, the Court considers that, in the present case, it is appropriate to order, as a suitable measure under Article 52(8) of Presidential Decree 18/1989, as in force, that the Administration refrain, until the issuance of a final decision on the above pending annulment application, from any action based solely on the contested decision that would result in the applicant's forced departure from Greek territory. (...)

The application is accepted.



Subsequent asylum application - Eligibility - Interim measures - Democratic Republic of Congo - Couple - Father with minor child - LGBTQIA+ - Victim of Torture - Mental health issues - Links with Greece - Maintain family unity - Best interest of the child - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ39/2024
Date of publication: 08.02.2024
Judge: Kassiani K.Manolakoglou
(...)

2. (...), this application seeks the suspension of the execution of the decision of the 13th Independent Appeals Committee of the Appeals Authority of the Ministry of Immigration and Asylum, by which the appeal filed by the applicant was rejected, individually and on behalf of his minor children, against the decision No. 294887/9.6.2023 of the Regional Asylum Office of Thessaloniki and finally the request of the applicant and his children for international protection. The Committee decision also ordered the return of all of them to their country of origin and set a 25-day deadline for their voluntary departure from Greece. (...).

4. (...), in the present case, the following is apparent from the information in the administrative file: the applicant, a citizen of the Democratic Republic of the Congo, born on 7.3.1989, appeared on 27.1.2023 at the Thessaloniki Regional Asylum Office and submitted a subsequent application for international protection, for himself and on behalf of his minor children, (...), born on 12.6.2020 and (...), born on 19.10.2021. Both children were born in Greece, where the applicant had been since at least 8.4.2019 when he had submitted his initial application for international protection. These children, as he stated, were the result of his relationship with his partner of the same nationality, (...), who had also applied for international protection. In his initial application, the applicant had declared that he had left his country in persecution for political reasons and with decision no. 572814/30.9.2022 the 12th Independent Appeals Commission accepted that he had previously been persecuted and tortured because of his anti-regime activities, but since the accession to power of Felix Tshisekedi in place of Joseph Kabila, there is no future risk to his life or physical integrity or that of his children if they return to their country of origin.

In his subsequent application, which was deemed admissible, the applicant stated that he is at risk in his country because of his sexual orientation (bisexual), because of which the magicians of the Bakongo tribe to which he belonged killed his mother, and he also has a problem as a former member of the country's anti-regime youth, as he had sexual relations with politicians, which were revealed and resulted in him being targeted by his comrades. He also stated that he had not included this particular ground for prosecution in his original application out of shame. (...) He argued that homosexuality is punished in his country and is contrary to his family's religion (Bundu Dia Congo) and that he had not been the victim of abuse in order, as he claimed, to change his sexual orientation. (...). By decision No. 294887/9.6.2023 of the Thessaloniki Regional Asylum Office, the application in question was rejected as unfounded (...). Against this decision, the applicant filed an administrative appeal, which was also rejected by the contested decision of the 13th Independent Appeals Committee (...). However, the research of international sources found that in the applicant's country of origin, LGBTQ+ people are marginalized, stigmatized and subjected to violence, in some cases gay people are prosecuted for moral offenses, forced to hide their sexual orientation, and do not receive the necessary protection from the authorities, and are sometimes even victims of abuse by the authorities. In addition, the administrative file contains the following elements: 1. (...), 3. the report of 24.4.2023 by a Psychologist of the non-governmental organization "Metadrasi", according to which the applicant displays symptoms of depressive disorder and post-traumatic stress disorder, which are linked to specific life events and his homosexuality, which he is not able to recognize, (...).

5. (...) with the present application, the applicant claims that the enforcement of the contested decision, which incorporates the measure of administrative removal, will cause him irreparable harm because, on account of his sexual orientation, if he returns to the Democratic Republic of the Congo, both he and his minor children will be subjected to persecution, humiliation and violence contrary to Article 3 ECHR. In addition, he claims that his presence in Greece is necessary for him to be able to obtain effective judicial protection during the hearing of his main appeal. Furthermore, he states that he has been residing in the country for the last 5 years, is employed on a casual basis, and should be granted a temporary international protection card to be able to support his children and have access to health care, so as not to aggravate his already fragile mental health. (...).

6. (...) following the provision of par. 8 of Article 52 of Presidential Decree 18/1989 as in force, the competent judge may order any measure appropriate for the protection of the applicant. Indeed, the disruption of personal and living relationships does not, in principle, constitute a ground to be considered in relation to the suspension of execution or the ordering of another appropriate measure, when the harm results from an act which, like the contested decision, forms part of the procedure for examining an application for international protection. (CoS 694/2012, 3464/2011, 867/2010), but in the present case, since that decision also ordered the administrative removal of the applicant and his minor children from the country, their particular circumstances must be taken into account, at least in this respect. In this respect the Court, taking into account: 1. the fact that the return measure also concerns two children, aged 3 and 5, born in Greece, 2. the fact that the applicant claims that he/she lives with the mother of the children and the latter is a holder of an international protection card, so he/she cannot temporarily leave the country, 3. the best interests of these children, which because of their age must be accepted to be that they should not be separated from their mother, 4. the applicant's mental health problems, which may make him/her unable to care for the minors alone in case of their return to the DRC, 5. the fact that no evidence has shown that the applicant and the children have a support network in their country of origin, 6. the period of 5 years of absence of the applicant from that country; and 7. the fact that the applicant is being monitored in Greece for the problems he is facing and is receiving medication, especially the deterioration of his condition since July 2023, considers that there is a legitimate reason to suspend, until the adoption of a final decision on the case AKY442/1.12.2023, the execution of the measure of administrative removal imposed on the applicant and his minor children, (...) and to order the administration to refrain from any action based solely on the above decision which would result in their forced departure from Greece. In addition, the Administration is ordered to reissue the applicant and the minor applicants' international protection cards, to restore the actual situation in which they were before the rejection, by the contested decision, of their application for international protection (Committee of Suspensions of Council of State 940, 573, 172/2006, 73/2007, 731/2008). (...).

The application is accepted.

NΔ59/2024



1st application - Admissibility - Interim measures - Syria - Single man - Türkiye as a safe third country - Harm from staying in Greece without legal documents for a long period of time - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ59/2024
Date of publication: 05.04.2024
Judge: Olga V. Plastira
(...)

2. (...), This application seeks the suspension of execution of decision no. IR/81756/6-2-2024 of the 2nd Independent Appeals Committee of the Ministry of Migration and Asylum, which rejected the applicant's appeal against decision no. 227773/26-10-2023 of the Fylakio Independent Asylum Unit and, ultimately, his request for the granting of international protection. The same decision ordered the readmission of that party to Türkiye. (...).

5. (...) the case file reveals the following: the applicant, born on 2/2/1997, a Syrian citizen, Sunni Muslim of Arab origin, submitted an application for international protection on 20/10/2023 at the Fylakio Reception and Identification Center (RIC). By decision no. IP/227773/23-10-2023 of the Fylakio Independent Asylum Unit (IAU) of the Ministry of Migration and Asylum, the international protection application of the said foreign national was rejected as inadmissible under Article 89 of Law 4939/2022 (Government Gazette A' 111), on the grounds that Türkiye is considered a safe third country for him, and his return was ordered. The applicant lodged an appeal against that refusal by 263/2-1-2024, which was rejected by the 2nd Independent Appeal Committee's decision No. IP/81756/6-2-2024. (...). Against this decision, the applicant filed an application for annulment no. AKY52/2024, in which he challenges its legality and seeks its annulment for the specific reasons set out in the relevant pleading. By the present application, he now requests the suspension of execution of the above contested decision until a final judgment is issued on the said annulment application.

6. (...) In the present application, the applicant argues that the execution of the contested decision would cause him irreparable harm. According to his claims, in the event of his return to Türkiye, he would, on the one hand, lose the possibility of returning to Greece should his annulment application be successful, and on the other hand, face the risk of being refouled by the Turkish authorities to war-torn Syria. Furthermore, he argues that, since returning to Syria is impossible due to the prevailing conditions there, and his readmission to Türkiye is practically unfeasible due to the stance of the Turkish authorities, he risks being placed in administrative detention if he is deprived of valid documentation in Greece. (...)

7. (...) The Court takes into account, on the one hand, the applicant's claim concerning the suspension by the Turkish authorities of the readmission of applicants for international protection from Greece and, on the other hand, the fact that the Plenary of the Council of State, ruling on the application for annulment of the Association 'GREEK COUNCIL FOR REFUGEES and the Non-profit-making Non-commercial Company 'REFUGEES SUPPORT AEGEAN' against 42799/3. 6.2021 Decree of the Deputy Minister of Foreign Affairs and the Minister of Immigration and Asylum, which established a national list of safe third countries, which includes Türkiye as a safe third country for certain categories of applicants for international protection, with the consequence that their applications are rejected in principle as inadmissible, pursuant to Article 86 of Law No. 4636/2019 (which transposes the corresponding provisions of Article 38 of Directive 2013/32/EU and contains provisions similar to Article 91 of Law No. 4939/2022), by its judgment No. 177/2023, referred the following questions to the Court of Justice of the European Union for a preliminary ruling: "a) Article 38 of Directive 2013/32/EU, read in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding a national (regulatory) provision which designates as generally safe for certain categories of applicants for international protection a third country which has undertaken a legal obligation to allow the readmission to its territory of those categories of applicants for international protection, but it follows that for a long period of time (in this case more than twenty months)? or (b) is readmission to the third country not a cumulative condition for the adoption of the national (regulatory) act designating a third country as generally safe for certain categories of applicants for international protection, but a cumulative condition for the adoption of the individual act rejecting a particular application for international protection as inadmissible on the ground of 'safe third country'? or (c) is it to be interpreted as meaning that readmission to the 'safe third country' must be ascertained only at the time of enforcement of the decision, where that decision rejecting the application for international protection is based on the 'safe third country' ground"? Given the above, taking into account the doubts that arise as to the legal and factual possibility of the applicant's return to Türkiye and further taking into account the fact that the balance of harm to the applicant and the public interest shows that the negative consequences of granting the application for suspension do not outweigh the benefit to the applicant, which consists in preventing him from remaining in Greece without legal documents; and, consequently, without the possibility of continuing to reside in the Accommodation Facility where he is already staying, the Court considers it necessary to order the Administration to refrain, until the publication of a final decision on the pending application for annulment, from any action based solely on the contested decision which would result in the applicant's forced departure from Greece. Finally, the Administration is ordered to reissue to the applicant an international protection applicant's card (in case it has been withdrawn), to restore the actual situation in which the applicant was before the rejection, by the contested decision, of the application for international protection (cf. CoE S.A. 940, 573, 172/2006, 73/2007, 731/2008). (...).

The application is accepted.



1st application - Admissibility - Interim measures - Syria - Single man - Türkiye as a safe third country - Harm from staying in Greece without legal documents for a long period of time - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ64/2024
Date of publication: 22.04.2024
Judge: Kassiani K.Manolakoglou
(...)

2. (...), this application seeks the suspension of execution of decision no. IR/44208/22.1.2024 of the 6th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum (sitting in single-member formation), by which the administrative appeal filed by the applicant against decision no. IR/100566/6.9.2023 of the Fylakio Independent Asylum Unit was rejected, as was his request for the granting of international protection. The Committee's decision also ordered the applicant's readmission to Türkiye, which was deemed a safe third country for him. (...)

4. (...), in the present case, the following emerges from the administrative file: The applicant, a Syrian national born on 8.2.2005, submitted an application for international protection at the Fylakio Reception and Identification Center. He stated that he left his country on 1.1.2020 due to the war and entered Greece on 3.8.2023 via Türkiye. He also stated that he decided to leave Türkiye because he did not have legal documents and was at risk of deportation. His application was rejected at first instance by decision no. IR/100566/6.9.2023 of the Fylakio Independent Asylum Unit, and at second instance by the contested decision. (...) By the contested decision, the applicant's appeal and the international protection request were rejected, and his readmission to Türkiye was ordered.

5 (...), in the present application, the applicant argues that returning to Syria is not possible due to the prevailing conditions in the country, nor is his readmission to Türkiye feasible due to the stance of the Turkish authorities. As a result, by remaining in Greece without legal documentation, he is exposed to the risk of administrative detention or deprivation of the means necessary for a dignified existence. He also claims that the execution of the contested decision would cause him irreparable harm, as it would deprive him of the ability to effectively pursue the main legal remedy he has filed against that decision. Finally, he argues that even if it is assumed that his readmission to Türkiye is feasible, he faces the risk of being refouled to his country of origin, where his life and physical integrity would be at risk, while in any case, he is at risk of being subjected to ill-treatment in Türkiye.

6. (...), the Court shall take into account, on the one hand, the applicant's allegation concerning the suspension by the Turkish authorities of the readmission of applicants for international protection from Greece and that the Plenary of the Council of State, ruling on the application for annulment of the Association under the name "GREEK COUNCIL FOR REFUGEES" and the Non-profit Civil Society under the name "REFUGEES SUPPORT AEGEAN" against 42799/3. 6.2021 Decree of the Deputy Minister of Foreign Affairs and the Minister of Immigration and Asylum established a national list of safe third countries, with Türkiye as a safe third country for specific categories of applicants for international protection, resulting in their applications being primarily rejected as inadmissible pursuant to Article 86 of Law 4636/2019 (which transposes the provisions of Article 38 of Directive 2013/32/EU and contains similar provisions to Article 91 of Law 4939/2022), submitted the following preliminary questions to the Court of Justice of the European Union in its decision no. 177/2023: "a) Does Article 38 of Directive 2013/32/EU, interpreted in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, preclude a national (regulatory) provision designating as generally safe for certain categories of applicants for international protection a third country which, although legally obliged to permit the readmission of such applicants to its territory, has, for a long period (in this case exceeding twenty months), refused readmission, and there is no indication that the possibility of a change in the country's stance in the near future has been examined? or b) should it be understood that readmission to the third country is not a cumulative requirement for the issuance of the national (regulatory) act designating a third country as generally safe for certain categories of applicants for international protection, but is rather a cumulative requirement for the issuance of the individual act rejecting a specific application for international protection as inadmissible on the grounds of a "safe third country"? or c) should it be understood that readmission to the "safe third country" must be verified only at the time of execution of the decision, when the rejection of the international protection application is based on the "safe third country" ground?" In light of these circumstances, doubts arise as to the legal and factual feasibility of returning the applicant to Türkiye. Furthermore, it follows from the balancing of the harm to the applicant and the public interest that the negative consequences of the

acceptance of the application for suspension do not outweigh the benefit to the applicant, which consists in preventing the risk of his remaining in Greece without legal documents, deprived of the basic benefits necessary for his dignified living. Therefore, it is considered necessary in this case to order the Administration to refrain from taking any action based solely on the contested decision that would result in the applicant's forced departure from Greece until a final decision on the pending application for annulment is published. Additionally, the Administration is ordered to reissue the applicant's international protection applicant card (in the event that it has been withdrawn), in order to restore the actual situation in which he was prior to the rejection, by the contested decision, of his application for international protection.(see CoE S.A. 940, 573, 172/2006, 73/2007, 731/2008). (...)

The application is accepted.

NΔ65/2024



1st application - Eligibility - Interim measures - Iran - Single man - Credibility of annulment claims
- Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ65/2024
Date of publication: 25.04.2024
Judge: Alexandra G. Tzellou
(...)

3. (...), the present application seeks the suspension of the execution of the decision No. 284155/17.11.2023 of the 2nd Independent Appeals Committee of the Ministry of Migration and Asylum (composed of three members), by which the appeal of 17.10.2023, lodged by the applicant against the decision No. 84119/30.8.2023 of the Regional Asylum Office of Thessaloniki, was rejected as inadmissible, due to submission after the deadline. With the latter decision, his application for international protection had been rejected as unfounded. (...).

5. (...) In this case, the information in the file shows the following: The applicant, an Iranian citizen, submitted a request for international protection to the Reception and Identification Center of Diavata on 26.1.2023. At the time of submitting his application, he stated that he did not wish to return to his country of origin because he had been arrested several times, and his life was in danger because, as he claimed, he had disseminated a video about how the police were receiving bribes. (...) (...) According to the decision No 84119/30.8.2023 of the Regional Asylum Office of Thessaloniki, the conditions for the applicant's recognition of refugee status and his inclusion in subsidiary protection status were not met (...). The above decision was served to the applicant by e-mail on 30.8.2023 (relevant document, the act no 411330/29.9.2023 of service and the correct repetition as to the date of the relevant act of service No. 419368/29.9.2023 of the Asylum Office of Thessaloniki) at the e-mail address indicated by the applicant, during the oral interview (...), whereas in the document accompanying the decision the applicant was informed that he could lodge an appeal against it within thirty (30) days from the date of service or notice, which, in the case of the decision being sent by e-mail, is deemed to have been completed 48 hours from the date of sending the relevant message. Thereupon, the applicant lodged an appeal on 17.10.2023 (relevant to the act of submission of the appeal No. 197605/17.10.2023 of the Asylum Office of Thessaloniki), in which he requested the annulment of the above decision and the re-examination of his application, arguing that the appeal was brought within the deadline, because the contested decision was sent to the stated e-mail address, but ended up in spam. At the same time, the proof of service was not posted in the system, so he first became aware of it on 27.9.2023, when his lawyer went to the Asylum Service and requested copies of his file. The applicant's case was rejected as inadmissible due to the expiration of the deadline to appeal, by the contested decision of the 2nd Committee of Appeal, on the ground that the archiving of the relevant e-mail message relied on by the applicant, is not proven. In this case, it is considered that there is no ground of force majeure for the applicant.

6. (...), in the present application, it is submitted that the execution of the contested decision will cause him irreparable harm in the event of the success of the pending application for annulment, claiming that: a) his right to an effective remedy under Article 13 ECHR and Article 47 of the Charter of Fundamental Rights has been violated, (b) the contested decision was adopted in breach of the provisions of Article 87 paragraph 4 of Law No. 4939/2022 on the notification of international protection decisions and in breach of the principle of the protection of legitimate expectations. Specifically, the applicant, reiterating the claims raised in his appeal, argues that although he submitted a request for legal aid under Article 76(3)

of Law 4939/2022 within the thirty-day deadline for filing an appeal, namely on 27.9.2023, the Asylum Service's decision to appoint a lawyer was issued, with delay and through no fault of his own, three (3) days after the expiration of the aforementioned deadline (on 5.10.2023). As a result, the appeal was ultimately filed on 17.10.2023 and was rejected by the Appeals Committee as inadmissible. Consequently, he lost the right to have his application examined on the merits by the Committee. Given these circumstances, the applicant contends that his appeal should be considered to have been submitted in a timely manner. He also claims that, in the present case, the rejection decision of the Asylum Office of Thessaloniki should have been served to him, according to the Article 87 Paragraph 4, Law No. 4939/2022, in person, at the Accommodation Facility in Alexandria, where he has been living since 17 February 2023 until today. Furthermore, the applicant claims that the execution of the contested decision will cause him irreparable harm consisting in endangering his life and physical integrity because he has been targeted by the Iranian authorities, by whom he has already been arrested twice and tortured. In the event of his return, he is at risk of being arrested and tortured again (...).

7. (...). In the present case, the Court, taking into account the arguments put forward by the applicant in support of his request for international protection, and in particular the fact that these were not, in substance, examined at second instance by the Appeals Committee, in view also of the ground raised in the application for annulment concerning the time limit of the appeal, which is not manifestly unfounded, as well as the fact that, from the balancing of the applicant's harm against the public interest, it follows that the negative consequences of granting the application for suspension are not more serious than the benefit to the applicant, namely, the avoidance of endangering his life and physical integrity, finds it appropriate to order, until the issuance of a final judgment on the pending application for annulment, that the Administration refrain from any action based solely on the contested decision which would result in his forced departure from Greece. Furthermore, the Administration should be ordered not to proceed with the removal of the applicant's asylum seekers card or, if that card has already been removed or cancelled, to return it to him and, if it has expired, to extend its validity to fully restore the actual situation in which he was before the rejection, by the contested decision, of his application for international protection (see Committee of Suspensions Council of State 21/2011 1254/2010, 999/2010, 834/2010, 731/2008). (...)

The application is accepted.

NΔ71/2024



1st application - Eligibility - Interim measures - Iran of Kurdish ethnic origin - Single man - Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki

2nd (One-Member) Chamber

Decision No: NΔ71/2024

Date of publication: 23.05.2024

Judge: Vasiliki G. Dinoka

(...)

2. (...), with the present application, (...) the applicant requests the suspension of execution of decision no. IR/163315/11.03.2024 of the 17th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member formation, by which his appeal dated 27.12.2023 against decision no. IR/184348/11.10.2023 of the Thessaloniki Regional Asylum Office (RAO) was rejected, as was his request for inclusion under international protection status. Furthermore, the decision ordered his return to his country of origin. (...)

4. (...), in the present case, the following emerges from the information of the administrative file: the applicant, a citizen of Iran of Kurdish ethnic origin, born on 23.09.1986 (...), after undergoing a reception and identification procedure on 17.03.2023, submitted an application for international protection on the same day, at the Reception and Identification Center of Diavata. When registering his application, the applicant stated the following, concerning the reasons why he left and does not wish to return to his country of origin: "I participated in the demonstration in Iran that was held for the compulsory hijab for girls and women. At the demonstrations, I came into a conflict with the police and was beaten up by them. With the help of the people, I escaped, and now I am wanted by the Ministry of Political Information, and thus my life is in danger". (...). His application was rejected by decision no. IP/184348/11.10.2023 of the Regional

Asylum Office of Thessaloniki, which ordered his return to his country of origin. His appeal was rejected by the contested decision no. IP163315/11.03.2024 of the 17th Independent Appeals Committee of the Ministry of Migration and Asylum, composed of three members, as unfounded. In particular, the applicant's allegations concerning his nationality, ethnic origin, educational and professional level, family situation, journey to Greece, as well as his claim that he participated in the demonstration that took place in his country in August 2022, against the compulsory nature of the hijab, (...) were accepted as credible by the above decision but did not accept as credible the applicant's allegations that due to the fact that he participated in the demonstration, he was targeted and wanted by the authorities of his country (...). In light of the above, it was held that the conditions for recognition of refugee status under Article 1A (2) of the Geneva Convention were not met since it did not appear that the applicant has an objectively substantiated fear of being persecuted by the authorities of his State in case of return to his country of origin. (...). Because of this, his return to his country of origin was ordered.

5. (...), in the present application, the applicant argues that the enforcement of the contested decision and the return measure imposed on him would cause irreparable harm in the event that the pending annulment application is successful. In that application, he claims a lack of sufficient and lawful reasoning, asserting that the conditions for his recognition as a refugee are met in his case. Furthermore, the applicant claims that the enforcement of the contested decision would cause him irreparable harm, consisting of a risk to his life and physical integrity, as, in the event of his return, he would be arrested by the Iranian authorities, who have already identified him as a participant in the demonstrations. It is further argued that returns to Iran are not being carried out; therefore, the enforcement of the contested decision, and consequently, the deprivation of the benefits he currently receives (particularly housing and medical care), would expose him to inhumane conditions for an indefinite period of time. Additionally, the termination of his medical care would lead to a deterioration of his gastrointestinal health condition (...).

6 (...), the rejection of the application for international protection is a negative act and, as such, is not subject to suspension of execution. However, under the provision of paragraph 8 of Article 52 of P.D. no 18/1989, as amended, the competent judge may order any measure appropriate for the protection of the applicant. In the present case, the Court, taking into account all the allegations put forward by the applicant to support his application for international protection, in particular the fact that his claims concerning his participation in the demonstrations were found by the Committee to be credible, and the fact that the (contested by the applicant) completeness of the reasoning in the contested decision, in relation to the lack of grounds for recognition as a refugee, is a matter which will be examined in detail at the stage of the main proceedings and the fact that the grounds put forward in the application for annulment are not manifestly unfounded and that the balance between the harm to the applicant and the public interest shows that the negative consequences of granting the application for suspension do not outweigh the benefit to the applicant of avoiding the risk to his life and physical integrity, (the Court) considers it appropriate to order the suspension of the return measure, ordered against the applicant in the contested decision, until a final decision on the pending application for annulment is issued, and to order the administration to refrain from any action based solely on the contested decision which would result in the applicant's forced departure from Greece. Furthermore, the Administration should be ordered not to proceed with the removal of the applicant's international protection card or, if that card has already been removed or cancelled, to return it to him and, if it has expired, to extend its validity to fully restore the actual situation in which he was before the rejection of his application for international protection, by the contested decision, (cf. Committee of Suspensions Council of State 940, 573, 172/2006, 73/2007, 731/2008) (...).

The application is accepted.



1st application - Eligibility - Interim measures - Guinea - Single man - LGBTQIA+ - Application rejected of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

23rd (One-Member) Chamber

Decision No: NΔ81/2024

Publication Date: 27.02.2024

Judge: Sotiria-Spyridoula G. Katsika

(...)

1. (...), with the present application, (...) the suspension of execution is lawfully requested of decision no. IR/110111/12.9.2023, issued at second instance by the 9th Independent Appeals Committee of the Appeals Authority of the General Secretariat for Migration Policy, sitting in single-member formation. By the above decision: a) the appeal No. IP58161/11.8.2023, lodged by the applicant, a Guinean citizen, against the decision No. IP53862/9.8.2023 of the Regional Asylum Office (R.A.O.) of Kos, by which his application for the granting of international protection was rejected (b) it has been decided that the applicant is not recognised as a refugee or as a beneficiary of subsidiary protection; and (c) the measure of return with voluntary departure was imposed on him within 25 days beginning from the date of service of that decision. (...).

3. (...), in the present case, the following is apparent from the information in the file: on 24.7.2023, at the Closed Controlled Center of Kos, the applicant lodged an application for international protection, in which he expressed his unwillingness to return to his country of origin (Guinea). In particular, he stated that he left his country because his family had a serious problem with his sexual orientation (he is bisexual) (...). The above application was rejected as unfounded by the decision No. IP53862/9.8.2023 of the R.A.O. Kos, on the grounds that the applicant did not meet the requirements for recognition as a refugee or as a beneficiary of subsidiary protection. Against the above decision, the applicant lodged the appeal No. IP58161/11.8.2023 (...). The Committee rejected the above-mentioned appeal as unfounded by the decision No IP/110111/12.9.2023, (...).

4. (...) The applicant requests the suspension of execution of the above decision, arguing that its immediate enforcement would cause him irreparable harm in the event that the related annulment application is successful. This is because, if repatriated, his life and physical integrity would be at risk, as he is bisexual, a situation that constitutes a criminal offense in his country of origin. Furthermore, he claims that, according to the 2022 annual report of the Greek Ombudsman, returns from Greece to Guinea are not carried out, making his return to Guinea impossible and likely resulting in his indefinite detention in a pre-removal center under conditions of inhuman and degrading treatment. Moreover, he argues that he does not pose a threat to public order and safety. Finally, he notes that a decision by the Council of State is pending regarding a preliminary question referred by decision No. 534/2022 of the Administrative Court of First Instance of Thessaloniki, submitted before the court by order of the President of the 4th Chamber on 5.10.2022 (case file No. 2017/2022). In particular, the above decision raised the question whether the provisions of Article 5 para. 7 of Law No. 4375/2016, according to which the Independent Appeal Committees may operate and decide, in the categories of cases specifically mentioned in that article, under a one-member composition, comply with the provisions of paras. 2 and 3 of Article 89 of the Constitution, as they were formulated after the 2001 revision. The contested decision has been issued by an Independent Appeal Committee in a one-member composition.

5 (...) it is not possible to apply in this case the provision of paragraph 8 of Article 52(8) of Legislative Decree 18/1989 (A' 8), which allows the Court to order measures other than suspension of execution in order to prevent irreparable or difficult-to-remedy harm, caused by an act not subject to suspension of execution.. That is because, on the basis of the facts and the allegations put forward by the applicant during the administrative procedure for the examination of his application for international protection and in accordance with the grounds of the contested decision, there is no likelihood of irreparable or irreparable harm to the applicant, consisting in the risk of being exposed to a risk to his life, physical integrity or freedom or to the risk of being subjected to torture or other inhuman or degrading treatment contrary to Article 3 ECHR. (Committee of Suspensions Council of State 103/2011, 1006/2010, 414/2009, 164/2009, 74/2009), in the event of his return to his country. Furthermore, on the basis of the information in the file, there is no presumption of an objective impossibility of his return to his country of origin for reasons of force majeure or of his being subject to the non-refoulement clause of Article 3 of the European Convention on Human Rights or the conditions of Article 3 of the New York Convention of 10 December 1984 (A 116). Moreover, his claim that his return to Guinea is not possible, as according to the annual report of the Ombudsman for the year 2022, there are no returns from Greece to Guinea, must be rejected as unfounded, since according to the above report, there are no returns from Greece to Türkiye and not

to Guinea. Furthermore, the claim that the Council of State's decision is pending on the preliminary question brought before it, pursuant to the act of 5.10.2022 (no. 2017/2022) of the President of the Fourth Chamber of the Court of First Instance of Thessaloniki, by virtue of the 534/2022 decision of the Administrative Court of First Instance of Thessaloniki, is unfounded. This is because, according to the provisions of Article 1 of Law No. 3900/2010, the suspension of pending cases, in which the same issue is raised as the one brought before the Council of State by a preliminary question, does not cover interim judicial protection. Finally, the claim that he is not a danger to public order and security is not a ground for suspending the execution of the above decision (see C.A. CoE 1085/2008, 950/2008, 732/2008), which has not been issued pursuant to the common legislation on aliens, but is part of the procedure for examining an asylum application (see Committee of Stays of Proceedings of Council of State 103/2011, 1006/2010, 464/2010, 1224/2009). Consequently, the Court finds that there is no legal basis for granting the requested suspension, rejecting as unfounded the applicant's claims to the contrary. (...).

The application is dismissed.

NΔ110/2024



1st application - Eligibility - Interim measures - Democratic Republic of Congo - Single woman - Gender based violence - Mental health issues - Maintain stable living conditions - Application accepted

Administrative Court of First Instance of Thessaloniki

2nd (One-Member) Chamber

Decision No: NΔ110/2024

Date of publication: 30.07.2024

Judge: Stylianos I.Papadopoulos

(...)

2. (...), this application seeks the suspension of the enforcement of decision no. 291412/15.5.2024 of the 14th Independent Appeals Committee (...), by which the applicant's appeal against decision no. 39584/18.1.2024 of the Thessaloniki Regional Asylum Office was rejected, and ultimately, her request for international protection was found to be unfounded. Additionally, the same decision imposed a return measure against her, requiring voluntary departure from the country. (...)

4. (...), in the present case, the information in the administrative file shows the following: the applicant, (...) submitted an application for international protection. (...). During her interview (...) she stated that (...) at the age of 15 she was raped by two boys of the same age and got pregnant. This rape was the trigger for her stepfather to start raping her systematically. She tried many times to talk to her mother about this abusive behaviour, but without response, as she did not believe her and she was beating her, because she believed that she wanted to destroy her marriage. In fact, her mother called her a witch and her first child passed away at the age of 2-3 months. Then she stated that in the year 2013 she got pregnant as a result of having been raped by her stepfather. When she disclosed the paternity of her child to her mother, she and her stepfather beat her very hard and burnt her leg with a red-hot poker, threatening her not to disclose the paternity of the child to anyone. As a result of the above, she became the laughing stock of the village, as she gave birth to a child of an unknown father. Unable to bear the abuse, she abandoned the child and her home and lived on the streets, where she was picked up by her father's brother and taken to his house. (...) By decision no. 39584/18.1.2024 of the Thessaloniki Regional Asylum Office, the applicant's request for international protection was rejected as unfounded. In particular, in the latter decision, having found that the applicant's allegations that she was a victim of repeated rape by her stepfather when she was 15 years old, resulting in a pregnancy in 2013 and giving birth to her stepfather's child, were credible, the request for international protection was rejected on the grounds that, based on her account, there was no indication that the authorities of the Democratic Republic of the Congo were unable to provide her with effective protection, as she had never approached them. Furthermore, a review of her profile characteristics (such as ethnicity, religion, etc.) did not reveal any reason why the authorities would be unwilling or unable to protect her. Furthermore, in the view of the Administration, since the applicant left her place of residence, she has never again encountered her stepfather. Additionally, she has a support network in her country of origin, as her father's brother resides there — the same person who had assisted her in the past. (...) The applicant lodged an appeal against the above decision of the Regional Asylum Office of Thessaloniki, which was rejected as unfounded by the contested decision, (...).

5. (...) with regard to the harm she may suffer, the applicant claims that, in the event of immediate enforcement of the contested decision and her removal from the country, she will be deprived, in violation of her right to judicial protection, of the ability to effectively support the main legal remedy she has filed against the contested decision. She further argues that she will suffer irreparable harm, consisting in being exposed to danger to her life, physical integrity, and mental well-being, the latter of which is already disturbed.

6. (...), the rejection of an application for international protection is a negative act and, as such, is not subject to suspension of execution, but the removal measure imposed on a third-country national is subject to suspension. (...) Moreover, the disruption of living conditions does not, in principle, constitute a ground for the suspension of the execution of the decision or the order of another appropriate measure, when the harm results from an act that, like the contested one, is part of the examination procedure of an application for international protection (Council of State 694/2012, 3464/2011, 867/2010), but it is taken into account when the suspension of an administrative removal measure is requested. In the present case, taking into account (...): a) that the applicant's allegations concerning her repeated rapes by her stepfather, the birth of this child and her social stigmatisation, which forced her to leave her country of origin, were considered by the administration to be credible, b) the fact that she has psychiatric problems requiring medication; c) the fact that she is accommodated in a shelter for asylum seekers; and (d) that from the balancing of her harm against the public interest it follows that the negative consequences of granting the application for suspension are not more serious than the benefit to the applicant, the Court finds that it must order, until the issuance of a final judgment on annulment application no. AKY183/5.7.2024, the suspension of the enforcement of the return measure imposed on the applicant, as well as the Administration's abstention from any action based solely on the contested decision which would result in her forced departure from Greece. Finally, the Administration should be ordered to reissue to the applicant an international protection card, in order to restore the actual situation in which she was before the rejection of her application for international protection by the contested decision (see Committee of Suspensions Council of State 21/2011 1254/2010, 999/2010, 834/2010, 731/2008. (...))

The application is accepted.

NΔ172/2024



1st application - Eligibility - Interim measures - Haiti - Single man - Mental health issues - Risk of interruption of medical treatment- Links with Greece - No procedural damage if the applicants not present in the hearing of the application for annulment - Application rejected

Administrative Court of First Instance of Athens

10th (One-Member) Chamber

Decision No: NΔ172/2024

Date of publication: 29.03.2024

Judge: Theodora S. Gavra

(...)

1. (...), with the present application, (...), the suspension of the execution of the decision No. IP/177798/9.10.2023 of the 2nd one-member Independent Appeals Committee of the Appeals Authority, by which the application of 12.9.2023 by the applicant, a citizen of Haiti, against the decision No 310153/15.6.2023 of the Regional Asylum Office (R.A.O.) of Samos, is sought. With the latter decision, the applicant's application of 18.1.2023 for international protection was rejected at first instance. (...).

2. (...), in the present case, the following is apparent from the information in the file. As to the reasons why he left his country of origin and does not wish to return to it, the applicant stated that he left because of political and security reasons (...). By the decision No. 310153/15.6.2023 of the R.A.O Samos, the applicant's appeal was rejected as unfounded, (...). The applicant lodged the appeal No. 114336/13.9.2023 against this decision before the Appeals Authority (...). The contested decision was issued on his appeal as it was considered that the legal conditions for the applicant's eligibility for refugee status or subsidiary protection status were not met.

3. (...), in particular, the Appeals Committee (...) as regards the allegations of his persecution in his own country, as a result of being targeted by gang members, (...), having considered and taken into account a multitude of up-to-date

international sources concerning the activities of criminal gangs in Haiti, the activities and organisation of the Haitian National Police (Police Nationale d'Haïti, PNH) and its judicial system, has assessed the following: a) Gang activity in Haiti is indeed extensive, (b) however, the applicant relies on isolated, different incidents against members of his family, spaced in time, (...), c) further, he relies on three incidents against him, two assaults with beating - robbery, one while he was studying at the police academy and the second just before he left his country of origin, which, according to him, were not personally aimed at him, (...) In view of the above contradictions, inaccuracies, logical errors, and insufficient responses, the Committee found the applicant's claim of being at risk of persecution by gangs that have personally targeted him in his country of origin to be unconvincing and therefore dismisses it (...). In view of the above assessment of the applicant's allegations, the Commission has concluded that the applicant does not meet the requirement of being prosecuted on one of the grounds of the Geneva Convention, (...). Further, with regard to the applicant's eligibility for subsidiary protection, the Appeals Committee, (...) considered that the conditions that the applicant would face, if returned to his country, do not rise to such a level of severity as to render his living conditions contrary to human dignity (...), taking into account that, although there is serious food insecurity in Haiti, the applicant is a young (...) man, fit and healthy, with 14 years of education, at least limited studies at the police academy and professional experience as a builder, and is able to work in the town of Lascahobas, where he was last resident, in order to make a living, subject to the economic conditions of his country of origin, like other Haitian citizens, where the applicant has a wide support network (...) and a residence in the town of Lascahobas, so that he is not at risk of being exposed to conditions contrary to human dignity. (...).

5. (...), the applicant claims that the immediate execution of the contested decision will cause him irreparable harm. In particular, he claims that in the event of his return to his country of origin, his life and physical integrity would be put at risk for the reasons already stated during the administrative procedure for examining his application. Further, that the execution of the contested decision will aggravate his mental health, given that he suffers from post-traumatic stress disorder (PTSD) as a consequence of the situations he has experienced, which cannot be treated in his country, where the health care system is almost in ruins and he will not receive any kind of medical treatment. Furthermore, he claims that as a consequence of the rejection at first instance of his application for international or subsidiary protection status and the withdrawal of the asylum seeker's card which he had been granted, he is at risk of deportation and disruption of the accommodation provided to him, and further that he faces a lack of access to health care, food and other basic necessities of life and personal care, due to the discontinuation of the minimum financial assistance he received as an asylum seeker. Additionally, he argues that, in the event of execution of the contested decision, the personal and social ties he has established in Greece will be violently disrupted, and that the hearing of his annulment application will be rendered moot. (...)

6 (...), the Court notes, firstly, that during the administrative procedure for examining the applicant's application for international protection, his claims relating to the reasons why he left his country of origin were assessed and rejected at second instance by the Committee, which found that the conditions for his qualification for refugee status or for subsidiary protection were not met. In view of the above, it is not likely that the applicant's life or physical integrity would be endangered should he be returned to Haiti. Moreover, the above is not invalidated by the health reasons relied on by the applicant, since he does not produce any current medical certificate or opinion concerning his mental health and which shows that he is regularly monitored by a psychiatrist or psychologist, the interruption of which would cause him irreparable harm, and it does not appear from the evidence submitted that he would not be able to receive appropriate medical treatment if he were to return to his country of origin. Furthermore, the possible arrest of the applicant and the issuing of a deportation order, which is provided for by national legislation for illegal residents, does not constitute harm resulting from the contested decision and does not justify the granting of the required suspension of execution. Moreover, the possible execution of the contested decision does not violate the applicant's right to judicial protection (cf. CoS 1622/2011, 115/2008) and therefore there is no question of irreparable harm to him, since this will be restored in case the application for annulment is granted and the contested act is annulled (see Committee of Suspensions Council of State 434/2013, 281/2009, 727/2008 etc.). (...). With these facts, the Court judges that, in this case, there is no legal reason for granting the requested suspension and, consequently, the request for suspension must be rejected (...).

The application is rejected



1st application - Eligibility - Interim measures - Eritrea - Single woman - Gender-based violence - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ179/2024
Publication date: 8.10.2024
Judge: Plastira Olga B
(...)

2. (...), with this application, the suspension of the execution of decision no. IR/391915/17-2024 of the 3rd Independent Appeals Committee of the Ministry of Migration and Asylum is requested, by which the appeal of the (...) applicant against decision no. IR/302673/24-11-2023 of the Regional Asylum Office (RAO) of Lesbos was rejected, and ultimately her request for international protection was denied. The same decision also imposed on her the measure of return through voluntary departure from the country within a deadline of 25 days. The suspension is requested until the issuance of a final decision on the corresponding application for annulment filed by the applicant before the Court (AKY222/2024), the hearing of which is scheduled for the session on 17/10/2024. (...)

5. (...) The case file shows the following: The applicant, born on 20/2/2004, a citizen of Eritrea (...), of Tigrinia ethnic origin, and Orthodox Christian by religion, submitted a request for international protection on 4.8.2023 at the Reception and Identification Center (RIC) of Lesbos. (...), she stated that she does not wish to return to her country of origin due to sexual violence and lack of access to healthcare facilities. (...) The applicant (...) in an oral interview (...) declared that she, as well as her parents, are citizens of Eritrea and that she was born in the city of Mendefera. (...), at the age of 2, she left her country together with her mother and brother and went to Ethiopia, where they settled in the city of Adwa. (...). Regarding her paternal family, she stated that she does not know where her father is, while her mother and brother have passed away. Concerning her family status, she is unmarried and childless. Regarding her educational level, she stated that she has not attended school, while in relation to her work history, she said she has worked as a cleaner. She mentioned that she, her mother, and her brother left Eritrea because her father was arrested in their country and the police used to come to their home. She said she does not know much about her father and stated that he was forced to join the military and that when he was a soldier, he was probably arrested by the government because he did not want to serve. She has never returned to Eritrea and does not know if she has any relatives there. She also stated that she does not know whether her birth was registered with any service or authority in her country, nor if she was baptized there. Regarding her origin, she mentioned that her mother, who had Eritrean identification, had informed her. However, she herself did not have any Eritrean identification documents nor did she ever apply for their issuance, because, as she stated, she was young and unaware. She further stated that she has no memories of Eritrea, as she left the country at a very young age, and does not maintain any ties there. (...) Her administrative file included the screening report dated 3.8.2023, (...) in which it is stated that the said party holds Ethiopian nationality. (...) Regarding the reasons why she left Ethiopia, she stated that her rights were not protected there, such as attending school and having access to medical care, because migrants in the country face discrimination. (...) After her mother's death, she lived on the streets, and when she was 13 years old, she went to work in a woman's home, who treated her badly and did not let her leave the house, so she eventually escaped and ended up back on the streets. There, she lived with three other people who forced her to beg. (...) On the street, she was at risk of falling victim to sexual abuse. (...), she stated that she is unable to return to Eritrea because she fears that if she returns, her safety will be at risk and (...) that she fears for her life because she knows no one there and because her father was arrested and she does not know what has happened to him. Regarding Ethiopia, she stated that she does not wish to return because she fears for her life and faces discriminatory treatment. Her request was rejected as unfounded (...), as it was determined that the applicant's claim regarding her nationality lacked accuracy and clarity and was characterized by vagueness and generality, and therefore was not accepted; consequently, it was impossible to assess the validity of the claimed fear or imminent risk in relation to any specific country. The applicant's administrative appeal against the aforementioned rejection was dismissed with the contested decision for the same reasons, (...).

6. (...), with the present application, the applicant requests the suspension of the execution of the above decision of the Appeals Committee. Specifically, she argues that the execution of the contested decision and her return to her country of origin will cause her irreparable or difficult-to-repair harm. She specifically states that her return to Ethiopia is impossible, as she does not possess identification documents to secure travel papers; in any case, her return to that country would expose her, due to her gender and statelessness, to a risk of rights violations and imprisonment. (...)

7. (...) In the present case, evaluating the data of the case at hand and, in particular, the fact that the above claims, which the applicant had presented before the Administration, are causally linked to her alleged nationality, which, however, if assessed differently, could potentially justify the granting of international protection, and given that the applicant's claims regarding her nationality were rejected and the risk of persecution she invoked has not been assessed, the Court considers that the removal of the said party from Greece and her return to Ethiopia may cause her irreparable harm in the event that the pending annulment application is successful, consisting of exposure to danger to her life and safety, moreover, weighing the above harm against the public interest, it results that the negative consequences from granting the suspension request are not more serious than the benefit to the said party. Therefore, it is deemed necessary to order the suspension of execution of the contested decision, (...) insofar as it imposed on the applicant the measure of return, and at the same time, to order the Administration to refrain, until the issuance of a final decision on the pending application for annulment, from any action based exclusively on the contested act, which would result in the forced departure of the applicant from Greece. Furthermore, the Administration is ordered not to proceed with the withdrawal of the issued international protection applicant card or, if this card has already been withdrawn, to return it and, if it has expired, to extend its validity, so as to fully restore the actual situation in which the applicant was before the rejection, by the contested decision, of the request for international protection (cf. Council of State Decisions Committee of Suspensions 940, 573, 172/2006, 73/2007). (...)

The application is accepted.

ΝΔ183/2024



1st application - Admissibility - Interim measures - Syria of Kurdish origin - Single man - Türkiye as a safe country - Harm from staying in Greece without legal documents for a long period of time - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

23rd (One-Member) Chamber

Decision No: ΝΔ183/2024

Date of publication: 29.03.2024

Judge: Ioannis G. Apostolakis

(...)

1. (...) the application seeks the suspension of the execution of the decision of the 1st Independent Appeals Committee, composed of one member, which rejected the appeal of the applicant, a Syrian national, against decision 161299/2023 of the Regional Asylum Office of Lesvos and ordered his readmission to Türkiye, with immediate removal from the Greek territory. In the first instance, the latter decision rejected the applicant's application for international protection of 13.2.2023 (...).

2. (...), in the present case, the information on the file shows the following: The applicant, on 13.2.2023, presented himself before the Regional Asylum Service of Lesvos and submitted an application for international protection status (...). During the interview, (...) stated that he is of Kurdish ethnic origin and a Sunni Muslim by religion. (...). As to the reasons that forced him to leave Türkiye, the applicant testified that he did so out of fear for his life because of his ethnic origin (...). Finally, in the event of his return to Türkiye, the applicant stated that he feared that he would be arrested and imprisoned and that there was a possibility that he would be deported and handed over to Al Nusra, which considers that Kurds are infidels and that men should be killed, (...). The above application was rejected as inadmissible by decision No. 161299/2023 of the Regional Asylum Office of Lesvos (...). Against this rejection decision, the applicant filed an appeal dated 18.4.2023, (...). (...) The Committee, by its now-contested decision No. IR/990/29.6.2023, ruled that, in this case, the cumulative criteria set out in Article 91 (Article 38 of Directive 2013/32/EU) of Law 4939/2022 are met for the applicant and, therefore, Türkiye is considered a safe third country for him, (...).

4. (...), the Court takes note that: i) in accordance with the Joint Declaration of 18 March 2016 between the European Union (EU) and Türkiye on the implementation of a joint action plan against illegal immigration from Türkiye to the EU, "agreed" action points, such as the return to Türkiye of irregular migrants arriving in the Greek islands via Türkiye from 20 March 2016 onwards, and that for every Syrian returning to Türkiye from the Greek islands, another Syrian will be resettled

from Türkiye to the EU, taking into account the UN vulnerability criteria, (ii) however, with regard to Türkiye's effective compliance with its legal obligations arising from the above-mentioned joint declaration, it does not appear that the readmission to Türkiye of applicants for international protection whose applications have been rejected as inadmissible on the grounds of "safe third country" is taking place, pursuant to Article 86 of Law No. 4636/2019 (which transposes the corresponding provisions of Article 38 of Directive 2013/32/EU and contains provisions similar to Article 91 of Law 4939/2022). But, on the contrary, as stated in the relevant note of the competent authority, which accompanies the recommendation of the Asylum Service Director, based on which the joint decision 458568/15.12.2021 of the Ministers of Foreign Affairs - Immigration and Asylum (V' 5949) ("Amendment of the joint decision no. 42799/03.06.2021 Joint Decision of the Ministers of Foreign Affairs and Immigration and Asylum 'Determination of third countries designated as safe and establishment of a national list' as defined in Article 86 of Law No. 4636/2019 (A' 169)"), "Since March 2020 until today [i.e. for more than twenty months], the returns from Greece to Türkiye have been frozen", without any distinction as to the legal basis (international agreements or joint declaration of the European Union and Türkiye) under which the returns are ordered (see CoE Colom. 177/2023, paragraph 41), (iii) given the above legal and factual situation, the Council of State, ruling on the application for annulment of the Association with the name "GREEK COUNCIL FOR REFUGEES" and the Non-profit Civil Society with the name "REFUGEES SUPPORT AEGEAN" against (initially 42799/3. 6.2021 joint decision of the Deputy Minister of Foreign Affairs and the Minister of Immigration and Asylum, B' 2425/7.6.2021 and finally) of (replacing 42799/2021 Joint Ministerial Decision) as the above Joint Ministerial Decision 458568/15.12.2021, insofar as it includes Türkiye in the national list of safe third countries with respect to certain categories of applicants for international protection, whose applications are consequently rejected, as previously mentioned, primarily as inadmissible, led the Plenary Session of the Council of State, by its decision no. 177/2023, to submit the following preliminary questions to the Court of Justice of the European Union: "a) Article 38 of Directive 2013/32/EU, read in conjunction with Article 18 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding national (regulatory) legislation which designates as generally safe for certain categories of applicants for international protection a third country which has undertaken a legal obligation to allow the readmission to its territory of those categories of applicants for international protection, but it follows that for a long period of time (in this case more than twenty months) that country has refused readmission and does it not appear that the possibility of the country's attitude changing in the near future has been explored? Or (b) is readmission to the third country not a cumulative condition for the adoption of the national (regulatory) act designating a third country as generally safe for specific categories of applicants for international protection, but a cumulative condition for adopting the individual act rejecting a particular application for international protection as inadmissible on the ground of 'safe third country'? Or (c) is it to be interpreted as meaning that readmission to the 'safe third country' must be ascertained only at the time of enforcement of the decision, where that decision rejecting the application for international protection is based on the 'safe third country' ground? Because of the above, the Court considers that the measures taken to forcibly remove the applicant from Greece and readmit him to Türkiye as a consequence of the contested decision are likely to cause him damage because of reasonable doubts as to whether or when his readmission to the country in question will ultimately take place, which would be difficult to repair if the application for annulment were to succeed, consisting in his detention for an indefinite period in a Pre-Removal Detention Centre for Aliens (...). Therefore, taking into account that the application for annulment is not manifestly inadmissible or unfounded, the Court considers that there are, in the present case, legitimate grounds for ordering, under Article 52(2) (a), that the Court finds that, in this case, there is a legitimate ground to order, pursuant to Article 52(8) of Presidential Decree 18/1989 (Government Gazette A' 8), the specific measures referred to in the operative part of the present decision, effective until the issuance of a final judgment on the relevant application for annulment. (...)

The application for suspension is accepted.



1st application - Admissibility - Interim measures - Afghanistan - Single woman - Türkiye as a safe third country - Maintain family unity - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ189/2024
Date of publication: 10.04.2024
Judge: Ekaterini Ch. Koutsopoulou

2. (...), with the present application, the suspension of execution is requested of decision no. IR/217993/24.10.2023 of the 19th Independent Appeals Committee of the Appeals Authority, sitting in single-member formation, by which the appeal dated 6.9.2023 of the applicant, a national of Afghanistan, against decision no. IR/37335/28.7.2023 of the Lesvos Regional Asylum Office (RAO) was rejected. By the latter decision, the applicant's request for international protection, submitted on 15.6.2023, had been rejected. (...)

3. (...), in the present case, the following emerges from the case file: on 15.6.2023, the applicant presented herself at the Lesvos Regional Asylum Office (RAO) and submitted a request for international protection status. During the oral interview regarding her application, the applicant was informed that her case would be examined under Article 91 of Law 4939/2022, i.e., according to the "Safe Third Country" criterion. Subsequently, (...) she claimed, among other things, that Türkiye is not a safe third country for her, given that she remained in that country irregularly for a long period, exceeding three years, since her family and she were unable to obtain a residence document (kimlik). To this day, her two sisters and their families continue to reside in Türkiye without having been issued the aforementioned legal document. She further stated that during her stay there, she was unable to pursue her education, and her family was pressured to force her into an arranged marriage (...). Additionally, she mentioned that she does not wish to return to Türkiye, as she would be deported to her country of origin, Afghanistan, just as happened to her brother, whose "kimlik" was confiscated and replaced with a deportation order. The above application was rejected as inadmissible by decision no. IR/37335/28.7.2023 of the Lesvos Regional Asylum Office (RAO). Against this decision, the applicant filed an appeal dated 6.9.2023 before the 19th Independent Appeals Committee, which, sitting in single-member formation, rejected the appeal on the grounds that Türkiye is considered a safe third country for the applicant. (...) Finally, by this decision, the applicant's readmission to Türkiye was ordered.

4. (...), The Court, in assessing the facts of the case, and in particular the fact that, by decision no. 177/2023 of the Plenary Session of the Council of State, the Court submitted preliminary questions to the Court of Justice of the European Union (CJEU) regarding the impact on the legality of the National List of Safe Third Countries, which is applicable in this case by the contested decision of the Committee, took into account that Türkiye has, for an extended period, refused the readmission of applicants for international protection, without any indication that the possibility of a change in Türkiye's stance in the near future was examined. The CJEU has not yet issued a response to these questions. Further considering that, as evidenced by decision no. IR/223785/25.10.2023 of the 2nd Independent Appeals Committee, submitted by the applicant, her parents and siblings were recognized as beneficiaries of subsidiary protection, and her sister and her sister's family were granted refugee status (see relevant residence permits), the Court finds that the applicant's removal from the country and return to Türkiye could cause her harm that would be difficult to remedy, in the event that the pending annulment application is successful, consisting of exposing her to a risk to her life and safety. In view of the above, and since the contested act is of a negative nature and, therefore, not subject to suspension of execution, the Court, in accordance with the provisions of Article 52(8) of Presidential Decree 18/1989, orders the following interim measure: it instructs the Administration to refrain, until a final decision is issued by the Court on the pending annulment application, from taking any action based solely on the contested decision rejecting the applicant's above-mentioned request, which would result in her forced departure from Greece (see Committee of Suspensions Council of State 31/2000, 499/2003, etc.).

5. (...) Moreover, Article 48 of Law 4939/2022 (Government Gazette A' 111) provides for the issuance of a special card ("applicant for international protection card") to individuals who have submitted an application for international protection. This card grants these individuals the right to be temporarily employed in order to meet their immediate subsistence needs and, provided certain additional conditions are met, ensures access to free medical and hospital care. In view of the above, the Court, as an interim measure, also orders the Administration not to proceed with removing the "international protection applicant's card" issued to the applicant or, if that card has already been removed, to return it to the applicant

in order to fully restore the latter's actual situation before the rejection, by the contested act, of her application (ICJ 31/2000, 499/2003, etc.). (...)

Accepts the suspension.

NΔ195/2024



1st application - Eligibility - Interim measures - Ethiopia - Single man - Mental health issues - Maintain stable living conditions - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (One-Member) Chamber
Decision No: NΔ195/2024
Publication date: 19.11.2024
Judge: Papadopoulos Stylianos I.

2. (...) with this application it is requested the suspension of the execution of decision no. 346454/10.6.2024 of the 16th Independent Appeals Committee of the Ministry of Migration and Asylum, composed of three members. This decision rejected the appeal of the applicant against decision no. 286739/20.11.2023 of the Regional Asylum Office of Thessaloniki and ultimately deemed his request for international protection unfounded. (...) the same decision imposed a return measure against him. An application for annulment with registration number AKY266/23.9.2024 has been filed against the same decision and is pending before the Three-Member Administrative Court of First Instance of Thessaloniki.

4. (...) in the present case, the following facts emerge from the administrative file: the applicant, who declares himself a citizen of Ethiopia, (...) submitted an application for international protection on January 30 2023, at the Reception and Identification Center (R.I.C.) of Diavata. During the registration of this request, he stated that he left his country of origin due to the genocide being carried out against Christians and the murder of his mother and father. During his interview, the applicant stated that he is a Christian of the Amhara ethnic group and that he arrived in Greece via Djibouti and by sea, entering through Crete. Furthermore, he mentioned that after his father's death, the government issued an order to demolish his house, which was torn down, and for this reason, he was detained in a camp where he was brutally beaten before being released. Subsequently, he returned to the site where his house had been demolished and built a hut made of plastic, but efforts were continually made to remove him, and he was taken back to the camp, where he remained from March 2022 until September 2022 and was brutally beaten due to hatred against the Amhara ethnic group to which he belonged. In September 2022, he escaped from the camp and headed to Djibouti, and then arrived in Greece. Regarding his father's death, he stated that some people in civilian clothes came and took him away, and after a week, he returned ill, eventually dying a month later. He also stated that his father was a peaceful man but supported the FANO. Following the above and after the applicant's claims were deemed unreliable (...), his request for international protection was rejected as unfounded (...). The applicant filed an appeal against the latest decision, which was dismissed as unfounded for the same reasons as the contested decision no. 346454/10.6.2024 of the 16th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member composition. Additionally, with the latest decision, a return order was imposed against the applicant.

5. (...) In the present application, the applicant argues that the enforcement of the contested decision and the removal measure imposed against him will cause irreparable harm in the event that his pending application for annulment is ultimately granted (...). Specifically, in the application for annulment, he claims that the contested decision lacks legitimate justification, although gaps and ambiguities were identified during his interview, he was not summoned again to clarify these, and furthermore, he argues that the Independent Appeals Committee violated its obligation to review all factual and legal issues of the case based on updated information. Subsequently, regarding the harm he faces, he asserts that if removed from the country, he risks severe persecution in his country of origin due to racial discrimination, and that his life and physical integrity will be placed in immediate danger. Moreover, he will be deprived (...) of the right to an effective remedy, as guaranteed by Article 13 of the European Convention on Human Rights (ECHR), to effectively support the main legal action he filed against the contested decision. Additionally, (...) if his applicant's international protection card is withdrawn, he will lose access to the labor market, insurance, renting housing, and transactions with public services, utilities, and banks, and he will not have the necessary legal documents to continue residing in the Homeless Shelter of the Municipality of Thessaloniki, which will expose him to all forms of exploitation and mistreatment and will drive him into destitution, causing him irreparable harm. Furthermore, in the present application, it is argued that due to the torture

he suffered in his country of origin, the applicant's mental health has deteriorated; he suffers from post-traumatic stress disorder with severe symptoms (...), for which he is receiving medication. (...)

6. (...) In the present case, taking into account, on the one hand, that the reasons raised with the (...) are not manifestly unfounded and, on the other hand: a) the applicant's claims regarding the reasons that forced him to leave his country of origin (racial persecution, torture by the authorities of Ethiopia, and the suspicious death of his father), b) that although his claims were deemed unreliable by the Independent Appeals Committee, the applicant argues in the annulment request against the contested decision that the latter lacks legitimate justification with regard to this assessment, and c) the state of his mental health, the Court considers that the immediate removal of the applicant from the country is likely to cause him irreparable harm in the event that the application for annulment is granted. (...)

The application is accepted.

NΔ205/2024



1st application - Eligibility - Interim measures - Eritrea - Single woman - Wrong Nationality Assessment - Credibility of annulment claims - Mental Health Issues - Risk of interruption of medical treatment - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

10th (One-Member) Chamber

Decision No: NΔ205/2024

Date of publication: 19.04.2024

Judge: G. Kritikou Mandani

1. (...), with this application, (...), the applicant requests the suspension of the execution of the decision of the 16th Independent Appeals Committee, which rejected her appeal of 29.11.2023 against the decision of the Regional Asylum Office of Lesbos (R.A.O.) of 29.11.2023 (IP/248642/3.11.2023). The latter decision rejected her application of 14.7.2023 for international protection status. (...).

2. (...) in the present case, the following emerges from the case file: The applicant, who claims to be a citizen of Eritrea, submitted an application for international protection on 14.7.2023 at the Lesbos Regional Asylum Office (RAO). During the registration of her application, she stated that she does not wish to return to her country of origin because she has no opportunity to study or work there, has no relatives, is alone, and her life is in danger. By decision no. IR/248642/3.11.2023 of the Lesbos RAO, her application was rejected as unfounded. She filed an appeal against that decision, which was rejected by the now-contested decision of the 16th Independent Appeals Committee. Specifically, the Committee did not accept the applicant's claim that she is a citizen of Eritrea and, therefore, ruled that the validity of her alleged fear or imminent risk could not be assessed in relation to any specific country. Against this latest decision, the applicant filed an application for annulment no. AK92/9.2.2024, in which she challenges its legality and seeks its annulment on the specific grounds set out in the relevant pleading. By the present application, the applicant seeks to suspend the enforcement of the contested decision, claiming that the enforcement of the contested decision would cause irreparable damage to the applicant. In particular, she alleges, among other things, that she has mental health problems and that her return to her country would endanger her life, physical integrity and mental state, which is already disturbed. In support of her claims, the applicant cites and submits, among other things: (a) a foreigner's health card, which states that she suffers from panic attacks, and (b) the psychosocial report of 7.3.2024 by the psychologist of the Reception Facility (...), according to which "the applicant resides in the Open Reception Facility for Asylum Seekers Katsika Ioannina and is monitored by a psychologist of the Facility. She mentions several problems and difficulties related to her daily life and past. (...). The beneficiary reported the following symptoms: catatonia, sleep disturbances, irritability, fear, feelings of hopelessness, depressive feelings, obsessive type ideas with hetero-self-destructive content, anhedonia, excessive frustration, complacency and no hope for the future. (...) Her emotions mainly were sad, with many elements of anxiety, depression and fear for the future. Therefore, the beneficiary needs stability to manage and cope with all the difficulties and symptoms she reports. Finally, she needs regular monitoring by a psychologist to deal with the issues mentioned above."

3. (...), decision no. IR/12296/8.1.2024 of the 16th Independent Appeals Committee, as an act of a negative nature, is not in principle subject to suspension of execution, since such suspension would amount to full satisfaction by the

Court, substituting the Administration, in relation to the above-rejected requests for international protection. However, taking particular account of the applicant's health condition, which, according to the above-submitted documentary evidence, includes, among other things, feelings of despair, depressive mood, obsessive thoughts with hetero- and self-destructive content, and the fact that she is receiving psychosocial support, the interruption of which would have harmful consequences for her, and further considering that the annulment application filed is not manifestly inadmissible or unfounded, the Court finds that there is a lawful ground in this case to order the specific measures set out in the operative part, in accordance with Article 52(8) of Presidential Decree 18/1989 (Government Gazette A' 8), until a final decision is issued on the annulment application. (...)

The application for suspension is accepted.

NΔ250/2024



1st application - Eligibility - Interim measures - Iran - Single man - Mental health issues - Maintain stable living conditions - Employment - Application rejected

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ250/2024
Date of publication: 25.04.2024
Judge: Vasiliki A. Tasouli
(...)

1. (...), with the present application, (...) the suspension of execution of decision no. IR179006/10.10.2023 of the 21st Independent Appeals Committee is requested. By this decision, the administrative appeal dated 24.7.2023 filed by the applicant, who claims to be a national of Iran, against decision no. 324818/22.6.2023 of the Attica Regional Asylum Office was rejected, and a return measure was imposed on him, requiring voluntary departure from the country within twenty days from the service of the said decision. Furthermore, by the aforementioned decision of the Attica RAO, the applicant's request for international protection had been rejected. (...)

2. (...) In the present case, the following emerges from the case file: on 23.11.2022, the applicant presented himself at the Malakasa RIC and submitted an application for international protection, stating that he does not wish to return to his country of origin, Iran, because he was a member of Komala, which has resulted in him being persecuted by the Iranian government and placed his life at risk in the event of return. (...) During the interview, the applicant stated that he is physically healthy but did not feel well psychologically; he had consulted a psychologist and had been prescribed medication, which he had discontinued two days prior. (...) He also mentioned that he was being followed by a doctor in Tehran. (...) When asked why, in his opinion, the Iranian authorities had targeted him, he replied that their goal was to identify his connections and gather information in order to arrest, torture, and execute him. The applicant's request was rejected as unfounded because it did not establish the existence of a well-founded and justified fear of persecution (...). Against this decision, the applicant submitted an appeal on 24.7.2023, requesting a review of his application, which was rejected by the decision no IP179006/10.10.2023 of the 21st Independent Appeals Committee. (...). The applicant lodged an application for annulment against the decision no IP179006/10.10.2023 of the 21st Independent Appeal Committee, in which he claimed that the contested decision lacked legal grounds.

3. (...) By the present application, the applicant seeks the suspension of the execution of that decision, arguing that its immediate execution would cause him irreparable harm. In particular, he claims that, in case of his forced return to Iran, he risks immediate arrest, imprisonment, torture and death sentence without the possibility of a fair trial, because of his religious and political beliefs. He further claims that, in any event, his return to his country of origin would lead to a deterioration of his mental health. Moreover, he argues that he has begun integrating into Greek society and learning the Greek language while working, earning a living from his work, and fulfilling his tax and insurance obligations. Finally, he submits that there are no reasons of public interest in his person, which require immediate execution of the abovementioned decision.

4. (...), in light of the preceding, the Court, taking into account that, during the administrative procedure, for examining the applicant's case for international protection, his claims relating to the reasons why he left his country of origin were

assessed and rejected at second instance by the Appeals Committee, which found that the conditions in order for him to be granted with refugee or subsidiary protection, were not met and that, in the present application, no specific grounds for refugee status or subsidiary protection were found, and that no specific grounds were put forward. In the absence of any specific allegation to that effect, it holds that it is not possible that the applicant will face irreparable harm, if he were to return to his country of origin. Moreover, the above are not overturned by the applicant's claims regarding his mental health, given that there is no evidence indicating that he would be unable to receive appropriate medical care in his country of origin. In any case, the possible disruption of the personal and social ties the applicant has established during his stay in Greece does not constitute a ground for the suspension of execution of the decision contested by the annulment application. (Council of State 1085/2008, 950/2008, 732/2008), which has not been issued under the common legislation on aliens but is part of the procedure for examining an asylum application (Committee of Suspensions Council of State 103/2011, 1006/2010, 464/2010, 1224/2009). Finally, the applicant's claim that he is not dangerous to public order and security is not a reason to suspend the execution of the above act (Committee of Stays of Proceedings of Council of State 103/2011, 941/2009). Accordingly, in this case, there is no legal ground to grant the requested suspension under the conditions of par. 6, in conjunction with par. 8, in conjunction with Article 52 of the P.D.18/1989 (A' 8) (...).

The application is dismissed.

ΝΔ299/2024  

1st application - Eligibility - Interim measures - Sudan - Single man - Mental health issues - Risk of interruption of medical treatment - Application accepted

Administrative Court of First Instance of Athens 21st (One-Member) Chamber

Decision No: ΝΔ299/2024

Date of publication: 03.06.2024

Judge: Panagiota D. Papathanasiou

(...)

2. (...), this application seeks the suspension of the execution of the decision of the 17th Independent Appeals Committee of the Appeals Authority (IP/14032/12.7.2023), which rejected the appeal of 19.5.2023 filed by the applicant, according to his statement, a Sudanese national, against the decision 207388/10.4.2023 of the Regional Asylum Office (R.A.O.) of Lesbos. The latter decision rejected his application for international protection on 7.3.2023. The applicant lodged an application for annulment against that decision under the number of registration AK1004/29.9.2023, pending before this Court. (...).

4. (...), in the present case, the following is apparent from the information of the file: according to his statement, the applicant, a Sudanese national, came to the Regional Asylum Office (R.A.O.) of Lesbos on 7.3.2023 and applied for international protection. During the registration of his application, he said he did not wish to return to his country for security reasons. Subsequently, during his interview, (...) stated that because of his tribal origin as a Berti tribesman, the Janjaweed militants murdered his father and brothers. (...) As to why he does not want to return to his country of origin, he claims that he fears insecurity and believes that the militants who tortured him are going to harm him again. The applicant lodged an appeal against the decision before the 17th Independent Appeal Committee of the Appeals Authority on 19.5.2023, which (...) rejected the aforementioned appeal as unfounded. Furthermore, by the same decision, the applicant was subjected to the measure of return to his country of origin. Against the above rejection decision of the 17th Independent Appeals Committee, the applicant filed, the application for annulment under the registration number AK1004/29.9.2023, before this Court seeking its annulment and claiming, as grounds for annulment, the violation of the right to be heard, the incorrect interpretation and application of the provisions of Law No. 4939/2022, given that his vulnerability was not correctly assessed while, all the conditions for recognition of refugee status and subsidiary protection are met in his case, the lack of specific and detailed reasoning when assessing the internal credibility of its claims and the contradiction between the provisions of paragraphs 2 and 7 of Article 5 of Law No. 4375/2016 to the provisions of paragraphs. 2 and 3 of Article 89 of the Constitution.

5. (...), with the present application, the applicant requests the suspension of the execution of the contested decision until a ruling is issued on the application for annulment filed against it, arguing that the enforcement of the contested decision would cause him irreparable harm, which could not be remedied in the event that his related annulment application is

successful. In particular, he claims that if he were to return to his country of origin (Sudan), he would risk being persecuted again because of the political opinion attributed to him by the State authorities and the RSF/Rapid Support Forces and because of his racial origin (Berti). Furthermore, he claims that, due to the torture and discrimination he suffered in his country of origin, he is facing mental health problems, in particular a depressive episode (F32-ICD10), which will be exacerbated if he is forced to return to Sudan, as he will not have access to any kind of medical treatment. He claims, in this regard, that in Greece, he receives the appropriate medication and is monitored by a doctor at the Adult Mental Health Mobile Unit of Imathia for the mental health problems he faces. (...).

6. (...), the contested decision, as a rejection of the applicant's legal claim, constitutes an act of negative content, which is not eligible for suspension of execution because any suspension of its execution would be equivalent to be accepted by the Court, by substituting the Administration, the aforementioned rejected application for international protection (see Committee of Suspensions Council of State 95/2018, 169/2016, 174/2015). However, the Court may order, under the provision of par. 8 of Article 52 of P.D. 18/1989, as amended, any measure appropriate for the protection of the applicant. In light of the above, taking into account, on the one hand, the aggravated state of the applicant's mental health, which requires psychiatric care, and, on the other hand, the need to avoid a violent break in the stable situation, in which he is currently living, the Court considers that, in the light of those special circumstances, the immediate removal of the applicant from the country as a consequence of the execution of the contested decision would cause him harm that would be difficult to repair, deteriorating his already impaired health. Therefore, to prevent such a harm and taking into account that the application for annulment lodged is to be examined soon and that it is not manifestly inadmissible or unfounded, the Court considers that the present application should be accepted. The administration should be ordered to refrain from any action based solely on the contested measure, which would result in the applicant's forced departure from the country, until the final decision on the pending application for annulment. Furthermore, the Administration should be ordered not to proceed with the removal of the international protection card issued to the applicant or, if that card has already been removed, to return it and, if it has expired, to extend its validity, to fully restore the actual situation in which the applicant was before the rejection, by the contested decision, of the application for international protection (Committee of Suspensions Council of State 31/2000, 499/2003, etc.) (...)

The application is accepted.

NΔ322/2024 

1st application - Eligibility - Interim measures - Uganda - Single woman - Gender-based violence
- Victim of human trafficking - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ322/2024
Date of publication: 28.06.2024
Judge: Ekaterini Ch. Koutsopoulou
(...)

2. (...), the present application seeks the suspension of the enforcement of decision no. IP/24575/12.1.2024 issued by the 14th Independent Appeals Committee of the Appeals Authority, which rejected the applicant's appeal dated 30.11.2023 against decision no. 321912/21.6.2023 of the Samos Regional Asylum Office (RAO). The latter decision rejected the applicant's application for international protection on 22.12.2023. The applicant lodged an application for annulment of the contested measure before the Athens Administrative Court of First Instance under No 205/2024, the hearing of which is pending.

3. (...), in the present case, the case file reveals the following: the applicant, a national of Uganda, appeared before the Samos Regional Asylum Office (RAO) on 22.12.2022 and submitted an application for international protection on the grounds that her uncle had been sexually abusing her. (...)Furthermore, she stated that she does not wish to return to her country of origin as she is afraid of her stepmother, because she stabbed her brother and of the lady named "...", to whom she owes money, which she has not been able to repay, although this woman had forced her to prostitution during her stay in Türkiye. The above application was rejected by decision no 321912/21.6.2023 of the R.A.O. Samos, as her claim of sexual abuse by her uncle was rejected as unbelievable. Furthermore, it was considered that the applicant is a

victim of trafficking, but the national authorities of her country of origin can provide her with effective protection against the perpetrators of human trafficking. Against this decision, the applicant lodged an appeal before the 14th Independent Appeals Committee on 30.11.2023, which was rejected as unfounded by the contested decision (...). Furthermore, the contested decision ordered the applicant's return to her country of origin by the procedure of voluntary removal from the country.

4. (...), the Court, assessing the facts of the case and in particular the fact that the above allegations, which the applicant had put forward before the Administration, concerning the risk of persecution on the grounds of gender violence and trafficking in human beings, are not manifestly inconsistent with reasons which, assessed by the Administration, could justify the granting of international protection, considers that the removal of the applicant from the country and her return to her country of origin is likely to cause her harm which would be difficult to remedy if the pending application for annulment was to succeed, by putting her life and safety at risk. In view of this, and in so far as the contested act has a negative content and is therefore not susceptible to suspension of execution, the Court shall grant the following interim measure under the provisions of Article 52 par.8 of the P.D 18/1989: [The Court orders the administration to refrain, until the Court has given a final judgment on the pending application for annulment, from any action based solely on the contested decision rejecting the applicant's request, which would result in her forced departure from Greece (see Committee of Suspension Council of State 31/2000, 499/2003 and Others).

5. (...) Moreover, Article 48 of Law No. 4939/2022 (A' 111) provides for the issue of an asylum card ("international protection applicant's card") to persons who have applied for international protection, which, on the one hand, grants them the right to be employed temporarily, to cover their immediate living needs and, on the other hand, guarantees them, under certain additional circumstances, free medical and hospital care. In view of the above, the Court, also orders the Administration not to proceed with the removal of the international protection applicant card issued to the applicant or, if that card has already been removed, to return it to the applicant in order to fully restore the latter's actual situation before the rejection, by the contested act, of her application, as an interim measure (Committee of Suspensions Council of State 31/2000, 499/2003, etc.). (...)

The application is accepted.

NΔ323/2024



1st application - Eligibility - Interim measures - Sierra Leone - Single woman - Pregnant woman
-Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ323/2024
Date of publication: 28.06.2024
Judge: Ekaterini Ch. Koutsopoulou
(...)

2. (...), with the present application, the suspension of the execution of Decision No. IP/347319/11.12.2023 of the 2nd Independent Appeals Committee of the Appeals Authority is requested, by which the appeal of 11.10.2023 of the applicant, a national of Sierra Leone, against the decision 637248/26.10.2022 of the Regional Asylum Office (R.A.O.) of Lesvos, was dismissed as being out of time,. The latter decision rejected the applicant's application for international protection of 22.9.2022. The applicant then lodged an application for annulment, under No. 240/2024, against this decision before the Athens Administrative Court of First Instance, the hearing of which, is pending.

3. (...) In the present case, the information of the file shows the following: the applicant submitted an application for international protection on 22.9.2022, which was rejected by decision no 637248/26.10.2022 of the Regional Asylum Office (R.AO.) of Lesvos as unfounded. The rejection decision was served on 23.5.2023 to the Camp manager of the Kavala Camp, under article 87 par. 4 of the law 4939/2022 (A' 111), who, with the proof of service in the accommodation facility dated on 7.3.2024, which is included in the administrative file, confirmed that the applicant could not be found or did not appear, within three days from the date of posting the list of decisions for service on the Facility's notice boards. Therefore, the decision and the accompanying documents are considered to have been served under Article 82 par.

5 of the Law. 4939/2022 (A'111). Subsequently, the applicant lodged an appeal against that decision, before the 2nd Independent Appeals Committee on 11.10.2023, which dismissed the appeal as out of time with the contested decision. In particular, it was accepted that the service of the contested decision took place on 23.5.2023 and that the thirty-day deadline for lodging the appeal started from the day following the above service. The appeal however, was lodged on 10.10.2023, thus, after the expiry of the thirty days, without the applicant claiming that this delay was due to force majeure and, therefore, the appeal lodged was dismissed as inadmissible. (...)

4. (...), in the present application, the applicant claims that the application for annulment is manifestly well founded since the contested decision was not lawfully served to the Camp manager of the Accommodation Facility, since service should have been done to her lawyer under the provisions of Article 87 par. 5 of Law No. 4939/2022 and that, if the contested act is not suspended, it will cause her irreparable harm. Furthermore, she claims that she is pregnant and that the birth will take place on 15.7.2024, as shown by the certificate of the doctor of the General Hospital of Kavala (...).

5. Article 41 of Law 3907/2011 (Government Gazette A' 7) states that: "1. The return of a foreign national is prohibited if: (...) The prohibition of return also applies to pregnant women during the course of pregnancy and for six months after childbirth." Because of the previous, and given that the applicant is pregnant and that the date of delivery is imminent according to the certificate, conducted by the attending physician, the Court holds that, regardless of the arguments put forward in the present application, the application must be accepted. In view of the fact that the contested act has a negative content and is, therefore, not susceptible to suspension of execution, the Court shall grant the following interim measure under the provisions of Article 52(1)(b), take the following measures: [The Court] orders the administration to refrain, until the Court has given a final judgment on the pending application for annulment, from any action based solely on the contested decision rejecting the applicant's request, which would result in her forced departure from Greece (see Committee of Suspensions Council of State 31/2000, 499/2003 and Others) during pregnancy and for six months after childbirth. (...)

The application is accepted.

NΔ340/2024

1st application - Eligibility - Interim measures - Eritrea - Single woman - Wrong Nationality assessment - Credibility of annulment claims - Gender-based violence - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
10th (One-Member) Chamber
Decision No: NΔ340/2024
Date of publication: 05.07.2024
Judge: Ekaterini Ch. Koutsopoulou
(...)

2. (...), the present application seeks the suspension of the execution of the decision no. IP/160366/8.3.2024 of the 17th Independent Appeals Committee of the Appeals Authority, which rejected, in a single-member composition, the applicant's appeal of 5.2.2024, against the decision no. IP/57131/25.1.2024 of the Regional Asylum Office of Lesbos (R.A.O). With the latter decision, the applicant's application of 28.8.2023, for international protection had been rejected. (...).

3. (...) In the present case, the following is apparent from the file: the applicant, an Eritrean national, presented herself on 28.8.2023 at the R.A.O of Lesbos and submitted a request for international protection. Subsequently, during the interview on her application, (...) the applicant claimed that she was born in the town of ASSAB in Eritrea, which she left at a young age with her mother because her father, who was a soldier, was murdered in Eritrea. Furthermore, she stated that her grandfather, who had also previously left Eritrea for political reasons, resided in Ethiopia, that her mother had psychological problems and that she was in a state of extreme poverty, having to survive by begging. In addition, she reported that she worked as a domestic worker, but her employer's son sexually abused her. Finally, she stated that she did not have Ethiopian residence documents or documents proving her Eritrean origin.

The above application was rejected as unfounded by decision no. IP/57131/25.1.2024 of the Lesvos Regional Asylum Office (RAO). Against this decision, the applicant filed an appeal dated 5.2.2024 before the 17th Independent Appeals Committee, which also rejected the appeal as unfounded. (...), the contested decision, the applicant's claim regarding her nationality was rejected as unreliable, on the grounds that her narrative contained gaps, vagueness, and contradictions that could not be justified by her educational background or by the emotional intensity that the recounting of the related events may have caused her. According to the contested decision, the applicant could not provide information on the duration of the compulsory military service in Eritrea. Additionally, the information provided was general and widely known, such as, for example, the colour of that country's flag. Furthermore, since it was not accepted that the applicant was of Eritrean origin, her claim regarding the difficulties she experienced in surviving in Ethiopia, lacking legal documents, was rejected as unfounded, and it was considered that the applicant would not face a risk of persecution in case of her return to Ethiopia. (...).

4. (...), The Court, assessing the facts of the case, and in particular the fact that the above claims, which the applicant had presented before the Administration, are not clearly unrelated to grounds that, if assessed by the Administration, could justify the granting of international protection, considers that the applicant's removal from the country and her return to her alleged country of origin or to her last country of residence could cause her harm that would be difficult to remedy in the event that the pending annulment application is successful, consisting in her exposure to a risk to her life and safety. In view of the above, and since the contested act has a negative content and, therefore, is not subject to suspension of enforcement, the Court, in accordance with the provisions of Article 52(8) of Presidential Decree 18/1989, orders the following interim measure: it instructs the Administration to refrain, until a final decision is issued by the Court on the pending annulment application, from taking any action based solely on the contested decision rejecting the applicant's aforementioned request, which would result in her forced departure from Greece (see e.g. Council of State decisions 31/2000, 499/2003, etc.).

5. (...) Moreover, Article 48 of Law No. 4939/2022 (A' 111) provides for the issue of an asylum card ("international protection applicant's card") to persons who have applied for international protection, which, on the one hand, grants them the right to be employed temporarily, to cover their immediate living needs and, on the other hand, guarantees them, under certain additional circumstances, free medical and hospital care. In view of the above, the Court, also orders the Administration not to proceed with the removal of the international protection applicant card issued to the applicant or, if that card has already been removed, to return it to the applicant in order to fully restore the latter's actual situation before the rejection, by the contested act, of her application, as an interim measure (Committee of Suspensions Council of State 31/2000, 499/2003, etc.).

(...) The application is accepted.

ΝΔ 341/2024

1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

10th (One-Member) Chamber

Decision No: ΝΔ341/2024

Date of publication: 05.07.2024

Judge: Koutsopoulou Aikaterini Ch.

(...)

2. (...) with the present application, the suspension of the enforcement of decision no. IP/95988/12.2.2024 of the 19th Independent Appeals Committee of the Appeals Authority is requested, by which the applicant's appeal of 2.11.2023 against decision no. IP/160234/2.10.2023 of the Regional Asylum Office (R.A.O.) of Lesvos was rejected. By that latter decision, the applicant's request of 27.7.2023 for international protection had been rejected. Against the contested act, the applicant has filed an application for annulment before the Administrative Court of First Instance of Athens under filing number 220/2024, the hearing of which is pending.

3. (...), in the present case, the case file shows the following: the applicant, according to his statement a national of Eritrea, appeared on 27.7.2023 before the Reception and Identification Service of Lesvos and submitted an application for international protection. (...), during the oral examination of his application on 30.8.2023, (...) the applicant claimed

that he was born in the city of Asmara, Eritrea, belongs to the Tigrinya ethnic group, and lived in that country until the age of 4-5, when his family was forced to move to Ethiopia because his father and brother were threatened with compulsory military service. In Ethiopia, he was separated from his family and lived in a state of absolute poverty and homelessness, because due to his origin, he experienced isolation, was subjected to continuous arbitrary arrests, and suffered ongoing violations of his human rights. Furthermore, he stated that he does not wish to return to Ethiopia, as he would face the same dangers, while it is impossible for him to return to Eritrea because he faces the risk of compulsory military service. The above application was rejected (...) as unfounded. Against this decision, the applicant lodged an appeal on 2.11.2023 before the 19th Independent Appeals Committee, which also rejected the appeal as unfounded. Specifically, in the contested decision, it was accepted that the applicant belongs to the Tigrinya ethnic group and that his claim regarding the risk of persecution he faces from the Eritrean authorities, due to forced military service and the consequent serious violation of his human rights, constitutes a claim “concerning matters of a private nature.” Furthermore, his claim regarding his nationality was rejected on the grounds that it was not credible, as his account contained gaps, vagueness, and inconsistencies that could not be justified either by his educational level (five years of schooling) or by the emotional intensity that the recounting of the related events might have caused him. Specifically, it was determined that the applicant “was vague and imprecise, as he was unable to provide even basic information about the country of which he claimed to be a citizen. He stated ignorance regarding cities in Eritrea, the prevailing religions, the countries it borders with, Eritrean history, the meaning of the colors of the flag, and the outcome of the war with Ethiopia. He could not provide any information about the political situation in Eritrea, and concerning the military, he was unable to give details about the duration of military service, the obligation to enlist and at what age, the participation of men and women, or why the military is so important in his country, even though this is the main reason his family left the country and the reason he is seeking international protection.” Furthermore, given that the applicant’s Eritrean origin was not accepted, his claim regarding the survival difficulties he faced in Ethiopia, due to his lack of legal documentation stemming from his alleged origin, was rejected as unfounded and it was determined that the applicant does not face a risk of persecution upon return to Ethiopia. Moreover, it was concluded that the legal conditions for granting the applicant subsidiary protection status were not met.

4. (...) among the elements in the administrative file is the Screening Report of the Reception and Identification Service of the Closed Controlled Centre of Lesvos, according to which the applicant originates from Ethiopia. However, this report is not accompanied by any evidence upon which the Administration based this conclusion. In light of the above, the Court, evaluating the case’s circumstances and particularly the fact that the abovementioned claims, which the applicant made before the Administration, are not evidently unrelated to reasons that, if assessed by the Administration, could justify the granting of international protection, considers that the applicant’s removal from the country and his return to, according to his claims, his country of origin or his country of last residence, may cause him irreparable harm in the event that the pending annulment application is successful, consisting of exposure to a risk to his life and safety. (...) In view of the above, (...) it orders the Administration to refrain, until the issuance of a final decision by the Court on the pending annulment application, from taking any action based exclusively on the contested decision rejecting the above-mentioned request of the applicant, which would result in his forced departure from Greece (cf, Committee of Suspensions 31/2000, 499/2003)

5. (...) In view of the above, the Court, (...), also orders the Administration not to proceed with the withdrawal of the “applicant for international protection card” issued to the applicant, or, if this card has already been withdrawn, to be returned to the applicant, in order to fully restore the actual situation in which the latter was prior to the rejection of his request by the contested act (...).

The application for suspension is accepted.



1st application - Eligibility - Interim measures - Sierra Leone - Single man - LGBTQIA+ - Serious illness - Risk of interruption of medical treatment - Mental health issues - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ342/2024
Publication Date: 11.07.2024
Judge: Sotiria-Spyridoula G. Katsika (...)
(...)

1. (...), with the present application, (...) the applicant requests the suspension of the enforcement of second-instance decision no. IP/92812/9.2.2024, issued by the 11th Independent Appeals Committee in a three-member composition, by which: a) the applicant's appeal, a citizen of Sierra Leone, was rejected as unfounded. The appeal had been filed against decision no. 4706/4.7.2023 of the Samos Regional Asylum Office (RAO), which had rejected his application for recognition as a beneficiary of international or subsidiary protection, (...) and c) his return to his country of origin was ordered. Against the above decision, the applicant lodged an application for annulment before this Court registered under no AK297/25.4.2024, the hearing of which is pending.

2. (...), in the present case, the following emerges from the evidence in the file: the applicant, a citizen of Sierra Leone, appeared, on 23.9.2022, at the R.A.O of Samos and submitted a request for international protection, stating that he did not wish to return to his country of origin, because his life would be in danger due to his sexual orientation, (...). The above application was rejected as unfounded with the decision no 4706/4.7.2023, of the above mentioned R.A.O., on the grounds that his claims about his sexual orientation lacked internal credibility (...). With the same decision, the return measure was imposed against him. Against the above decision, the applicant lodged the appeal with protocol no. 128919/20.9.2023, (...). The above appeal was rejected as unfounded with the 2nd instance decision no. IP/92812/9.2.2024, of the 11th Independent Appeals Committee. Specifically, the Committee (...) held that the conditions for his recognition as a refugee were not met, as the element of persecution against him in his country of origin was not present. (...)

3. (...), in the present application, the applicant requests the suspension of the execution of the above decision, arguing that its immediate execution would cause him irreparable harm. This is because the international protection applicant card granted to him will be cancelled, thus, he will no longer have any document of legal residence in the country. As a result of the cancellation of the above card, he will be deprived of access to work, insurance, renting a residence, dealing with public services, non-profit organizations and banks, he will be forced to leave the camp of Philippiada, in which he lives, the financial assistance granted to him will be stopped by the Greek state and above all, he will not have access to medical care, which he absolutely needs, as both his physical and mental health are in a critical state. Specifically, he claims that on 27.5.2023 he was admitted to the Ioannina hospital with extensive bone edema of the L4 vertebra and an epidural abscess. At the above hospital, he was diagnosed with tuberculous spondylitis, a severe disease that destroys the vertebrae, endangers the spinal cord, and can cause severe hearing loss, even paralysis. Subsequently, as he claims, he underwent emergency surgery to treat the above disease and to restore the functionality of his spine, and in particular he underwent drainage of the abscess and spinal fusion, and was hospitalized in the above hospital until 29.6.2023. Furthermore, due to complications of his disease, which caused him unbearable pain, he developed, according to his claims, on 22.8.2023, a severe depressive episode, with psychotic symptoms, and he was urgently transferred to the Psychiatric Clinic of Arta's Hospital. In addition, he claims that, in case of his return to his country of origin, as a result of the immediate execution of the contested decision, he will suffer severe persecution, which will be related to: a) the fact that he belongs to the particular social group of LGBTQI people, who in Sierra Leone experience violence, discrimination, intimidation, public attacks and denial of public services, such as health care and b) the fact that he belongs to the particular social group of orphaned children in Sierra Leone who were forced into child prostitution in order to survive, children who as adults are now more at risk than anyone else of being driven back into poverty and becoming victims of human trafficking trying to survive, as they do not have a support network nor have they developed skills that would allow them to make a living in another way. Furthermore, he argues that, in the event of his return to Sierra Leone, he would not only lack access to medical care for the treatment of the disease he suffers from (tuberculous spondylitis), but, even more so, he would be unable to maintain basic hygiene standards necessary to avoid secondary infections and other complications of the disease. As a result, his health would rapidly deteriorate, putting his very life at risk. (...)

4. (...) from the information provided it emerged that the applicant suffers from tuberculous spondylitis, for the treatment of which he underwent, a spinal fusion, in June of 2023, in the General Hospital of Ioannina, that since then he has been receiving quadruple anti-tuberculosis medication, the continuation of which is deemed imperative for at least six months and that, in addition, he suffers from chronic depression, and occasionally, he receives antidepressant medication. Given the above circumstances, the Court finds that any measures taken to forcibly remove the applicant from the country, as a consequence of the contested decision, may cause him harm that would be difficult to remedy in the event that the related annulment application is successful (see Suspensions Committee Council of State 279/2020, 62/2018, 246/2017, 180/2015), as such removal could endanger his already fragile health condition, as he reasonably argues in the present application. Therefore, in order to prevent such harm (...), the Court deems it appropriate to order, as a suitable measure under Article 52(8) of Presidential Decree 18/1989, as in force, that the Administration refrain, until a final judgment is issued on the abovementioned pending annulment application, from taking any action based solely on the contested decision that would result in the applicant's forced departure from Greek territory. (...)

The application is accepted.

NΔ378/2024

1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Athens

21st (One-Member) Chamber

Decision No: NΔ378 /2024

Publication date: 02.08.2024

Judge: Maragkou Kalliopi Th.

(...)

1. (...) with the present application, (...) it is requested to suspend the execution of decision no. IP/68299/31.1.2024 of the 4th Independent Appeals Committee, by which the applicant's appeal dated 8.11.2023 against decision no. 173376/6.10.2023 of the Regional Asylum Office (R.A.O.) of Lesbos was rejected. The latter decision had rejected, at first instance, the applicant's application dated 10.8.2023 for international protection. The suspension is requested until the publication of a final decision on the application for annulment (AK 150/6.3.2024), which the applicant has already filed against the aforementioned first decision, the hearing of which is pending before the present Court.

3. (...) In the present case, the documents in the case file shows the following: the applicant, a citizen of Eritrea, by his own declaration, appeared on 10.8.2023 at the Regional Asylum Office of Lesbos and submitted a request for international protection. During the related reception and identification procedures to which he was subjected, it was found that his estimated nationality is Ethiopian (see the unified registration form dated 11.8.2023 from the Reception and Identification Service of the Closed Controlled Centre of Lesbos). Subsequently, during his oral interview (...), which took place on 23 and 28.8.2023, in the Tigrinya language, (...), the applicant claimed that he was born in Asmara, Eritrea, is of Tigrinya ethnicity, and of Orthodox Christian religion, that he has not attended school and is illiterate, and that he is unmarried with no children or siblings. Furthermore, he claimed that he left the above-mentioned country of origin at the age of three, together with his mother, because after his father was forced into compulsory military service to fight in the ongoing war between Eritrea and Ethiopia and subsequently disappeared, the Eritrean authorities continuously threatened his mother that they would also force her to compulsory military service. In Ethiopia, he stated that he and his mother settled in the city of Addis Ababa; however, she passed away when he was eight years old. Due to his Eritrean origin, he was socially marginalized and deprived of basic rights such as access to education, employment, and identification documents, which ultimately led him to decide to leave the country. Finally, he stated that, for the aforementioned reasons, he does not wish to return to Ethiopia, nor does he wish to return to Eritrea, as he fears he will share the same fate as his father, since young people are required to serve in compulsory military service of indefinite duration. The above application was rejected at first instance as unfounded by decision no. 173376/6.10.2023 of the Lesbos Regional Asylum Office. Furthermore, his appeal dated 8.11.2023 against that decision was also rejected as unfounded by the contested decision no. IR/68299/31.1.2024 of the 4th Independent Appeals Committee. With the latter decision, it was also ordered that the applicant be returned to the country of his last habitual residence, namely Ethiopia. Specifically, according to the contested decision, it was accepted, (...), that Eritrean nationals residing in Ethiopia are deprived of many rights, including access to employment and education. Furthermore, credible international reports indicate violations and abuses against

Eritrean refugees by the Ethiopian National Defense Forces, the Eritrean Defense Forces, and Tigrayan forces, including killings, abductions, disappearances, rapes, and other acts of sexual violence. However, the applicant's claim regarding his nationality was rejected as unreliable, since his account was deemed vague and confusing, and his answers to the clarifying questions posed to him were also unclear and imprecise. Moreover, he did not provide any information about Eritrea, which he declared as his country of origin, nor about his life as an Eritrean in Ethiopia, where he had been residing since the age of three. Furthermore, since it was not accepted that the applicant was of Eritrean origin, his claim regarding the survival difficulties he faced in Ethiopia due to the lack of legal documents was rejected as unfounded. It was determined that he does not face a risk of persecution in the event of his return to Ethiopia. Moreover, it was concluded that the legal requirements for granting him subsidiary protection status were not met. In the present application, the applicant requests the suspension of the enforcement of the contested decision, arguing, among other things, that in the event of his forced removal from Greece and return to Ethiopia, he would suffer irreparable harm, consisting of cumulative human rights violations due to his statelessness, given that he possesses no legal documents from either Ethiopia or Eritrea. In support of these claims, he also invokes and submits, among other documents, a copy of the expert report dated 29 November 2023 by Professor of Anthropology Tricia Redeker Hepner, in which she analyzes the living conditions of Eritreans both in Ethiopia and in Eritrea itself, concluding that they are vulnerable to persecution, torture, and possibly execution.

4. (...) In assessing the facts of the present case, and in particular the fact that the above claims made by the applicant before the Administration are causally linked to his presumed nationality, which, had it been assessed differently, could have justified the granting of international protection, the Court considers that the applicant's removal from Greece and return to Ethiopia could cause him irreparable harm in the event that the pending annulment application is ultimately successful. This harm would consist in his exposure to danger to his life and safety, and to degrading treatment, as acknowledged by the Appeals Committee regarding the living conditions of Eritreans in Ethiopia. To prevent such harm, (...) the Administration must be ordered a) to refrain from any action based solely on the contested decision that would result in the applicant's forced departure from the country (cf. Council of State Committee of Suspensions, 140/2018, 246/2017, 214/2009, 485/2008, et al.), and b) to issue to the applicant, if it has already been withdrawn or expired, a valid asylum seeker's card (cf. Council of State Committee of Suspensions 1198/2010, 731/2008, 167/2007, 940/2006), until a final decision is issued on the pending application for annulment. (...)

The application for suspension is accepted.

NΔ402/2024



1st application - Eligibility - Interim measures - Ghana - Safe country of origin - Single mother with minor child - Best interest of the child - Gender-based violence - Victim of human trafficking - Maintain stable living conditions - Maintain family unity - Application accepted

Administrative Court of First Instance of Athens

21th (One-Member) Chamber

Decision No: NΔ402/2024

Publication date: 09.09.2024

Judge: Papathanasiou Panagiota D.

(...)

1.(...), with the present application, (...), the suspension of the execution of decision no. IR/168114/12.3.2024 is requested, issued at the second instance by the 2nd Independent Appeals Committee (in one-member composition) of the Appeals Authority. This decision rejected the appeal dated 14.2.2024 submitted by the applicant, who claims to be a citizen of Ghana, on behalf of herself and her minor child, (...), against decision no. 40069/18.1.2024 of the Lesbos Regional Asylum Office (RAO). By this latter decision, the application for international protection submitted by the applicant was rejected. (...)

3. (...), in the present case, the case file shows the following: The applicant, born on 27.1.2000, a citizen of (...), Ghana, submitted an application for international protection to the Closed Controlled Access Center (C.C.A.C) of Lesbos on 11.10.2023. During the registration of the aforementioned asylum request by the competent authority, the applicant cited both family-related and security-related reasons for not wishing to return to her country of origin. Subsequently, the

applicant also submitted an application for international protection on behalf of her minor child, (...), who was born thereafter. (...) During said interview, the applicant stated, among other things, that she was born in the city of Kumasi, Ghana, left Ghana on 18.10.2020, traveled to Iraq via Nigeria, where she stayed for 8 months, and then went to Türkiye, where she remained for 1.5 years. She entered Greece on 17.9.2023. (...) Regarding the reasons why she does not wish to return to her country, she claimed that she fears her father's family will kill her because they believe she killed her father. (...), her above-mentioned application was rejected by decision no. 40069/18.1.2024 of the Lesbos Regional Asylum Office as manifestly unfounded, on the grounds that the applicant comes from a safe country of origin and, according to Article 92 of Law 4939/2022, it was not proven that her country of origin is not a safe country for her. Against this decision, the applicant filed (...) an appeal, (...), which was rejected as unfounded, and the return of the applicant and her child to their country of origin was also ordered. (...) With the above annulment request, the applicant argues that the contested decision: a) was issued in violation of the right to a prior hearing, b) lacks sufficient and lawful reasoning, and c) was issued in violation of a substantive legal provision.

5. (...), furthermore, the applicant argues that the immediate execution of the contested decision will cause her irreparable harm that cannot be remedied in the event that her related request for annulment is successful. Specifically, she claims that she is in a vulnerable situation, being a woman alone, without education or particular knowledge or skills in any specific professional field, and additionally she does not possess any property or family and social support network in her country of origin (Ghana), where she has already suffered persecution in the form of gender-based violence. She also claims that she is a victim of psychological abuse and intimidation by her father's family, constantly receiving threats against her life, and that she was subsequently a victim of human trafficking in the form of forced labor and conditions amounting to slavery. She argues that if she returns to her country of origin, she risks being persecuted again due to her membership to the particular social group of women in Ghana who have suffered gender-based violence and are victims of human trafficking. Regarding her minor child, she states that the child is only two months old, and that their immediate removal from the country poses a direct threat to the child's life, as the child will not have access to proper medical care and will not be able to receive necessary vaccinations. (...) In light of the above, the Court takes into account: a) the overall personal situation of the applicant, particularly her status as the mother of a minor child, who was born on January 25, 2024, and b) the fact that she is currently, according to common experience, in a vulnerable condition due to her continuous care for this child. Consequently, considering the very young age of the applicant's minor child, as well as the need to maintain their family unity and to avoid the violent disruption of the stable situation in which they currently live, the Court finds that, given these special circumstances, the immediate removal of the applicant and her minor child from the country, as a result of the execution of the contested decision, would cause them irreparable harm, in the event that the corresponding request for annulment is ultimately upheld. To prevent this harm, (...) the Administration is ordered to refrain, until a decision is issued on the pending application for annulment, from any action (...) that would result in the forced removal of the applicant and her minor child from the country (...) Furthermore, the Administration must be ordered not to revoke the issued cards for applicants for international protection or, if these cards for applicants for international protection have already been revoked, to return them, and if they have expired, to extend their validity, so as to fully restore the actual status of the applicant and her minor child prior to the rejection of their application for international protection by the contested decision (...)

The application is accepted.



1st application - Eligibility - Interim measures - Gambia - Safe country of origin - Couple - Risk of interruption of medical treatment - Mental health issues - Serious illness - Gender-based violence - Maintain family unity - Application accepted

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ426/2024
Publication date: 17.10.2024
Judge: Apostolakis Ioannis G.
(...)

1. (...) with the present application, the suspension of execution of decision no. IP/69648/22.8.2023 of the 8th Independent Appeals Committee, in a one-member composition is requested. This decision rejected the appeal no. 318490/20.6.2023 filed by the applicants, who claim to be citizens of Gambia, against decision no. 204325/7.4.2023 of the Regional Asylum Office (R.A.O.) of Lesbos, which ordered their return to their country of origin without granting a deadline for voluntary departure from Greece. By the above R.A.O. decision, their application dated 13.12.2022 for international protection was rejected at first instance. The suspension of execution of the contested decision is requested until the issuance of a final ruling on the relevant application for annulment (...), the hearing of which is pending .

2. (...), in the present case, the file evidence shows the following: the applicants (...) submitted an application for international protection on 13 December 2022, before the Regional Asylum Office (R.A.O.) of Lesbos, claiming that they do not wish to return to their country of origin due to family problems and security reasons. (...) during an oral interview (...) they were informed that their case would be examined within the framework of the concept of "Safe Country of Origin," (...) and therefore, it is presumed that they do not risk persecution or serious harm if returned. (...) Both declared (...) that they were born in Jambur, Gambia (...) where they lived until 2018, that subsequently they moved to Jambanjāli and then to Fony Binda, that they are Muslims, ethnically the first applicant is Mandingo and the second applicant is Fullah, and regarding their family status, they are married (...) and have no children. Regarding the reasons why they left their country of origin and do not wish to return, they cited family problems, namely that the second applicant's father is pursuing them to kill them because he opposes their marriage and wants to marry off his daughter to another person. Their above-mentioned application for international protection was rejected (...), and the return to their country of origin was ordered, regarding their appeal against the relevant decision of the Lesbos Regional Asylum Office (R.A.O.), the 8th Independent Appeals Committee noted that: (...) b) the factual circumstances described by the applicants, which in their view justify the real threat posed by the second applicant's father to both their lives (his intrusion into the first applicant's parental home with a machete to kill them and, in their absence at that time, threats made to the first applicant's mother that he would find and kill them, as well as a second attempt by the second applicant's father to murder her), c) upon their complaint to the local police about this fact, the authorities refused (...) to intervene, a stance (...) attributed to the personal friendship between the first applicant's father-in-law and the local Police Chief, d) regarding this complaint, the second applicant claimed that the police told them that if they returned to report the father again, they would arrest the second applicant and notify her father, e) subsequently, they moved to the town of Jambanjāli, the residence of the applicant's uncle, where at some point the second applicant's father again appeared armed, threatening to kill them, convinced (...) that he would never be convicted for any crime against them due to his connections with state authorities; f) for this reason, the applicants fled to Foci, stating (...) that they had to hide there for 2 years; g) in a related complaint about the latter's behavior, made by the first applicant's uncle to the competent police authorities, he was told that the second applicant's father has rights over his daughter to choose whom she marries (...); and h) the applicant responded negatively when asked whether, in the absence of relatives or acquaintances anywhere else except their village (their birthplace), they could live with the applicant in another area, especially in Banjul, (...) concluded that all the above claims by the applicants lacked clarity and coherence (...), resulting in their inability to establish the internal credibility of their claim regarding the above-mentioned threat to their lives. Consequently, due to the lack of internal credibility of this claim, the Appeals Committee did not accept the applicants' claim (...) regarding the concrete adverse situation of the second applicant as a woman subjected to unfavorable discriminatory treatment (...) and specifically to forced marriage according to her father's will, accordingly, the Committee rejected their related claim about the seriousness of their fear for their lives and physical integrity if returned to Gambia, and therefore held, in view of the applicable legislation on the concept of "safe country of origin," that the applicants did not overturn the relevant presumption and that their application for international protection is manifestly unfounded pursuant to Article 93 para. 2(b) of Law 4939/2022 (...).

3. (...), with the present application, the applicants request the suspension of the execution of the above contested decision, invoking the certain occurrence of irreparable harm against them in the event of a subsequent favorable

outcome of the annulment request they have filed against it (...). Specifically, the applicants argue that their physical and mental health condition is particularly compromised, and as a result, if the return measure to their country of origin is immediately executed, their health will further deteriorate, while, furthermore, their life and physical integrity will be at risk. In particular, (...) the second applicant claims, submitting relevant medical documents, that she suffers from a serious gynecological health problem requiring immediate surgical treatment, which cannot be carried out in Gambia (...), while the first applicant invokes psychological problems (...).

4. (...) In view of the above, taking into account: a) the age of the applicant, b) primarily the serious health problem she faces, as presented and evidenced by the submitted medical documents, combined with the fact that it is not beyond any doubt that she has (...) a family support network in her country of origin nor that she can immediately receive the urgent medical care required to address her condition upon her return, and c) the necessity to maintain the family unity of the applicants, the Court considers that, given these special circumstances, the immediate removal of the applicants from the country, (...), will cause them irreparably difficult-to-remedy harm, consisting of the probable deterioration of the already compromised health of the applicant and, consequently, the disruption of the marital well-being of both applicants. (...) The Court rules that the present application should be accepted and orders the Administration to refrain, until the issuance of a final decision on the pending application for annulment, from any action (...), which would result in the forced departure of the applicants from the country (...). Furthermore, the Administration must be ordered not to proceed with the withdrawal of the applicant's international protection card granted to the applicants or, if such cards have already been withdrawn, to return them and, if expired, to extend their validity so as to fully restore the actual status of the applicants prior to the rejection, by the contested decision, of their request for international protection. (...)

The application is accepted.

NΔ572/2024

1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ572/2024
Publication date: 23.12.2024
Judge: Anastasia Koliopoulou
(...)

1.(...), with the present application, (...) it is requested the suspension of execution of the decision no. 102820/14-2-2024 of the Appeals Authority's 4th Independent Appeals Committee (under a three-member composition) at second instance, by which the applicant's appeal no. 261001/8-11-2023 was rejected. The applicant, who claims to be a citizen of Eritrea, had filed the appeal against decision no. 173277/6-10-2023 of the Lesbos Regional Asylum Office, and it was ordered that he return to the country from which he came from by voluntary departure within a period of 10 days. (...)

2. (...) the case file shows the following: the applicant, who claims to be a national of Eritrea, submitted an application for international protection on 27-7-2023 before the Lesbos Regional Asylum Office. (...) During the interview (...) he stated that he was born (...) in Asmara, Eritrea, where he lived until the age of three. He then settled with his mother in Ethiopia, in the city of Addis Ababa, where he lived for the rest of his life. Regarding his ethnic origin, he declared Tigrinya, and regarding his religion, he identified as an Orthodox Christian. As for his educational background, he stated that he attended school for four years, and that in Ethiopia he occasionally worked in event venue preparations. Regarding his family status, he stated that he is single and has no children or siblings. (...) He knows nothing about his father, except that he did not marry his mother and did not acknowledge him, and that his mother passed away in Ethiopia due to health problems when the applicant was ten years old, as a result of which he dropped out of school and has lived as a homeless person ever since. Furthermore, he stated that, since he did not have a permanent residence address, he was unable to obtain an identity card, which made access to education, employment, and healthcare difficult. Living exposed on the streets, whenever there was any commotion, the police would arrest him, but since he had no ID, they would detain him for 3-4 months each time, instead of releasing him within 1-2 days as they did with other detainees who had documents in their possession. (...) At the age of 15, he became involved in a clash between street groups and was injured, but he could not receive medical treatment because he lacked identification documents. Some of his friends acted as guarantors, and

thus he managed to undergo surgery and was hospitalized for three days in a health center. (...) Regarding his reason for not wanting to return to Eritrea, the applicant stated that he would be forced to perform military service. He also stated that he does not wish to return to Ethiopia due to the unsafe conditions and because of the lack of legal documentation. By the (...) decision of the Lesbos Regional Asylum Office, the abovementioned application was rejected as unfounded. Against this decision, the applicant filed (...) an appeal, which was also rejected (...). Specifically, regarding the applicant's claims on the one hand about his nationality and, on the other, about his life as an Eritrean in Ethiopia, the Committee noted that these claims were vague, and his narrative was confused and unclear. Therefore, his claim that he was born in Eritrea and is an Eritrean national was not accepted, nor was his claim that he faced problems in Ethiopia as a person of Eritrean origin. According to the Committee's assessment, given that the applicant's essential claims are causally linked to his declared nationality, which was not accepted, there is no need to evaluate those claims further. Based on these considerations, the Committee concluded that at the very least, there is no element of a well-founded and objective fear of persecution (...). Furthermore, based on the applicant's claims and the available country information (...), the Committee concluded that there are no grounds to indicate that the applicant would be exposed to (...) serious harm if returned to the country from which he came, and that there is no issue of him being denied fundamental rights and freedoms, since he is young and healthy and is capable of working in the place where he previously lived (...). As regards the likelihood of serious harm (...) occurring to him due to indiscriminate violence in situations of international or internal armed conflict, the Committee found that, according to sources, it cannot be accepted that Ethiopia, and specifically the applicant's last place of residence (Addis Ababa), nor other major cities in the country, where he could safely relocate, are experiencing widespread conditions of generalized, indiscriminate violence as a result of armed conflict that would pose a serious threat to the civilian population. This is particularly the case given that the state of emergency was lifted in January 2022. Therefore, the Committee ruled that there is no risk of serious harm to the applicant in the event of his return to the area of his last habitual residence, due to a serious and personal threat to his life or physical integrity as a civilian. (...)

4. (...), against this latest decision, the applicant filed an application for annulment, (...) in which he argues that the contested decision must be annulled because it was issued: a) in violation of the provisions governing the procedure for assessing and determining nationality during the reception and identification process for asylum seekers — specifically, the necessity of conducting an interview to assess nationality and the keeping of a transcript of this interview; and b) due to inadequate justification (...)

5. (...). However, during his personal interview, the applicant stated that he left his country of origin at the age of 3, (...) and among the elements in the case file is the Screening Report of the Reception and Identification Service of the Closed Controlled Facility of Lesbos, which states that the applicant originates from Ethiopia. However, this report is not accompanied by supporting evidence on the basis of which the Administration reached that conclusion. In light of the above, the Court, assessing the facts of the case, particularly the fact that the above-mentioned claims, which the applicant raised before the Administration, are not clearly irrelevant to reasons that, if evaluated by the Administration, could justify the granting of international protection, considers that the applicant's removal from the country and return to either his alleged country of origin or his last country of residence could cause him irreparable harm, should the pending application for annulment be successful, consisting of exposure to danger to his life and safety. To prevent, therefore, this harm, (...) it must, in this case, be ordered by the Court as an appropriate measure (...) that the Administration abstain, until the publication of the final decision on the above pending application for annulment, from any action based solely on the contested decision that would result in the forced departure of the applicant from Greek territory. Furthermore, the Administration must be ordered to reissue to the applicant the applicant of international protection card (if it has been withdrawn), so as to restore the actual situation in which he was prior to the rejection, by the contested decision, of the application for international protection (...) and to refund the fee paid by the applicant. (...)

The application is accepted.



1st application - Eligibility - Interim measures - Sierra Leone - Single woman - Female Genital Mutilation - Links with Greece - Application rejected

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ590/2024
Publication date: 30.12.2024
Judge: Kounadi Xanthoula F.
(...)

1. (...), with the present application, (...) the applicant (...) requests the suspension of the execution of decision no. IP/232479/12.4.2024 of the 9th Independent Appeals Committee of the Appeals Authority, by which her appeal dated 9.1.2024 against decision IP/290171/20.11.2023 of the Regional Asylum Office (R.A.O.) of Lesbos, rejecting her request for international protection, was dismissed. Furthermore, by the above-mentioned decision no. IP/232479/12.4.2024, her application for stay in Greece, dated 9.1.2024, under Article 110 paragraph 2 of Law 4939/2022 (Official Gazette A' 111), was also dismissed, and her return to her country of origin was ordered, by voluntary departure from Greek territory. (...)

2. (...), in the present case, the case file shows the following: the applicant (...) submitted, on 28.9.2023, to the Regional Asylum Office of Lesbos, an application for international protection, claiming that she does not wish to return to her country of origin for safety reasons and that "due to the political situation in her country with the ruling authorities," her life is at risk. (...) Furthermore, the applicant was deemed vulnerable, as a victim of torture, rape, or other forms of psychological, physical, or sexual violence or exploitation, since she underwent clitoridectomy in her country of origin. (...) During the examination procedure (...), the applicant initially stated that she is a citizen of Sierra Leone, that she was born and raised in the capital of that country, Freetown, which was also her last place of residence. (...)

When asked about the reasons why she left her country of origin, the applicant stated the following: "It was August 10, 2022. That day, my boyfriend and I protested and went to join others who were protesting against the existing government. (...) We were unarmed, and then suddenly, during the protest, we saw soldiers and police coming toward us and they started firing at us. I got separated from my boyfriend; (...), we escaped, and since that day I have not seen my boyfriend again. "(...) I belong to the APC, I am a member. [...] Since 2016." (...) "In my area, you cannot hide if you are a supporter of the APC, (...) we went out to protest peacefully because we were unarmed, we were civilians, and we were shouting for Maada Bio to leave. Then we saw a large number of police and army approaching us, and they started firing from different directions, and we fled." Additionally, the applicant was asked about the traditional practice of female genital mutilation (FGM) followed in her country, and she answered: "Yes, I underwent female genital mutilation, FGM, I was forced to do it. (...) I was young, I don't know much, the only thing I know is that when they mutilated me, it was painful. (...) I was about 5 years old," (...). Following this, her request was (...) rejected (...). Against this decision, the applicant filed an appeal dated 9.1.2024 before the Appeals Authority, requesting a reconsideration of her application for international protection, (...). However, the applicant's claim that she was a member of the youth wing of the political party APC was deemed not credible, (...) although external sources confirm the applicant's claim of attacks on homes at the referenced time, since she failed to substantiate this claim internally, it cannot be accepted as credible. (...) Specifically, it was accepted that, in this case, there is no well-founded and justified fear on the part of the applicant that she will suffer, upon her return to her country of origin, serious harm such as a threat to her life, physical integrity, or sexual freedom, since the genital mutilation she underwent constitutes past persecution within the meaning of the Convention. (...) Therefore, based on these facts, the claimed fear was deemed unfounded and unjustified. (...) Consequently, the applicant's lodged appeal was rejected, and her return to her country of origin was ordered, with voluntary departure from Greek territory. (...) With the (...) annulment request, she argues that the contested decision is annulable as it was issued in violation of her right to a prior hearing, and also that it lacks legitimate justification.

3. (...) the applicant requests the suspension of the execution of the contested act, (...) as the immediate execution of the said act will cause her irreparable harm, (...), since it will result in the violent disruption of the vital ties she has developed in Greece. Specifically, (...) there is a risk of renewed persecution against her, given that she has already been persecuted in the past for her political beliefs. Furthermore, the applicant claims that she has suffered torture in her country of origin, where she underwent female genital mutilation, i.e., traumatic amputation of her genital organs, and that as a result of the above torture, women suffer long-term adverse consequences to their physical and mental health. (...) Also, citing the 2022 Special Report of the Ombudsman, she contends that returns to Sierra Leone are not being carried out. (...) Finally, (...) her forced removal from the country will worsen her procedural position, in violation of her right to judicial protection, (...) and her right to an effective remedy against acts of administrative authorities (...).

4. (...). In light of the above, and given that the annulment request is not manifestly well-founded, as an investigation of the factual and legal aspects of the case is required, and therefore the outcome of the case is not obvious, also considering that the said request is not based on settled case law or case law of the Plenary of the Council of State (cf. Council of State, Plenary Decisions 58/2018, 35/2017, 322, 59, 324, 276-278/2018, etc.), the Court rules that there is no basis for granting the requested suspension of execution. (...)

The application is rejected.

NΔ591/2024

1st application - Eligibility - Interim measures - Sierra Leone - Single man - Links with Greece - School attendance - Application accepted

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ591/2024
Date of publication: 31.12.2024
Judge: Athanasia Vourdi
(...)

1. (...), with the present application (...), is requested the suspension of the execution of the decision no. IP/283996/13.5.2024 of the 12th Independent Appeals Committee of the Appeals Authority, by which, on the one hand, the appeal no. IP/127924/22.2.2024 of the applicant was dismissed, (...), against decision no. IP/26294/12.1.2024 of the Independent Asylum Unit of Nikaia, which had rejected his application of 6.10.2023 for international protection, and on the other hand, his return to his country of origin was ordered, with voluntary departure from the country within a period of twenty-five (25) days. (...)

2. (...) in the present case, the case file shows the following: the applicant, (...), a citizen of Sierra Leone, according to his statement (...) being an unaccompanied minor, (...) submitted a request for international protection. (...) During his oral interview, (...) he stated that (...) he was born in the village of Cabala, in the district of Coinadugu, and later lived with his parents in the nearby village of Kamadu Sokourala. (...) Regarding his paternal family, he stated that his father was murdered by the Poro society on 14.1.2023, while his mother and his younger brother remain in the village of Kamadu Sokourala. (...) Since leaving his country, he has had no contact with his family. The applicant attended school for six years, (...) however, he continued to reside in the village of Cabala, as his father did not want him to return to the village of Kamadu Sokourala, because he did not want the applicant to become involved in the secret society of which his father was a member. (...) Regarding the reasons for which he left his country of origin, the applicant invoked persecution by the Poro society. Specifically, he stated that his father was a member of the powerful secret society Poro, whose members include high-ranking individuals, even Ministers, making it impossible for the state authorities to prevent its activities. (...) This society is very dangerous, as initiation into it involves human sacrifices and the offering of blood. If a person is unable to sacrifice someone else, they must sacrifice parts of their own body. For this reason, the applicant's father did not want the applicant to be initiated into the society. (...) The applicant, not wanting to join the society (...), attempted to escape. As a result, with the (...) first-instance decision, the applicant's request for international protection dated 6.10.2023 was rejected as unfounded (...). Against this rejection decision, the applicant lodged (...) an appeal, which was dismissed by the currently contested decision of the 12th Independent Appeals Committee. Specifically, the Committee (...) did not accept that he left his country of origin and does not wish to return for the above reason, and rejected his claims as lacking internal credibility. (...) Against the aforementioned rejection decision of the 12th Independent Appeals Committee, the applicant filed an application for annulment before this Court (...), seeking its annulment on the grounds, among others, of a lack of proper legal reasoning regarding the assessment of the internal credibility of his claims (...), as well as incorrect interpretation of the law and misapplication of the factual circumstances to the provisions of Law 4939/2022 and the Geneva Convention.

3. (...) he argues that the immediate execution of the contested act will cause him irreparable harm, should the aforementioned application for annulment be successful. First, he claims that he has already been persecuted in his country of origin and faces the risk of further persecution if he is returned there (...). Furthermore, the applicant argues, among other things, that his continued stay in Greek territory will cause no negative consequences, as he resides peacefully and harmoniously within the social structure operated by the Social Greek Rapid Assistance Unit in Larissa,

he is already attending a Greek school (...), and, moreover, no reasons of public order are either identified or raised by the respondent that would prevent the granting of the requested suspension (...).

4. (...), taking into account the young age of the applicant (18 years old), who entered the country as an unaccompanied minor, as well as the fact that he resides in a reception facility where he receives social services and has attended a Greek school, the Court finds that, in view of these special circumstances, the imposition of adverse measures on the applicant from the execution of the contested decision would cause him harm that would be difficult to remedy, should the annulment application be successful. To prevent such harm, and since no public interest grounds are evident from the case file, nor are any invoked by the Administration in its relevant opinion that would, when weighed against the abovementioned harm, prevent acceptance of the present suspension application (cf Council of State, Committee of Suspensions 62/2018, 637/2011, 964/2010), the application for suspension must be granted and, (...) the specific measures set out in the ruling must be ordered until a final decision is issued on the pending annulment application. Furthermore, the Administration must return to the applicant any confiscated asylum-seeker card and extend its validity, if applicable (cf Council of State, Committee of Suspensions 140/2018, 246/2017, 214/2009, 841, 485/2008, etc.). (...)

The application for suspension is accepted.

NΔ47/2025

1st application - Eligibility - Interim measures - Guinea - Single man - Serious illness - Physical disability - Risk of interruption of medical treatment - Links with Greece - School attendance - Employment - Maintain stable living conditions - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki

2nd (One-Member) Chamber

Decision No: NΔ47/2025

Publication date: 27.2.2025

Judge: Kassiani K. Manolakoglou

(...)

2. (...), with the present application, is sought the suspension of execution of decision No. IP/798846/6.12.2024 of the 12th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum. By that decision, the administrative appeal No. IP/561608/10.9.2024 lodged by the applicants against decision No. IP/489800/9.8.2024 of the Regional Asylum Office of Thrace was dismissed and, at second instance, their application for international protection was rejected. By the same decision of the Committee, the measure of return was also imposed on them, and a period of 25 days was set for their voluntary departure from Greece. Against that decision, an application for annulment with registration number AKY15/10.1.2025 has been filed, which is pending adjudication before the Court sitting in a three-member formation. (...)

4. (...), in the present case, the following emerges from the documents of the administrative file: The first two applicants, Iraqi nationals, (...), are the parents of the remaining three applicants (...). On 14.6.2023, the first two applicants submitted applications for international protection, individually and on behalf of their minor children, at the Diavata Reception and Identification Centre of Thessaloniki. According to the registration forms prepared in this regard, the first two applicants were born and resided in Al Anbar, Iraq; they are Arabs and Sunni Muslims. They left their country because they contracted a marriage without the consent of their families, which led to a serious family dispute. The first applicant was accused by the family of the second applicant and became involved with the justice system, while her relatives threatened to kill them. In addition, the first applicant faces problems with Shiite militias, which do not accept his name. (...) The second applicant was forced by her family, in 2004, to marry a relative, with whom she had three children. Her husband was violent towards her, and in 2010, she was forced to return to her parental home in order to seek a divorce. However, her father, who disagreed with her decision, kept her confined and beat her. In 2012, she met the first applicant by telephone, and they maintained regular telephone contact for four years. In this way, an emotional bond developed between them, and they decided to marry. Their marriage was concluded in 2016, despite the opposition of the second applicant's family, and immediately thereafter they took up residence in the home of a friend. After the marriage, the first applicant began receiving threats from the second applicant's father, who ultimately reported him for participation in a militia involved in the abduction of women and for the abduction of his daughter, with the result that the authorities began searching for him.

In addition, the first applicant referred to an incident, unrelated to the above, in which he was abducted by members of a militia, who detained and tortured him and abandoned him at a hospital. He attributed this incident to his given name, which he claimed is not accepted by his Muslim compatriots. Ultimately, in March 2017, the first two applicants left Iraq, fearing that relatives of the second applicant would retaliate and that the authorities would arrest the first applicant due to the complaint filed against him, and settled in Raqqa, Syria. They remained there for seven years, enduring the situation due to the war, and on 11.6.2024, they entered Greece. As they stated, while in Syria they learned that the first applicant continued to be sought by the authorities and expressed the fear that, if they were to return to their country, their lives would be endangered by the relatives of the second applicant, while the first applicant would face imprisonment, as he is considered a member of a group involved in the abduction of women. By decision No. IP/489800/9.8.2024 of the Regional Asylum Office of Thrace, their application was rejected as unfounded, and the applicants lodged an administrative appeal against that decision. The 12th Independent Appeals Committee, following research into international sources, found: 1. that honour crimes and violence against women by family members are not effectively addressed in Iraq and, inter alia, are perpetrated in cases of marriage contracted against the wishes of the family; 2. that violations of honour are considered unforgivable and, in most cases, result in the murder of the woman and sometimes also of the man, with the passage of time not reducing the risk; 3. that Shiite militias operate in Iraq under the loose umbrella organisation Al-Hashd Ash-Shaabi, which are implicated in human rights violations, particularly against the Sunni Arab population; and 4. that Iraq has been in a non-international armed conflict with Da'esh since January 2014, mainly in rural areas such as the Al Anbar region. Furthermore, the Committee found that the applicants' crucial claims as to the reasons for leaving their country were presented in a vague and unclear manner and contained inconsistencies, with the result that, although information from international sources confirmed certain aspects of their claims, it could not be accepted that, in their country, they are at risk from the family of the second applicant because they contracted a marriage without its consent eight years earlier, nor that the first applicant fell victim to militias because of his name. As regards the security situation prevailing in the area where the applicants resided, the Committee held that the level of indiscriminate violence is not so high and mainly concerns locations of military significance; therefore, there are no substantial grounds for considering that the applicants would face a real risk to their life or physical integrity as civilians in the event of their return. Accordingly, by the contested decision, the administrative appeal lodged by the applicants was dismissed and, at second instance, the applications for international protection were rejected; the measure of return was imposed on them and a period of 25 days was set for their voluntary departure from Greece.

5. (...), by the application under consideration, the applicants submit that the execution of the contested decision and of the measure of return imposed on them will cause them harm that would be irreparable in the event that the pending application for annulment is upheld, the grounds of which, in their view, are highly likely to be accepted. More specifically, in the application for annulment, it is argued: 1. that the Committee's assessment as regards the internal credibility of their crucial claims is not reasoned, since, in the course of their narrative, the required details and explanations were provided concerning the reaction of the second applicant's family to her marriage to the first applicant, as well as concerning the incident of the abduction and ill-treatment of the first applicant by a paramilitary group; 2. that the second applicant's claim that she had been a victim of gender-based violence from a young age was not assessed at all; 3. that both applicants are in fact at risk of persecution in their country due to their membership of a particular social group (violators of the Islamic moral code; the second applicant as a woman and victim of gender-based violence), while the first applicant is also at risk on account of his religious beliefs; and 4. that, due to the economic situation prevailing in their country, they are at risk of being subjected to inhuman treatment as a result of serious shortages of basic resources and services necessary for their livelihood. As regards the harm they would suffer, the applicants submit the following: 1. that if they return to their country, their lives and physical integrity will be put at risk by the relatives of the second applicant; 2. that their children will not be able to live freely, as they are not considered legitimate children since their parents' marriage was concluded without the consent of their families; 3. that there is a risk of further regression of women's rights in Iraq, which would particularly affect minor girls, such as their daughter; 4. that if they return to their country, they will not be able to pursue their case before the Appeals Committee in the event of a remittal by the annulment court; and 5. that Greece does not carry out returns to Iraq and, therefore, they will be forced to remain in Greece while being deprived of access to goods essential for their subsistence. Finally, they submit that an effective remedy in the field of refugee law presupposes the parallel suspension of execution of the rejecting decision.

6. (...). In the present case, the Court, taking into account: 1. the fact that it has been accepted that the first two applicants have been absent from their country since 2017 and that, therefore, upon their return, a period of time will be required for their reintegration; 2. the fact that the first two applicants have three minor children (approximately 5, 4 and 1 years old), namely the remaining applicants who are with them in Greece; 3. the best interests of those minors; 4. the fact that this is a family of five, whose re-establishment in Iraq requires preparation so that, upon the return of the first two applicants, they will be in a position to secure the resources necessary for the family's livelihood; 5. the fact that, according to information from international sources, the area in which the first two applicants resided constituted a centre of armed conflicts that damaged its infrastructure; and 6. the fact that the grounds put forward in the application for annulment are not manifestly unfounded, finds that, in the present case, the adverse consequences of granting the application for suspension are not more serious than the benefit to the applicants, which consists in their temporary protection

from immediate removal from Greece and in ensuring, during that period, the means required for their dignified living, namely housing, food, clothing and medical care. Accordingly, until the issuance of a final judgment on the application for annulment registered under No. AKY15/10.1.2025, the suspension of execution of the measure of return imposed on the applicants must be ordered, as well as the Administration's abstention from any action based exclusively on the contested decision that would result in their forced departure from Greece. Furthermore, the Administration must be ordered, for the same period, to re-issue to the applicants the asylum seeker cards, so as to restore the factual situation in which they were prior to the rejection, by the contested decision, of the applications for international protection they had lodged (see Council of State, Suspension Decisions Nos. 21/2011, 1254/2010, 999/2010, 834/2010, 731/2008). Finally, the paid court fee in the amount of EUR 50 must be refunded to the applicants and, in view of the circumstances, the respondent Minister must be relieved of the opponents' legal costs. (...)

The application is accepted.

NΔ71/2025



1st application - Eligibility - Interim measures - Sierra Leone - Single woman - Female Genital Mutilation - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki

2nd (One-Member) Chamber

Decision No: NΔ71/2025

Date of publication: 09.04.2025

Judge: Papadopoulos Stylianos I.

(...)

2. (...), with this application, the applicant seeks the suspension of the execution of decision no. 829856/19.12.2024 of the 17th Independent Appeals Committee of the Ministry of Migration and Asylum, in a three-member composition, by which her appeal against decision no. 370545/19.6.2024 of the Thessaloniki Regional Asylum Office was rejected, and, ultimately, her request for the granting of international protection was deemed unfounded. Furthermore, by the same decision, a return measure was imposed on her, with a 25-day deadline for voluntary departure from the country. Against the abovementioned decision of the 17th Independent Appeals Committee of the Ministry of Migration and Asylum, the applicant has filed an application for annulment no. AKY88/26.2.2025, which is pending before the Three-Member Administrative Court of First Instance of Thessaloniki. (...)

4. (...), in the present case, the following facts emerge from the administrative file: the applicant, a national of Sierra Leone according to her statement, (...), submitted on 26.10.2023 at the Closed Controlled Facility of Samos a request for international protection. During the registration of her request, she declared that she is a mother of two minor children and that she does not wish to return to her country of origin because her uncle, with whom she lived, wanted to initiate her into the Poro Society. (...). Regarding the reasons why she left her country of origin, she stated that she did so because of threats she received from the Bondo Society. Specifically, she testified that her parents were farmers, and that she had an uncle who truly loved her and adopted her at a young age because he had no children. This uncle was the chief of the village. He decided to take her from the village to the city of Bo, to give her a better future, where she lived with an aunt. At 17 years old, she became pregnant with her first child; the father of the child acknowledged the pregnancy, and they were in a relationship. After the birth, in 2018, her mother urgently called her to go to the family home because her father was very ill. When she arrived, she realised that her mother had deceived her in order to lead her to the Bondo Society. The women gathered there took her by bus to the traditional site of the Bondo Society. There were nine other girls there; they gave her a dress to wear, and the society members sang. Then they took her to the Bondo Society forest, tied her hands, covered her eyes, and performed a clitoridectomy on her, which caused her to start bleeding. (...) When she returned to the city of Bo, a nurse took care of her, while the man she was seeing decided to leave her because of the clitoridectomy (...). Furthermore, she testified that on 9.2.2022 her uncle died, and because he was a prominent chief, she was told she had to become a member of the Poro Society in his place, a society for men, while Bondo is for women. (...). Then, a neighbour (...), advised her to leave the country. (...) The aforementioned application of the applicant for international protection was rejected as unfounded (...). Against this decision, the applicant filed an appeal, which was rejected by the already contested (...) decision of (...), on the grounds that, although her claims regarding her personal details (...), her travel to Greece, and the female genital mutilation appear credible, her claim that she was called to take the place of her

uncle as head of the Poro Society and for that reason had to leave her country of origin was not deemed credible, while the conditions for granting subsidiary protection did not apply to her. (...)

5. (...), Specifically, with this application it is argued that the contested decision: a) is inadequately reasoned regarding the characterization of the claim that she was called to take her uncle's place as head of the Poro Society and for that reason was forced to leave her country of origin as not credible; b) lacks lawful and sufficient justification for not granting her international protection as a member of a particular social group, namely as a victim of female genital mutilation; and c) is inadequately reasoned regarding her non-inclusion in the subsidiary protection regime, since if returned to Sierra Leone, she would be subjected to inhuman and degrading treatment contrary to Article 3 of the European Convention on Human Rights (ECHR). Subsequently, regarding her harm, it is argued that in case of her removal from Greece and return to her country of origin, where she has been a victim of torture (female genital mutilation), her life and physical integrity would be at risk from the actions of members of the Poro Society, in violation of the principle of non-refoulement, while she would be deprived, in violation of the right to judicial protection as guaranteed by Article 20 paragraph 1 of the Constitution and Article 6 paragraph 1 ECHR, as well as the right to an effective remedy as guaranteed by Article 13 ECHR, to effectively pursue the main legal remedy she filed against the contested decision, as well as her application before the Independent Appeals Committee in case the case is referred back. Additionally, it is argued that, according to the 2022 Special Report of the Ombudsman regarding the returns of foreigners, return decisions towards Sierra Leone are not enforced.

6. (...), the rejection of the application for international protection constitutes an act of negative content and, therefore, is not subject to suspension of execution; however, the removal measure imposed on a third-country national is subject to suspension. (...) In the present case, taking into account on one hand that the grounds raised in the annulment application are not manifestly unfounded and, on the other hand: a) that the applicant's claim regarding her undergoing female genital mutilation was deemed credible by the Administration, and b) that from the balancing of her harm and the public interest it results that the negative consequences from granting the suspension request are not more serious than the benefit to the applicant, which consists in not risking her physical integrity and life, the Court holds that her immediate removal from the country is likely to cause her irreparable harm in the event that the annulment application succeeds and, therefore, until the issuance of a final decision on the (...) annulment application, the suspension of the execution of the return measure imposed on the applicant must be ordered, as well as the abstention of the Administration from any action based exclusively on the contested decision, which would result in her forced departure from Greece. Furthermore, the Administration must be ordered to reissue to the applicant an international protection applicant card in order to restore the actual situation in which she was before the rejection, by the contested decision, of her application for international protection (see Council of State Committee of Suspensions 21/2011, 1254/2010, 999/2010, 834/2010, 731/2008). (...)

The application is accepted.

NΔ72/2025



1st application - Eligibility - Interim measures - Democratic Republic of Congo - Single woman - Gender-based violence - Victim of human trafficking - Maintain stable living conditions - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ72/2025
Publication date: 16.04.2025
Judge: Kofinis Stergios G.
(...)

2. (...), with the present application, (...) the applicant seeks, in view of the filing of the application for annulment no. AKY110/2025, the suspension of the execution of decision no. IP/846217/31.12.2024 of the 8th Independent Appeals Committee of the Ministry of Migration and Asylum (three-member panel), by which her appeal of 10.4.2024 against decision no. IP/63944/30.1.2024 of the Thessaloniki Regional Asylum Office (R.A.O.) was rejected. That earlier decision had rejected her application of 11.10.2023 for international protection. The same challenged decision also ordered her return from the country by voluntary departure within a period of twenty-five days. (...)

4.(...) in the present case, the following emerge from the documents in the administrative file: the applicant, a citizen of the Democratic Republic of the Congo (DRC), born on 8.8.1984, submitted an asylum application on 11.10.2023 before the Mobile Registration and Movement Coordination Unit of Sintiki, Serres, in which she stated that she does not wish to return to her country of origin because, due to violence, it is not safe for her there. (...) Regarding the reasons she left her country, the applicant claimed that she worked as a sex worker in the city centre (...) and that at some point there she met a man she fell in love with, without knowing he was a criminal. With this man, she had four children. During their cohabitation, he physically abused her and threatened her with a knife. Due to the abuse, the applicant would leave him and go to her mother, but he would follow her and beat her in front of her mother, and when her mother intervened, he would beat her too, as well as the applicant's siblings. (...) Regarding the period when the applicant was engaged in sex work, (...) she stated that she entered that profession at the age of 17 after her father's death. (...) She stopped sex work when she became pregnant with her first child in the third month of pregnancy. (...) Shortly after starting sex work, her relatives found out and threw her out of the house, so a few girls grouped together and rented a place. (...) The applicant stated that it is a great shame for the whole family when it becomes known that someone in the family is involved in sex work. (...) Her application was rejected by decision no. IP/63944/30.1.2024 of the Thessaloniki Regional Asylum Office as unfounded, and her return was ordered. Her administrative appeal was rejected by the currently challenged decision, on the grounds that while her claims regarding her personal background, her employment as a sex worker from the age of 17 to 30, and her abuse by her partner with whom she had four children were considered credible, her claims that her life was in danger due to her ex-partner's gang involvement with police protection, that he shot and killed her mother after the applicant had left the country, and that her siblings were threatening to kill her, could not be accepted. This was because the applicant was unable to provide sufficient information to substantiate these claims in a clear and logical way. Given this, and (...) the Committee's assessment that the dispute with her partner constituted a private matter not connected to the notion of "persecution" as defined in the Geneva Convention, particularly not for one of the reasons listed in Article 1A(2) of the Convention, (...) and that she could seek adequate state protection against threats to her life or safety, her appeal was rejected as unfounded. (...) Moreover, her appeal was also rejected with regard to subsidiary protection, on the grounds that there were no substantial reasons to consider that she would face a risk of the death penalty or execution upon return to her country of origin, nor that she would be at risk of suffering any of the serious harms described in point (b) of Article 14 of Law 4939/2022. Finally, it was noted that there is no armed conflict in the DRC. (...)

5. (...) in the present application, it is argued that the execution of the contested decision and the return measure imposed on the applicant will cause her irreparable harm should the pending application for annulment ultimately succeed, the grounds of which are, according to the applicant, manifestly well-founded. In this latest application for annulment, the applicant argues that the contested decision is subject to annulment due to: a) violation of essential procedural rules, specifically due to flaws in the conduct of her interview and the failure to summon her for an oral hearing before the Appeals Committee, although such a summon is mandatory when ambiguities or gaps are identified in the first-instance interview, b) insufficient reasoning, both in relation to the rejection of refugee status and the denial of subsidiary protection, c) violation of the provisions of the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence) and the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime). Furthermore, regarding the harm she may suffer, the applicant claims she risks being persecuted if forced to return to the Democratic Republic of the Congo, as she may once again fall victim to a human trafficking network that would exploit her extreme poverty. She faces the same risk if services and material conditions of reception within Greece are discontinued. In support of her claims, she submits and invokes, among other things: a) the document dated 5.12.2023 from the National Representative of A21, an organization that manages the 1109 helpline for information on human trafficking, which is included in the administrative file and states that the applicant contacted the helpline and that her story presents signs and elements commonly found in victims of human trafficking. (...)

6. (...) in this case, however, the Court, taking into account in particular that the grounds raised in the application for annulment are not manifestly unfounded, and after weighing the applicant's harm, which involves the potential for serious harm to fundamental rights such as her life and dignity, especially considering she has already been recognized as a victim of domestic violence and former sex worker, against the public interest, finds that the negative consequences of granting the suspension request are not more serious than the benefit to the applicant, (...) deems it appropriate to order the suspension of the execution of the return measure imposed on the applicant, until a final decision is issued on the application for annulment AKY110/2025, and to instruct the Administration to refrain from taking any action based solely on the contested decision that would result in her forced departure from Greece. Lastly, the Administration is ordered to re-issue to the applicant the international protection applicant's card, if it has been withdrawn, in order to restore the status quo prior to the rejection of her request for international protection under the contested decision (cf. Council of State Decisions Committee of Suspensions 940, 573, 172/2006, 73/2007, 731/2008).

The application is accepted



1st application - Eligibility - Interim measures - Democratic Republic of Congo - Single man - Mental health issues - Risk of interruption of medical treatment - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ74/2025
Publication date: 29.04.2025
Judge: Tzellou Alexandra
(...)

2. (...), with the present application, the suspension of execution of the decision no. IP/825856/18.12.2024 of the 5th Independent Appeals Committee of the Ministry of Migration and Asylum (in a three-member composition) is requested, by which the applicant's appeal dated 2.9.2024 against decision no. IP/408901/8.7.2024 of the Regional Asylum Office of Thessaloniki was rejected, and his return to his country was ordered. Against the latter decision, the applicant has filed an application for annulment no. AKY95/27.2.2025, which is pending before the Court for adjudication.

4.(...) In the present case, from the case file evidence, the following facts emerge: the applicant, born on 11.2.1985 in the Democratic Republic of the Congo, submitted an asylum application at the Closed Controlled Facility of Lesvos on 10.8.2023 (...). On 22.5.2024, he was interviewed (...), during which he stated, among other things, the following: He was born in the city of Goma, is a Sunni Muslim, married with four children who live with their mother in Tanzania, where he had relocated in 1998 under the protection of a Tanzanian woman who saved him from likely murder during the civil war of 1997–1998, when his parents and sister were killed by rebels because they refused to join their ranks. He remained there from 1998 until 2023, when he left and entered Greece via Türkiye on 21.7.2023. He declared that he does not wish to return to his country, which remains under a regime of violence, as he has no ties to it and is not registered as a citizen, and is at risk of being killed by those who murdered his family. (...)

Regarding the applicant's fear that he would not be safe if returned to Congo due to the lack of security there, it is noted first that he left his country due to the events of 1998, and during his interview, he generally referred to the lack of safety in his country of origin based on what he learns online. For this reason, the authority consulted international sources for information on the current situation in Goma, North Kivu, and found that, according to those sources, there have been cases of returnees to Congo who, upon arrival at Ndjili airport, are detained and asked to pay officials to avoid arrest or to be released. (...) Taking all the above into account, and especially that although rejected asylum seekers returning to Congo may be treated with suspicion and face additional requirements to return to their place of origin, in recent years there are organized return programs from both the UNHCR and international organizations that ensure the safe return of repatriated individuals and cover their basic needs until they are reintegrated into society. Therefore, the applicant's fear of facing danger upon return to his country was not considered well-founded or justified. However, considering the security situation in the Kivu region, the applicant's region of origin and last residence, the expressed fear that he would face danger upon return there due to the lack of security was deemed well-founded and justified. Nevertheless, (...) the harm cited by the applicant does not fall under the definition of persecution. As for subsidiary protection, taking into account that the security incidents threatening the civilian population -although reduced- remain significant due to the presence of armed groups in the area, it was deemed that the applicant is likely to face harm as described in Article 14(c) of Law 4939/2022 only if he returns to his last place of residence, namely the Kivu province, and it was further determined that relocation and long-term settlement in the capital of the DRC, Kinshasa, is feasible and reasonable. In view of this, (...) his request was also rejected concerning subsidiary protection. Against the above decision, the applicant filed an appeal, in which he argued, among other things, that the first-instance decision unlawfully failed to recognize him as a vulnerable individual and that if he were to return to his country, especially to its capital, Kinshasa, there is a well-founded and justified fear of persecution because he belongs to the particular social group of the mentally ill, those suffering from serious health problems, and those forcibly displaced for a long period who no longer maintain any cultural, linguistic, familial, property-related, or other ties with the country. He also argued that he would, in any case, suffer inhuman and degrading treatment due to the inadequacy of the healthcare system in his country. (...) The applicant's claims were rejected on the grounds that he did not claim harm resulting from the failure to recognize him as a vulnerable applicant, and consequently, his request for referral to a socio-medical assessment was also rejected. Moreover, it was concluded that his physical conditions are not serious and can be treated within the health system of his country of origin, even if it is of low quality. It was also determined that, based on his profile, he can socially reintegrate into his country. Furthermore, according to the contested decision, the applicant is not classified as mentally ill, especially considering that he lived in Tanzania from 1998 to 2023, that is, for a long period, from age 13 to 38, worked there, and started a family. In light of all this, (...) his application was also rejected at the second instance as unfounded, and his return to his country was ordered.

5. (...) In the present application, it is argued that the execution of the contested decision and the enforcement of the return measure imposed on the applicant will cause him irreparable harm should the pending application for annulment be accepted (...). In the application for annulment, the applicant argues that the contested decision is voidable on the following grounds: a) that the Committee unlawfully failed to investigate grounds that could establish, in this case, a situation of de facto statelessness of the applicant, b) that there was a violation of substantial procedural rules, specifically due to deficiencies in the conduct of the interview and the failure to summon the applicant for an oral hearing before the Appeals Committee, even though such a summons is required in cases where ambiguities and gaps are identified in the first-instance interview, c) inadequate reasoning in the refusal to grant subsidiary protection, and d) violation of the principle of proportionality.(...)

6. (...) In the present case, taking into account, on the one hand, that the grounds put forward in the submitted application for annulment are not manifestly unfounded, and, on the other hand, that the applicant's claims regarding the reasons that compelled him to leave his country of origin were considered credible by the Administration, and his fear that he would be at risk upon returning there due to the lack of security was deemed well-founded and justified, the Court finds that, after balancing the harm to the applicant, which consists of the potential endangerment of his life, physical integrity, and personal freedom, against the public interest, the negative consequences of granting the suspension request are not more serious than the benefit to the applicant, therefore, it is ruled that, until a final decision is issued on the application for annulment (...), the execution of the return measure imposed on the applicant must be suspended, and the Administration must refrain from taking any actions based solely on the contested decision that would result in his forced departure from Greece. Finally, the Administration is ordered to reissue to the applicant the asylum seeker's card that may have been previously withdrawn, in order to restore the actual situation that existed prior to the rejection of the international protection application by the contested decision (see similar rulings: Council of State Committee of Suspensions 940, 573, 172/2006, 73/2007, 731/2008). (...)

The application is accepted

NΔ78/2025

Subsequent asylum application - Admissibility - Interim measures - Somalia - Single Man - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ78/2025
Publication date: 08.05.2025
Judge: Olga V. Plastira

(...)

2. (...) With the present application, it is sought the suspension of execution of decision No. IP/94488/12.2.2025 of the 18th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member composition. By that decision, the appeal lodged by the present applicant against decision No. IP/405944/5.7.2024 of the Asylum Unit of Ioannina was dismissed and, ultimately, his application for the granting of international protection was rejected; moreover, his return to his country of origin was ordered, with a voluntary departure period of 25 days. The suspension is sought until the issuance of a final judgment on the corresponding application for annulment, which the applicant has filed before the Court (AKY132/2025), the hearing of which is still pending.

(...)

5. (...), in the present case, the following emerges from the case file: The applicant, born in 2002, a Somali national, (...), initially lodged an application for international protection on 18.9.2023 with the Reception and Identification Service of Samos, stating that he left his country of origin and does not wish to return to it, since it is very difficult to survive in Somalia, where people are killed on a daily basis, as his father was also killed. He further stated that he departed from Türkiye because he did not have a good life there and could not find employment without papers. This application was rejected as inadmissible by decision No. IP/271182/13.11.2023 of the Head of the Asylum Office of Samos, on the grounds that Türkiye was considered a safe third country for the applicant. An administrative appeal lodged by the applicant against the above decision was dismissed as unfounded by decision No. IP/149490/4.3.2024 of the 11th Independent Appeals Committee. On 11.6.2024, the said foreign national submitted a subsequent application for international protection before the Asylum

Unit of Ioannina. During the registration of his application, he was asked whether new grounds had arisen, which had not been mentioned in his previous application, on the basis of which he considered that Türkiye did not constitute a safe country for him. The applicant replied: In Türkiye, I faced racism and had no one to help me. They called me ugly. When I arrived, a police officer pushed me, beat me and spoke to me badly. In addition, a woman was forcibly keeping me in her house and made me clean and work for her. I had mentioned these things in my previous application, except for the fact that this woman was holding me illegally. I did not mention it because I did not know that it was important to explain it. This application was rejected as inadmissible by decision No. IP/405944/5.7.2024 of the AAU of Ioannina, on the grounds that the applicant's above allegations did not constitute new elements. The applicant lodged an administrative appeal against that rejection. By decision No. IP/817461/13.12.2024 of the 18th Independent Appeals Committee, after it was taken into account that the applicant's readmission to Türkiye was not feasible, the decision challenged by the applicant's administrative appeal was annulled and the application for international protection was found admissible; the issuance of a decision on the merits of the case was deferred, and the said party was summoned to appear before the 18th Independent Appeals Committee for a hearing. (...) That administrative appeal was dismissed as unfounded by the contested act, since the applicant's claims regarding attempts to recruit him by Al Shabaab and the discrimination he allegedly suffered on grounds of clan were not considered credible; moreover, it was further held that it was not established to a reasonable degree of likelihood that the said party would become a victim of human trafficking in the event of his return to Somalia. In view of the conditions prevailing in Mogadishu, the place of last residence of the applicant's family, and of his personal characteristics, it was found that the conditions for recognising the said foreign national as a beneficiary of subsidiary protection were not met. By the same act, the applicant was ordered to return to his country of origin within 25 days. Against that decision, the applicant lodged an application for annulment No. AKY132/2025, the hearing of which has not yet been scheduled, by which he challenges the lawfulness of the contested act and seeks its annulment, arguing that the said rejection is unlawful and subject to annulment on the grounds of: (a) violation of the right to an effective remedy, as enshrined in Article 46(3) of Directive 2013/32/EU, Article 47 of the Charter of Fundamental Rights of the European Union, and Article 13 of the ECHR; (b) lack of competence of the authority that issued the contested act; (c) incompatibility of Article 5(2) and (7) of Law 4375/2016 with Article 89(2) and (3) of the Constitution; (d) lack of specific and thorough reasoning in the assessment of his claims regarding his qualification for refugee status; and (e) erroneous reasoning as regards his qualification for subsidiary protection.

6. (...), by the application under consideration, the applicant seeks the suspension of execution of the contested decision until the issuance of a final judgment on the application for annulment filed against it. He maintains that the latter is manifestly well-founded and will succeed. In the Court's assessment, the above-mentioned grounds for annulment are not manifestly well founded, within the meaning of Article 52(7) of Presidential Decree 18/1989, since they require the Court to conduct an in-depth examination of both the factual and the legal aspects of the case. Consequently, this ground for granting suspension must be dismissed.

7. (...), furthermore, the applicant submits that the execution of the contested decision will cause him irreparable harm. In particular, he states that, in the event of his return to Somalia, he faces the risk of being subjected once again to persecution as a member of the minority Madhiban clan, of becoming a victim of human trafficking for the purpose of forced labour, and of being recruited by Al-Shabaab, whose members murdered his father because they had previously failed to recruit the applicant himself. He further adds that his removal from Greece would lead to the violent disruption of the life relationships he has established in the country, as he would be forced to abandon the social framework he has developed in the Reception Facility where he resides, to which he contributes by serving the community as an English-language interpreter. (...)

8. (...). In the present case, the Court, having assessed the circumstances of the case and, in particular, the fact that the above claims, which the applicant had raised before the administrative authorities, are not manifestly unrelated to grounds which, if assessed by the Administration, could justify the granting of international protection, considers that the removal of the said party from the country and his return to his country of origin may cause him harm that would be difficult to remedy in the event that the pending application for annulment is upheld. Such harm would consist of exposing him to a risk to his personal safety. Moreover, from the weighing of the above harm against the public interest, it follows that the adverse consequences of granting the application for suspension are not more serious than the benefit accruing to the said party. It is therefore deemed necessary to order the suspension of execution of the contested decision, insofar as it imposed on the applicant the measure of return, and, at the same time, to order the Administration, until the issuance of a final judgment on the pending application for annulment, to refrain from any action based exclusively on the contested act that would result in the applicant's forced departure from Greece. Furthermore, the Administration is ordered not to proceed with the withdrawal of the issued asylum seeker's card or, if such card has already been withdrawn, to return it and, if it has expired, to extend its validity (cf. Council of State, Suspension Decisions Nos. 940, 573, 172/2006, 73/2007). (...)

The application is accepted (...)

1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment
- Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
21st (One-Member) Chamber
Decision No: NΔ88/2025
Date of publication: 31.01.2025
Judge: Koutsopoulou Aikaterini Ch
(...)

2. (...), with the present application, the suspension of execution of decision no. IP/461986/30.7.2024 of the 19th Independent Appeals Committee of the Appeals Authority is requested, by which the appeal filed by the applicant on 20.11.2023 against decision IP/158341/2.10.2023 of the Regional Asylum Office (R.A.O.) of Lesbos was rejected. By this latter decision, the applicant's application for international protection dated 27.7.2023 had been rejected. The applicant has filed an application for annulment against the contested act before the Administrative Court of First Instance of Athens, registered under number 833/2024, which is pending adjudication.

3. (...), in the present case, the following facts emerge from the case file: the applicant, a national of Eritrea according to his own declaration, appeared on 27.7.2023 at the Regional Asylum Office (R.A.O.) of Lesbos and submitted a request for international protection, stating that he left his country of origin because he has no family. Subsequently, during the oral examination of his request, (...), he stated, among other things, that he is a national of Eritrea, settled with his mother in Ethiopia at the age of two, attended a church school for four years, is unmarried, his parents have already passed away, and he has no other relatives. Regarding the reasons for his fleeing, he stated that, according to his mother's accounts, they left Eritrea because of his father, who was a military officer. Furthermore, he was forced to leave Ethiopia because, as a national of Eritrea, he did not have legal documents and for that reason, he was imprisoned for a period of three months, and he was unable to attend schools and could not receive medical care. Furthermore, because he lacked legal documents, his employers did not pay him the owed wages. He does not wish to return to Eritrea, as he faces the risk of compulsory military service, nor to Ethiopia, because due to the lack of legal documents, he would face difficulties in surviving there. The above application was rejected by the (...) decision of the Regional Asylum Office (R.A.O.) of Lesbos, as it was determined that the applicant does not face a well-founded and justified fear of persecution. Against this decision, the applicant filed an (...) appeal before the 19th Independent Appeals Committee, which dismissed the appeal as unfounded. Specifically, the applicant's claim regarding his nationality was rejected because it was deemed vague and general and did not refer to "experiences personally lived by him," as it was not reasonably apparent that he lacked information about Eritrea. Furthermore, the claim that he was imprisoned in Ethiopia was rejected as vague because he did not provide, in a lived-experienced way, information about the conditions of his detention. Moreover, since it was not accepted that the applicant originated from Eritrea, his claim regarding the survival difficulties he faced in Ethiopia due to the lack of legal documents was dismissed as unfounded, and it was determined that the applicant's fear is neither well-founded nor justified. Finally, it was concluded that the legal requirements for granting the applicant subsidiary protection status were not met.

4. (...), in light of the above, the Court, evaluating the case's facts and especially the fact that the above claims, which the applicant had submitted before the Administration, are not clearly unrelated to reasons that, if assessed by the Administration, could justify the granting of international protection, considers that the removal of the applicant from the country and his return to the country of origin, or the country of last residence according to his claims, could cause him harm that is difficult to remedy in the event that the pending application for annulment succeeds, consisting of exposing him to a risk to his life and safety. Therefore, to prevent this harm (...) the Court deems that it should be ordered, as an appropriate measure under Article 52, paragraph 8 of Presidential Decree 18/1989 (Official Gazette A' 8), that the Administration refrain from any action based exclusively on the contested act and which would result in the forced removal of the applicant from the country, until a final decision is issued on the pending application for annulment.

5. (...), following the above, the contesting application must be accepted, and the appropriate measures referred to in the dispositive part must be ordered. Furthermore, the paid fee must be refunded to the applicant (...).

The application for suspension is accepted.

1st application - Eligibility - Interim measures - Iraq - Single man - Unlawful notification by email - Out of time appeal - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ114/2025
Publication date: 1/8/2025
Judge: Kofinis Stergios G.

2. (...), with the application under consideration (...), the applicant seeks, in view of the filing of application for annulment registered under number AKY280/2025, the suspension of execution of decision IP/315382/6.6.2025 of the 20th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member formation, by which his administrative appeal of 15.4.2025 against decision IP/81707/7.2.2025 of the Regional Asylum Office (R.A.O.) of Thessaloniki was dismissed and his return to his country of origin was ordered, without the granting of a period for voluntary departure.

4. (...), in the present case, the following emerges from the documents of the administrative file: The applicant, who declares himself to be a citizen of Iraq, (...), submitted an application for international protection on 4.7.2024 before the Mobile Registration and Movement Coordination Unit of Sintiki, Serres, stating that he does not wish to return to his country of origin because his stay there is not safe. (...) As regards the reasons for which he left his country of origin, he stated that he was a car mechanic with his own workshop, but was facing problems in his work and came in order to work freely, without anyone putting pressure on him. (...) His application was rejected as unfounded by decision IP/81707/7.2.2025 of the Regional Asylum Office (R.A.O.) of Thessaloniki, which was sent to the applicant to the email address he had declared on 13.2.2025. The relevant proof of service (30427/17.2.2025) states that the electronic message was received by the applicant on 13.2.2025 at 14:40. The applicant's administrative appeal of 15.4.2025 against the above decision, by which he claimed that in the event of his return to his country of origin he would be unable, also in view of his low social background, to survive and would fall into destitution and extreme poverty, was rejected by the contested decision of the 20th Independent Appeals Committee, sitting in a single-member formation, as out of time, since the thirty-day time limit for lodging it had begun to run upon the lapse of 48 hours from the electronic dispatch of the contested first-instance decision, namely from 16.2.2025, and the applicant did not invoke any reason of force majeure that prevented him from lodging the appeal in due time. Finally, the applicant's return to his country of origin was ordered without the granting of a period for voluntary departure.

5. (...), by the application under consideration it is argued that the execution of the contested decision will cause him harm that would be difficult to remedy in the event that the pending application for annulment is successful, by which grounds are raised concerning: (a) a breach of the law as regards the procedure for notification of the first-instance rejection decision, specifically because it was notified to him at the email address he had declared (and, according to his claims, may have been placed in the spam folder), whereas he was residing in an accommodation facility and therefore the service procedure through the director of the hosting centre should have been followed; (b) violation of the right to an effective remedy; and (c) the unconstitutionality of the composition of the 20th Independent Appeals Committee sitting in a single-member formation.

6. (...), in the present case, however, the Court, taking into account in particular that, on the one hand, the grounds put forward in the annulment application concerning the unlawful notification of the rejection decision to the applicant do not appear to be manifestly unfounded, and, on the other hand, that his claims were ultimately not examined on the merits at second instance, as well as the fact that a balancing of the harm to the applicant and the public interest shows that the negative consequences of granting the application for suspension are not more serious than the benefit to the applicant, considers it appropriate to order, until the issuance of a final decision on application for annulment AKY280/2025, the suspension of execution of the return measure imposed on the applicant, as well as for the Administration to refrain from any action based exclusively on the contested decision that would result in his forced departure from Greece. Finally, the Administration is ordered to reissue to the applicant any asylum seeker's card that may have been withdrawn, so as to restore the factual situation in which he found himself prior to the rejection, by the contested decision, of his application for the granting of international protection (cf. Council of State, Committee for Interim Measures, decisions 940, 573, 172/2006, 73/2007, 731/2008). (...)

The application is accepted.



1st application - Eligibility - Interim measures - Guinea - Single woman - Gender-based violence - Mental health issues - Risk of interruption of medical treatment - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: NΔ115/2025
Publication date: 1/8/2025
Judge: Kofinis Stergios G.

2. (...), with the application under consideration, (...), the applicant seeks, in view of the filing of the application for annulment (...), the suspension of execution of decision IP/298090/29.5.2025 of the 4th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member formation, by which her appeal of 16.5.2024 against decision IP/220250/15.4.2025 of the Regional Asylum Office (R.A.O.) of Thrace was dismissed; the latter decision had rejected her application of 6.10.2023 for international protection. By the same contested decision, the applicant's return to her country of origin was ordered, without a period for voluntary departure being granted.

4. (...), in the present case, the following emerges from the documents in the administrative file: The applicant, who declares herself to be a citizen of Guinea, born on 5.10.1989, lodged an asylum application on 6.10.2023 at the Closed Controlled Structure of Samos, in which she stated that she does not wish to return to her country of origin, for reasons of safety, as she feels that her life is in danger there. (...) As regards the reasons for which she left her country, she recounted that when her family learned of her relationship with her current husband, who is a Christian, they imprisoned her husband, confined her to the house while she was already pregnant, and, after she gave birth, forced her to marry an older man who already had four wives. This man beat and raped her for six months, while she had no contact with her daughter. She was then informed that her daughter had died, and with the assistance of a cousin, she escaped and stayed at the house of a friend of her cousin for one year (from March 2021 to March 2022), when her visa was issued, and she was able to travel to Türkiye. The applicant stated that she fears she will be forced to return to her elderly husband if she returns to her country. Her application was rejected as unfounded by decision IP/220250/15.4.2025 of the Regional Asylum Office (R.A.O.) of Thrace, and her return was ordered. The applicant's administrative appeal was dismissed by the contested decision on the grounds that (a) her claim that she was forced into marriage with an older man in 2020 was vague and lacked detail, while her account contained inaccuracies and logical gaps, for which the applicant was unable to provide a satisfactory explanation, and (b) her claim that she married a Christian man while she herself was Muslim and married to another man contained logical gaps and contradictions, since although she initially stated that her elderly husband did not allow her to leave the house, she subsequently stated that she managed to go out, on the occasion of a wedding that was to take place, in order to marry the man she loved. On the basis of these facts, the fear of persecution expressed by the applicant was found not to be well-founded and justified, and her application was rejected insofar as it concerned the recognition of refugee status. (...)

5. (...), with the application under consideration, it is argued that the execution of the contested decision and of the return measure imposed on the applicant will cause her irreparable harm in the event that the pending annulment application is upheld, the grounds of which are, according to the applicant, manifestly well-founded. By that latter application for annulment, the applicant argues that the contested decision is subject to annulment due to: (a) a breach of essential procedural requirements, specifically deficiencies in the manner in which the interview was conducted and the failure to summon the applicant to an oral hearing before the Appeals Committee, even though such a summons is mandatory where ambiguities and gaps are identified in the first-instance interview; (b) inadequate reasoning, both as regards the refusal to grant refugee status and the refusal to grant subsidiary protection; and (c) violation of the provisions of the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence). Furthermore, as regards the harm she would suffer, the applicant claims that, if she is forced to return to Guinea, she is at risk of once again being subjected to severe psychological, physical, and sexual violence by her elderly first husband, as well as by her paternal family, while she would be unable to obtain protection from the police authorities or to rely on any other support network. She further claims that she suffers from post-traumatic stress disorder and that, if she remains in Greece without legal status documents, she will be unable to receive the necessary psychosocial assistance.

6. (...), in the present case, however, the Court, taking into account in particular that, on the one hand, the grounds put forward in the annulment application do not appear to be manifestly unfounded, and, on the other hand, that a balancing

of the harm to the applicant, which consists in the risk of serious harm to fundamental rights such as her life and dignity, and the public interest shows that the negative consequences of granting the application for suspension are not more serious than the benefit to the applicant, considers it appropriate to order, until the issuance of a final decision on annulment application AKY270/2025, the suspension of execution of the return measure imposed on the applicant, as well as for the Administration to refrain from any action based exclusively on the contested decision that would result in her forced departure from Greece. Finally, the Administration is ordered to reissue to the applicant any asylum seeker's card that may have been withdrawn, so as to restore the factual situation in which she found herself prior to the rejection, by the contested decision, of her application for the granting of international protection (cf. Council of State, Committee for Interim Measures, decisions 940, 573, 172/2006, 73/2007, 731/2008). (...)

Application is accepted.

ΝΔ117/2025



1st application - Eligibility - Interim measures - Uganda - Single woman - LGBTQIA+ - Gender-based violence - Reasons not unrelated to international protection status - Risk of harm - Application accepted

Administrative Court of First Instance of Thessaloniki
11th (One-Member) Chamber
Decision No: ΝΔ117 /2025
Date of publication: 7.8.2025
Judge: Olga V. Plastira

2. (...), with the present application, the suspension of execution of decision No. IP/91348/11.2.2025 of the 10th Independent Appeals Committee of the Ministry of Migration and Asylum is lawfully sought; by that decision, the applicant's appeal against decision IP/560495/10.9.2024 of the Asylum Unit (A.A.U.) of Fylakio was dismissed and, ultimately, her application for the granting of international protection was rejected. By the same decision, the return of the applicant to her country of origin was ordered. The suspension is sought until the issuance of a final decision on the corresponding annulment application, which the applicant lodged before the Court (AKY117/2025), the hearing of which has not yet been scheduled.

5. (...), in the present case, the following emerges from the documents of the case file: The applicant, a citizen of Uganda, born in 1995, submitted an application for the granting of international protection on 31.5.2024 before the Reception and Identification Service of Arrivals, in which she stated that she left her country and does not wish to return to it because she is an LGBTI activist. (...) She left her country of origin on 11.4.2024 and entered Greece on 12.4.2024, travelling by air via Germany with her passport. With regard to the reasons for leaving her country of origin, the applicant claimed that she left Uganda due to the serious persecution she faced on account of her sexual identity and her activity as an LGBT activist. She began to become aware of her sexual orientation at the age of 15 while attending an all-girls school, where she formed an emotional relationship with (...). Their relationship remained secret for years, as homosexuality was not socially accepted and the Ugandan authorities did not approve of LGBT community activity, although prior to 2023 there were no legal consequences. In 2016, the applicant was forced to marry a wealthy military man (...) following pressure from her mother and relatives. Although she married and had a son in 2017, the party concerned stated that she continued her relationship with (...), as she had no feelings for her husband. Her husband frequently abused her, even during her pregnancy, and in 2020, following a severe beating, she suffered a miscarriage and left him. Thereafter, she moved into the apartment of (...), with whom they planned to leave Uganda. In 2023, the Ugandan government passed a law against LGBT persons, providing for life imprisonment for members of that community. The police began to pursue them, and in July of the same year, police officers raided the apartment of the applicant and (...). They managed to escape, but shortly thereafter, (...) was arrested, tortured, and died in December 2023. The applicant learned of her death through a leader of the LGBT community, (...). She did not attend the funeral due to the risk of her arrest. (...), the applicant claimed that she hid in various relatives' houses, but due to the persecutions and the ongoing police search for her, she decided to leave the country. (...) If she returns to Uganda, she will be arrested, tortured, and may lose her life due to her sexual identity and her relationship with (...). Her application was rejected as unfounded by decision IP/560495/10.9.2024 of the Asylum Unit of Fylakio, as her claims of persecution were found not to be credible, and her return was ordered. Her administrative appeal against that decision was rejected as unfounded by the contested decision of the Appeals Authority. Specifically, after international sources regarding the situation in Uganda were taken into account, according

to which homosexual conduct is criminalized and, in 2023, a new law was enacted aiming to prohibit any form of sexual relations between persons of the same sex, as well as the promotion or recognition of same-sex relationships. It was held that the applicant's claims of persecution were not credible. This was because the applicant did not state that she had engaged in any activity within the organisation, Sexual Minorities Uganda, of which she claimed to be a member, nor did she provide details regarding the organisation's general activities or other individuals participating in it, whom she should have known. Furthermore, regarding her claims about her sexual orientation, the applicant referred to only one homosexual relationship she had with a school friend, which began when she was 15 years old. She did not generally describe her feelings toward women or men, but spoke only about that specific relationship with her childhood friend (...). She also stated that after her marriage, which she was forced to enter into under pressure from her mother, she became bisexual, a claim that was not deemed reasonable for a person who is allegedly a member of an LGBTI organisation and conscious of her sexual identity. It was also taken into account that the applicant made no reference to the anxiety and distress one would expect her to feel due to her homosexuality in relation to her relatives, especially given the general homophobia prevailing in her country, nor to the reactions of her family when her secret was revealed. (...). In view of the above, the applicant's account was found to be vague, lacking a personal experiential character and, therefore, unreliable. By the same act, the return of the said foreign national to her country of origin was ordered. Against that decision, the applicant lodged an application for annulment AKY117/2025, the hearing of which has not yet been scheduled, by which she challenges the legality of the contested decision and seeks its annulment, arguing that the rejection is subject to annulment due to inadequate reasoning.

6. (...), by the application under consideration, the applicant seeks the suspension of execution of the contested decision until the issuance of a final decision on the annulment application lodged against it, invoking that the execution of the contested decision will cause her irreparable harm. Specifically, she argues that her return to her country of origin will expose her to an immediate risk to her liberty and physical integrity, as upon her return to Uganda, she will be charged and imprisoned due to her sexual orientation. In particular, she states that for this reason an arrest warrant is pending against her and that, if she returns, she will be immediately arrested by the police and imprisoned. She further adds that, in the period preceding the enactment of the new law against LGBTI persons, a climate of homophobia began to be fostered in society, fueled by political and religious leaders, which led to an escalation of attacks and harassment against individuals and organisations considered to support the rights of persons belonging to that community, such as herself. In support of her claims, she submits in photocopy: (a) her membership card in the organisation Sexual Minorities Uganda, and (b) a document bearing her photograph in which she appears as a person wanted by the Ugandan police.

7. (...), in the present case, the Court, assessing the circumstances of the case and in particular the fact that the above claims, which the applicant had put forward before the Administration, are not manifestly unrelated to grounds which, if assessed by the Administration, could justify the granting of international protection, considers that the removal of the said party from the country and her return to her country of origin may cause her harm that would be difficult to remedy in the event that the pending annulment application is successful, consisting in her exposure to a risk to her safety. Furthermore, from the balancing of the aforementioned harm against the public interest, it follows that the negative consequences of granting the application for suspension are not more serious than the benefit to the applicant. Accordingly, it is deemed necessary to order the suspension of execution of the contested decision, insofar as it imposed on the applicant the measure of return, and, at the same time, to order the Administration to refrain, until the issuance of a final decision on the pending annulment application, from any action based exclusively on the contested act that would result in the forced departure of the applicant from Greece. Furthermore, the Administration is ordered not to proceed with the withdrawal of the asylum seeker's card that has been issued, or, if such card has already been withdrawn, to return it and, if it has expired, to extend its validity (cf. Council of State, Committee for Interim Measures, decisions 940, 573, 172/2006, 73/2007). Finally, the court fee paid must be refunded to the applicant, while, in the absence of a relevant request, no order is made as to the legal costs of the said party (Article 4(1)(f) of Law 702/1977, as that provision was added by Article 50 of Law 3659/2008, in conjunction with Article 275(7)(a) of the Code of Administrative Procedure). (...)

Application accepted.

(...)

1st application - Eligibility - Interim measures - Eritrea - Single man - Wrong Nationality assessment - Credibility of annulment claims - Risk of harm - Application accepted

Administrative Court of First Instance of Athens
23rd (One-Member) Chamber
Decision No: NΔ169/2025
Date of publication: 26.02.2025
Judge: Voudri Athanasia K.
(...)

1. (...), with the present application, (...), the suspension of enforcement of decision no. IP/686048/25.10.2024 of the 5th Independent Appeals Committee of the Appeals Authority is requested. With this decision, on the one hand, the applicant's appeal no. IP/450641/25.7.2024 was rejected (...), which had been lodged against decision no. IP/415562/10.7.2024 of the Lesbos Regional Asylum Office (R.A.O.) rejecting his application of 21.2.2024 for international protection; on the other hand, the applicant's return to his country of previous residence was ordered. The suspension is requested until a final judgment is issued on the annulment application (Ref. No.: AK1193/4.12.2024), which has been filed against the aforementioned decision and is currently pending before this Court.

2. (...), in the present case, the following emerges from the case file: the applicant, who declared himself to be a national of Eritrea, submitted an application for international protection on 21.2.2024 before the Lesbos Regional Asylum Office (RAO). However, during the relevant reception and identification procedures to which he was subjected, it was determined that his presumed nationality is Ethiopian (see, in particular, the unified registration form of 21.2.2024 by the Reception and Identification Service of the Closed Controlled Facility of Lesbos). Subsequently, during his oral interview (...), the applicant claimed that he was born on 1.1.1999 in the city of Assab in Eritrea, where he lived until the age of 19 in the area of Camp Sudan in Abera Genda. He stated that both of his parents, who were also citizens of Eritrea, were born in the same area. (...). He also claimed not to know his grandparents, nor whether his parents held Eritrean identity documents or passports, since they died when he was eight years old. He could not obtain an identity document for himself from the local municipality because he did not possess a birth certificate or any other identification document from any country. Moreover, he stated that he has never lived in Ethiopia nor has any ties to that country, (...). Regarding his journey, he reported that he left Eritrea on 4.2.2018 (...). On 13.2.2024, he entered (...) Greece (...). As to why he does not wish to return to Eritrea, the applicant stated that he would be forced to perform military service and additionally fears that the government might arrest or kill him due to his familial relationship with his father. Both his father and mother were reportedly arrested by armed men for opposing the country's dictatorial regime and subsequently died under unknown circumstances. The applicant claimed to have lived on the streets ever since, working and living in a café until he came of age, at which point he left Eritrea (...). and as he stated, he could be at risk for having left his country illegally. By decision (...) of the Lesbos RAO, his application was rejected as unfounded, as his claim of Eritrean nationality was not accepted. This is because the said claim was characterized by a lack of information, lack of credibility, vagueness, and contradictions, and therefore, the application in question, in the judgment of the Asylum Service, does not qualify for inclusion under the international protection regime, given that the validity of the alleged fear or imminent danger cannot be assessed in relation to any specific country. The applicant filed an appeal (...), which was rejected by the currently contested decision of the 5th Independent Appeals Committee. Specifically, regarding the applicant's claims concerning the determination of his nationality without adherence to the legal formalities, it was found that these claims were general and vague, as they did not include allegations attributing any specific deficiency to the decision of the Lesbos Regional Asylum Office, with reference to factual circumstances and arguments related to that decision, such that the case would differ from any other. Furthermore, the claims regarding the consequences the applicant would suffer from a possible removal from Greece due to his strong life and social ties with the country were rejected by the Committee as unfounded, given that criteria related to the personal or family situation of the asylum seeker are not taken into account during the examination of the present application. Accordingly, the administrative appeal was rejected by the challenged decision, and the applicant's return to Ethiopia, his previous country of residence, was ordered. The request to remain in the country under Article 110(2) of Law 4939/2022 was also rejected as unfounded. Against the aforementioned rejection decision of the 5th Independent Appeals Committee, the applicant has filed before this Court (...) an application for annulment, (...) arguing, among other things, the violation of the provisions of Articles 98, 102, and 104 of Law 4939/2022, as well as a violation of substantial procedural requirement in the drafting of the screening form by the Reception and Identification Service of the Closed Controlled Facility of Lesbos, and due to lack of legitimate justification regarding the evaluation of the internal credibility of his claims for international protection. Already, with the present request, the applicant seeks the suspension of the execution of the contested decision, arguing, among other things, that in the event of his forced

removal from Greece and return to Ethiopia, he will suffer irreparable harm, consisting of cumulative violations of human rights due to his statelessness, given that he does not possess identification documents from either Ethiopia or Eritrea. In support of the above claims, he cites and submits, among other documents, a copy of the expert report dated 29.11.2023 by Professor of Anthropology Tricia Redeker Hepner, in which she analyses the living conditions of Eritreans both in Ethiopia and in Eritrea itself, concluding that they become vulnerable to persecution, torture, and possibly execution.

3. (...), the contested decision, by which the applicant's request for international protection was rejected, being an act of negative content, is not subject to suspension of execution, because such suspension would effectively amount to the Court satisfying, in place of the Administration, the request rejected by that decision (see, inter alia, Council of State, Committee of Suspensions 62/2018, 197/2016, 180/2015, 243/2013, 529/2010, etc.). However, evaluating the facts of the present case and, in particular, the fact that the above-mentioned claims, which the applicant had presented before the Administration, are causally linked to his estimated nationality, which, if assessed differently, could justify the granting of international protection, the Court considers that the removal of the applicant from the country and his return to, according to his claims, the country of last residence, may cause him irreparable harm in the event that the pending application for annulment succeeds, consisting of exposing him to a risk to his life and safety. To prevent, therefore, this harm, (...) it must, in the present case, be ordered, at the discretion of the Court, as an appropriate measure under Article 52 paragraph 8 of Presidential Decree 18/1989, as in force, that the Administration refrain, until the publication of a final decision on the pending application for annulment, from any action based exclusively on the contested decision that would result in the forced departure of the applicant from Greek territory. Furthermore, the Administration must be ordered to return to the applicant any asylum seeker's card that may have been removed and to extend its validity if applicable (cf Council of State, Committee of Suspensions 140/2018, 246/2017, 214/2009, 841, 485/2008, etc.).

4. (...), following the above, the application must be accepted, the appropriate measures referred to in the operative part must be ordered, and the fee paid by the applicant must be refunded. (...)

The application for suspension is accepted.

NΔ171/2025



1st application - Eligibility - Interim measures - Cameroon - Single man - LGBTQIA+ - No readmissions in the country of origin - Links with Greece - Harm from staying in Greece without legal documents for a long period of time - Application rejected

Administrative Court of First Instance of Athens

23rd (One-Member) Chamber

Decision No: NΔ171/2025

Date of publication: 26.02.2025

Judge: Voudri Athanasia K.

(...)

1. (...), with the present application, (...) is requested the suspension of the execution of decision no. IP/394789/2.7.2024 of the 4th Independent Appeals Committee of the Appeals Authority. By this decision, on the one hand, the appeal no. IP/36971/18.1.2024 submitted by the applicant (...) was rejected. The appeal had been lodged against decision 310135/15.6.2023 of the Samos Regional Asylum Office (R.A.O.), which had rejected his request for international protection dated 18.1.2023. On the other hand, the return of the appellant was ordered through voluntary departure from the country within a period of ten (10) days. The suspension is requested until the issuance of a final judgment on the application for annulment (Reg. No.: AK839/8.10.2024), which has been filed against the aforementioned act and is currently pending before this Court.

2. (...) In the present case, the case file reveals the following: the applicant, who declares himself to be a citizen of Cameroon, submitted an application for international protection on 18.1.2023 before the Samos Regional Asylum Office (R.A.O.). (...) His application was found to be unfounded and was rejected (...). Against the above first-instance rejection decision, the applicant filed an appeal, requesting a re-examination of his application for international protection. The Committee, initially by decision no. IP/228137/11.4.2024, having taken into account that the applicant submitted during the appeal hearing the document no. 362/AR/PS4/CC2/11A, allegedly issued by the 11th Police Station of Douala, Cameroon,

dated 6.6.2022, according to which he is being sought by the authorities of his home country, where homosexuality is criminally prosecuted, for offenses against morality and for homosexuality, ruled that the applicant, in line with his duty to cooperate with the asylum authorities, must submit the original document in his possession so that its authenticity could be examined. (...). Subsequently, on 27.6.2024, the applicant's lawyer sent the Committee two emails (...) stating that ultimately it was not possible for any of his family members to obtain the official document, because such documents are private and only held by the police, airports, and authorities in general. He noted that they only learned of the document's existence because his brother had a friend in the police who informed them, but was unable to obtain it. (...). In view of the above, the Committee, although it acknowledged that external country-of-origin information indicates that under Cameroonian legislation, criminal prosecution for differing sexual orientation is foreseen and thus lends external credibility to the applicant's claims, found that the internal credibility of his core claim regarding his sexual orientation and the alleged persecution on that basis in his country of origin was not established. The claims presented lacked consistency and plausibility and were also contradictory to widely known facts. Furthermore, the applicant failed, without justification, to fulfil his essential obligation to cooperate with the Committee in submitting the requested (...) documents, despite being granted sufficient time for this purpose. On these grounds, (...) the Committee concluded that the applicant does not belong to a "particular social group" and therefore cannot qualify under the Geneva Convention. (...) Furthermore, regarding eligibility for subsidiary protection, the Committee, after considering the applicant's background and claims as presented and assessed, concluded that there were no substantial grounds indicating that he faces a risk of suffering serious harm as defined in cases (a) and (b) of Article 14 of Law 4939/2022. (...). In addition, no international sources were identified, indicating that there are security issues in Cameroon or that the situation there could be characterised as one of indiscriminate violence due to armed conflict. Therefore, it was determined that there is no risk of serious harm (...) under the meaning of Article 14(c) of Law 4939/2022. (...). Against the above rejection decision (...), the applicant filed an application for annulment, requesting its cancellation. Among other arguments, he claims: lack of legitimate justification in the assessment of the internal credibility of his claims, as well as in the denial of refugee status and subsidiary protection; violation of the right to a prior hearing and the principle of legitimate expectation; and erroneous interpretation of the law and misapplication of the facts to the provisions of Law 4939/2022 and the Geneva Convention.

3. (...) in the present application, the applicant requests the suspension of the execution of the contested decision (...), he argues that the immediate enforcement of said decision would cause him irreparable harm, should the abovementioned annulment application be successful (...). He also invokes the 2023 Special Report of the Greek Ombudsman, according to which, during the years 2022 and 2023, (...), returns to Cameroon were not carried out. Moreover, he contends that his continued stay in Greek territory would have no negative impact, as he is permanently residing in a refugee accommodation facility, receiving benefits that cover his basic needs. On the contrary, if removed, he would become homeless, without financial aid or a support network, and exposed to all possible dangers. Finally, he claims that there are no reasons of public interest or public order that would justify the immediate enforcement of the contested decision. (...)

4. (...), the contested decision, being an act of a negative nature, is in principle not subject to suspension of execution, since granting such a suspension would result in full satisfaction by the Court, effectively substituting the Administration, in relation to the request that was rejected by said act (...). Furthermore, the provision of paragraph 8 of Article 52 of Presidential Decree 18/1989 (A' 8), which allows the Court to order measures other than suspension of execution to prevent irreparable or hardly reparable harm caused by an act not subject to suspension, cannot be applied in the present case. This is because, based on the facts and arguments presented by the applicant during the administrative examination of his application for international protection, as well as the detailed reasoning of the abovementioned (...) decision, which specifically considered the 362/AR/PS4/CC2/11A document, it is not probable that the applicant will suffer irreparable or hardly reparable harm. Moreover, the loss of any benefits received by the applicant during the examination of his application for international protection does not constitute irreparable harm in the event the application for annulment is successful, nor does it serve as an independent ground for suspending the contested decision. (...) In addition, the applicant's claim that returns to Cameroon are generally not carried out is rejected, primarily as unsubstantiated, since it is based on outdated and non-specific information regarding that country.

In view of the above, it is not deemed probable that the applicant faces an objective inability to return to his country of origin due to force majeure, nor that he meets the conditions of the non-refoulement clause under Article 3 ECHR or the criteria under Article 3 of the New York Convention of December 10, 1984 (A' 116). Likewise, no irreparable or hardly reparable harm is likely to occur to him if the contested decision is executed. Furthermore, the claim that the applicant poses no threat to public order and safety does not constitute grounds for suspension of an act issued in the context of international protection procedures rather than under common immigration law (...) nor does the argument that suspension does not conflict with the public interest serve as a valid ground (...). Finally, it does not appear that the applicant has developed a significant degree of private life in Greece, and therefore does not present elements of strong integration that would make his removal unduly burdensome or amount to uprooting, equating to a violation of Article 8 ECHR (cf. Admin. Court of Appeals Thessaloniki 101/2018, para. 7). In view of the above, and since the application for annulment filed does not appear manifestly well-founded, given that it requires examination of both the factual and legal aspects of the case and its outcome is not obvious, especially in the absence of established case law or a ruling from the

Plenary of the Council of State (see Council of State, Committee of Suspensions 58/2018 Plenary, 35/2017 Plenary, 322, 59, 324, 276-278/2018, etc.), the Court finds no grounds to accept the present application for suspension.

5. Consequently, the present application must be rejected, and the paid court fee must be forfeited in favor of the Greek State, pursuant to Article 36, para. 4, subpara. b of Presidential Decree 18/1989. (...)

The application is rejected.

NΔ412/2025



1st application - Eligibility - Interim measures - Iraq - Single man - Physical disability - Serious illness
- Risk of interruption of medical treatment - Maintain stable living conditions - Application accepted

Administrative Court of First Instance of Athens

23rd (One-Member) Chamber

Decision No: NΔ412/2025

Publication date: 14.05.2025

Judge: Kolliopoulou Anastasia.

(...)

1. (...), with the present application, (...), the suspension of execution of decision no. 706953/4-11-2024 of the second instance of the 18th Independent Appeals Committee of the Appeals Authority is requested whereby the applicant's appeal dated 10-4-2024 was rejected (...), against decision no. 188417/22-3-2024 of the Regional Asylum Office of Kos, which rejected the request for international protection and ordered his return to his country of origin. The suspension is requested until the issuance of a final judgment on annulment application no. AK1227/11-12-2024, filed by the applicant before the Court, the hearing of which is pending.

2. (...), from the case file the following facts emerge: the applicant, (...) a national of Iraq, submitted an application for international protection on 12-2-2024 before the Closed Controlled Access Center (C.C.A.C) of Kos. (...) During the scheduled interview for the examination of his application, (...), he stated that he was born (...) in Mosul, Iraq, and had lived in Baghdad from 2014 to 2019. (...). Regarding his family, the applicant claimed that his parents died in a bombing by ISIS in Mosul, that he has two siblings in Iraq, an older brother and a younger sister, with whom he has had no contact since he left for Türkiye, and that he has no relatives in Greece or in any other European country. (...). As for his health condition, the applicant stated that he had been injured in an airstrike and, as a result, is unable to walk, and that he also suffers from epilepsy, for which he is receiving medical treatment (...).

Concerning the reasons for which he left his country of origin, Iraq, the applicant stated that these are related to the fact that life is not possible there and he fears being killed, as he has been targeted due to his participation in protests. In fact, during one of these protests, he was injured by a sniper and has had serious health problems ever since. (...). The abovementioned application was rejected as unfounded. Against this decision, the applicant filed an (...) appeal, which was also rejected (...), and at the same time, his return to his country of origin was ordered.

4. (...), against this latter decision, the applicant filed (...) an application for annulment, the hearing of which is still pending. In that application, he argues that the contested decision must be annulled because it was issued based on non-legitimate justification, in violation of substantive legal provisions, and in breach of the right to a prior hearing. With the present application, the applicant requests the suspension of the execution of the aforementioned act until the issuance of a final judgment by the Court on the pending application for annulment, claiming that immediate execution of the contested decision would cause him irreparable harm due to the serious health issues he faces, which require continuous medical monitoring and pharmaceutical treatment. Furthermore, medical examinations he underwent revealed the need to remove bone fragments found in his brain that are causing a disability in his left hand. (...) To support this claim, he submits and invokes, among other things, the following documents: 1. the Alien Health Card dated 21-2-2024, according to which the applicant suffers from post-traumatic epilepsy and lower paraplegia (due to skull fragments from an explosion) (...), and has been classified as a person with disabilities and severe illnesses, 2. the medical report based on the brain CT scan performed on 14-5-2024 (...), 3. a medical note from a neurologist (...), 4. the referral form (...) the Controlled Reception Facility for Asylum Seekers of Agia Eleni, which states that the applicant has dual vulnerability, namely a serious chronic

illness (post-traumatic epilepsy under medication) and physical disability (lower paraplegia, inability to care for himself, moves with a wheelchair).

5. (...), the contested decision, by which the applicant's request for international protection was rejected, constitutes an act of negative content and, as such, is not subject to suspension of execution, as such a suspension would effectively amount to the Court substituting the Administration in granting the rejected request. (...) However, taking into account, on one hand, the applicant's serious health problems, which require systematic medical monitoring, uninterrupted pharmaceutical treatment, and potential neurological surgery, and on the other hand, the need to avoid the abrupt interruption of the stable living conditions he currently experiences, the Court finds that, due to these specific circumstances, the applicant's immediate removal from the country, as a result of executing the contested decision, would cause him harm that would be difficult to remedy should the application for annulment eventually be upheld. To prevent such harm, (...) it is necessary, according to the Court's judgment, to order the Administration to refrain, until the publication of a final decision on the above-mentioned pending application for annulment, from any action based solely on the contested decision that would result in the applicant's forced departure from Greek territory. Furthermore, it must be ordered that the Administration reissue the applicant's asylum seeker card (in the event it has been withdrawn), so as to restore the factual situation that existed prior to the rejection of the international protection request by the contested decision (cf. Council of State Committee of Suspensions 1198/2010, 731/2008, 73/2007, 172/2006). (...)

The application is accepted.

NΔ483/2025

1st application - Eligibility - Interim measures - Stateless - Bidoon - Kuwait - Single man - Wrong Nationality Assessment - Iraq - Mental health issues - No procedural damage if the applicants are not present in the hearing of the application for annulment - Application rejected

Administrative Court of First Instance of Athens
21st (One-Member) Chamber
Decision No: NΔ483/2025
Publication date: 30.05.2025
Judge: Alexopoulou Konstantina A.
(...)

2. (...), with the present application, the applicant requests the suspension of the enforcement of decision no. IP/48892/24.1.2025 of the 3rd Independent Appeals Committee of the Appeals Authority, which rejected his appeal no. 708569/4.11.2024 against decision no. IP/671401/21.10.2024 of the Kos Regional Asylum Office. With the latter decision, the applicant's request of 11.10.2024 for the granting of international protection status was rejected. The applicant has filed an annulment application against the contested decision before the Athens Administrative Court of First Instance, registered under no. 229/2025, which is still pending. (...)

4. (...), in the present case, the case file reveals the following: the applicant, who declared himself stateless, with Kuwait as his previous country of habitual residence, appeared on 11.10.2024 at the Closed Controlled Access Centre (C.C.A.C.) on the island of Kos and submitted an application for international protection. During the registration of his application, he stated that he does not wish to return to his country because, as a stateless person, he has no rights there, and his brother was imprisoned for participating in protests. Subsequently, a screening report dated 10.10.2024 was drawn up for the Manager of the Kos C.C.A.C., in which the applicant's estimated nationality was recorded as Iraqi. On 16.10.2024, the applicant appeared in person for a scheduled interview, which was conducted with the assistance of an interpreter in Arabic, the declared language of communication. However, (...) his application was rejected as unfounded, as his claim of being a stateless Bidoon from Kuwait was not accepted, due to contradictions noted during the interview, and a return order was issued. The applicant then filed an (...) appeal, which was also rejected, on the grounds that his claim of being a stateless Bidoon was deemed not credible. Against this decision of the Appeals Authority, he filed an annulment application citing the reasons stated in the relevant pleading, along with the present request for suspension.

5. (...), in the present application, the applicant requests the suspension of the execution of the contested decision, arguing that its execution would cause him irreparable or extremely difficult-to-remedy harm. This harm would consist in

his readmission to Kuwait, where he faces the risk of persecution due to his participation in protests in 2019. Additionally, he lacks access to medical care despite suffering from autism, has no right to vote, and receives lower wages than those offered to Kuwaiti citizens. To support his claims, he refers to and submits, among other documents, a medical certificate dated 25.11.2024 from the National Health System at the Psychiatric Clinic of the General Hospital of Rhodes, (...) according to which the applicant “suffers from autism and exhibits self-harming behaviour and uncontrollable outbursts of anger.”

6. (...), the Court, taking into account the applicant’s claims regarding the alleged risk he faces upon return to Kuwait due to his participation in demonstrations in 2019, claims which were already raised during the administrative examination of his international protection request and were rejected as not credible, and considering that these claims are not further substantiated in the present application nor refuted by the submitted evidence, finds that it has not been demonstrated that his return to Kuwait would result in irreparable or extremely difficult-to-remedy harm. Such harm would have to consist of exposure to a risk to his life, physical integrity, or liberty, or a risk of being subjected to torture or other inhuman or degrading treatment, contrary to Article 3 ECHR (see also Committee of Suspensions Council of State 103/2011, 1006/2010, 414/2009). Therefore, no grounds for suspension exist on this basis, and the applicant’s argument that Article 13 ECHR on the “right to an effective remedy” requires the suspension must also be rejected. This is because Article 13 does not require the automatic suspension of removal measures if it is examined and established by a body that provides the guarantees of independence and impartiality required under that same article, such as this Court, that there is no violation of Article 3 ECHR (see Committee of Suspensions Council of State interim orders 334/2009, 143/2007 and ECtHR judgments: *Jabari v. Türkiye*, 11.7.2000, application no. 40035/98; *Salah Sheekh v. the Netherlands*, 11.1.2007, application no. 1948/04; *Muminov v. Russia*, 11.12.2008, application no. 42502/06). In any case, Article 13 of the ECHR does not require Contracting States to provide asylum seekers with access to a remedy with an automatic suspensive effect, as the applicants incorrectly assume in this case, since such an interpretation would undermine the relevant provisions on the granting of international protection (see para. 71 of the ECtHR judgment of 5.2.2002, *Čonka v. Belgium*, application no. 51564/99). For the same reasons, the applicants’ claims regarding procedural harm in connection with the hearing of the related annulment application are also rejected, especially since they may be adequately represented in those proceedings by their legal counsel. Moreover, no other type of harm to the applicant can be presumed to be irreparable or extremely difficult to remedy if he is removed from Greece, in the event that the main legal remedy is ultimately successful. In light of all the above, the Court finds that the conditions for granting the requested suspension under paragraph 6, in conjunction with paragraph 8, of Article 52 of Presidential Decree 18/1989, are not met. (...)

The application is rejected.

NΔ850/2025

1st application - Eligibility - Interim measures - Sierra Leone - Single man - Couple - Family with minor children - Maintain family unity- Maintain stable living conditions - Best interest of the child - Risk of harm - Application accepted

Athens Administrative Court of First Instance
10th (One-Member) Chamber
Decision No: NΔ850 /2025
Date of publication: 13.11.2025
Judge: G. Kritikou Mandani

1. (...), with the application under consideration, (...), the applicant seeks, individually and on behalf of his minor child, the suspension of execution of second-instance decision IP/328330/13.6.2025 of the 19th Independent Appeals Committee, by which their appeal against decision IP/783939/2.12.2024 of the Regional Asylum Office (R.A.O.) of Samos was dismissed. By that latter decision, their applications of 16.1.2024 and 23.5.2024 for inclusion in the international protection regime were rejected. The suspension of execution is sought until the publication of a final decision on annulment application AK1183/2025, which is pending adjudication before the present Court.

2. (...), in the present case, the following emerges from the documents in the file: The applicant, who declares himself to be a citizen of Sierra Leone, as well as his minor child, who according to the parents’ declaration is also a citizen of Sierra Leone (...), submitted an application for the granting of international protection to the Regional Asylum Office (R.A.O.) of Samos on 16.1.2024, the applicant individually, and on 23.5.2024 on behalf of his minor child. (...) He is married to (...), a Nigerian citizen, who is in Greece as an asylum seeker and with whom he has a male child (...), who was born in Samos.

As regards the reasons for which he left his country of origin, he stated that after the death of his father, who was the head of the Poro society, he inherited his position. However, he refused to assume his father's position and has since been receiving threats. He fears that if he returns to his country, he will lose his life at the hands of members of the Poro society because he disobeyed their order. He also stated that the same would happen to his child if they returned to Sierra Leone. The above applications were rejected by decision IP/783939/2.12.2024 of the R.A.O. of Samos, on the grounds that a well-founded and justified fear of persecution in their persons had not been established. Against that decision, the applicant lodged an administrative appeal, individually and on behalf of his minor child, which was rejected by the contested decision. Against the latter decision, the applicant lodged an application for annulment AK1183/2025, by which he challenges its legality and seeks its annulment on the specific grounds set out in the relevant pleading. By the present application, the applicant seeks the suspension of execution of the contested decision, arguing that its execution would cause irreparable harm to himself and his minor child. In particular, he maintains, *inter alia*, that his spouse and the mother of their minor child, aged 15 months, (...), is an applicant for international protection in Greece and is awaiting the issuance of a second-instance decision by the Appeals Authority. Their forced removal from Greece would mean the violent disintegration of their family, as their minor child would be forced to be separated from his mother for an indefinite period of time, which would cause irreparable harm to his psychological well-being, while the applicant himself would be separated from his spouse. In addition, in the event of their return to Sierra Leone, his minor child would be at risk of malnutrition and would not have access to medical and pharmaceutical care services, as well as to basic vaccination. (...)

3. (...), in view of the above and taking particular account of the best interests of their minor child, now aged 18 months, which require the preservation of family unity and the avoidance of the violent disruption of the stable situation in which they are currently living, as well as separation from his mother, who has been ordered to return to a different country of origin, the Court considers that, in light of these specific circumstances, the immediate removal of the applicant and his minor child from the country, as a consequence of the execution of the contested decision, would cause them harm that would be difficult to remedy in the event that the corresponding annulment application is successful. In order to prevent such harm, and taking into account that the annulment application lodged does not appear to be manifestly inadmissible or unfounded, the Court considers that, in the present case, there is a lawful ground to order, in accordance with Article 52(8) of Presidential Decree 18/1989 (A' 8), the specific measures set out in the operative part, until the publication of a final decision on the annulment application, and that the court fee paid should be refunded to the applicant (Article 36(4), first sentence, of Presidential Decree 18/1989). (...)

The application is accepted.

EUROPEAN COURT OF HUMAN RIGHTS

A.A.H. and Others v. Greece



1st application - Admissibility - ECtHR Rule 39 - ECtHR - Afghanistan - Türkiye safe third country - Family with minor children - Harm from staying in Greece without legal documents for a long period of time - School attendance - mental health issues - Best interest of the child - Application accepted

European Court of Human Rights

A.A.H. and Others v. Greece / (no. 38776/23)

Interim Measures

Application Date: 30.10.2023

Publication Date 31.10.2023

(...)

On 31 October 2023, the Court (the duty judge) decided, in the interests of the parties and the proper conduct of the proceedings before it, to request from the Greek authorities, under Rule 39 of the Rules of Court:

- a) the accommodation of the applicants in living conditions that respect human dignity and that take into consideration their multiple vulnerabilities, and
- b) the full access of the applicants to reception conditions appropriate to their state of health, including social security, appropriate nutrition and hygiene items and cash assistance.

You are also invited to immediately inform the Court of any relevant developments, including any decision related to the applications for suspension and annulment introduced by the applicants.

The parties' attention is drawn to the fact that failure of a Contracting State to comply with a measure indicated under Rule 39 may entail a breach of Article 34 of the Convention. In this connection, reference is made to paragraphs 128 and 129 of the Grand Chamber judgment of 4 February 2005 in the case of Mamatkulov and Askarov v. Türkiye (applications nos. 46827/99 and 46951/99) as well as point 5 of the operative part.

Priority

The Court further decided to give priority to the application under Rule 41.

Anonymity and confidentiality

The Court has decided, under Rule 47 § 4, not to disclose the applicants' identities to the public. In all public documents of the Court, the applicants will accordingly be referred to by the letters of the alphabet used in the reference at the head of this letter.

In accordance with the above decision, any documents deposited with the Registry in which the said applicants' names appear or which could otherwise easily lead to their identification should not be made accessible to the public (Rule 33 § 1 of the Rules of Court) and shall remain confidential.

(...)



1st application - Eligibility - ECtHR Rule 39 - ECtHR - Sierra Leone - Single man - LGBTQIA+ - Serious illness - Risk of interruption of medical treatment - Mental health issues - Application accepted

European Court of Human Rights

S.S. v. Greece / (no. 15612/24)

Interim Measures

Application Date: 05.06.2024

Publication Date 20.06.2024

Duty Judge: Jolien Schukking

The European Court of Human Rights (...) has, on 20 June 2024, reconsidered the application.

Having regard to the information provided by the applicant, the Court decides, in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Government of Greece, under Rule 39 of the Rules of Court, to ensure until ten days after receipt by the Court of the final decision in the currently pending proceedings on the applicant's application for annulment of rejection of his asylum request:

- (a) the accommodation of the applicant in living conditions that respect human dignity and that take into consideration his vulnerability and medical condition, and
- (b) the full access of the applicant to medical care appropriate to his state of health.

The Court decides to give priority to the application under Rule 41.

The Court decides, under Rule 47 § 4, not to disclose the applicant's identity to the public. In all of the Court's public documents, the applicant will accordingly be referred to using the letters of the alphabet shown above.

Any documents deposited with the Registry in which the latter's name appears or which could otherwise easily lead to his identification should not be made accessible to the public (Rule 33 § 1) and shall remain confidential.

APPEALS AUTHORITY



1st application - Eligibility - Appeal on first instance - Somalia - Single woman - Gender-based violence - Risk of exposure to inhuman and degrading conditions - Lack of a support network in the country of origin - Subsidiary Protection granted

5th Appeals Committee 306432/2023

Date of issue: 16-06-2023

[pages 32-33] Furthermore, with regard to subparagraph (b) of Article 14 of Law 4939/2022, the Committee takes into account the following: The appellant is a woman without family or a supportive kinship network, with no particular education, unemployed, and lacking a sufficient support environment, as she has never met her father, does not know where her mother lives, and her sister now resides in Yemen. Somalia maintains conditions that are hostile to women, making it particularly difficult for the appellant, given her profile, to survive with dignity. Specifically, the Committee takes into account that, according to the international sources cited in Chapter C, women without a strong family or kinship support network, such as the appellant, are at risk, upon return to Somalia, of facing serious harassment and violations of their rights by citizens, within the context of prevailing social norms and practices. At the same time, they face significantly limited employment opportunities and extremely high unemployment rates, precisely because they are alone. Moreover, there are reports of severe discrimination against women, particularly those living alone. The above information also indicates that, nationwide, women have significantly fewer job opportunities compared to men. In fact, the few jobs available to them are not equally paid due to traditional practices and attitudes against them.

In view of the above, and taking into account the conditions the appellant would be forced to face, combined with the absence of an adequate legal framework for gender equality, the lack of measures to punish discriminatory treatment, and the absence of an effective system for the protection and integration of women with the appellant's profile, i.e. an unemployed woman with no family or kinship support network, low educational level, and lacking professional skills, the Committee finds that the appellant is at risk of being exposed to undignified living conditions in Somalia and, being in a vulnerable position without a sufficient protective network, is at risk of suffering serious harm in the form of inhuman or degrading treatment (as defined in subparagraph (b) of Article 14 of Law 4939/2022).

Finally, from the case file, it does not appear that the appellant has committed any of the crimes listed in Article 16 of Law 4939/2022, nor does she fall within any of the other exclusion grounds provided therein. Therefore, there is no basis for excluding her from subsidiary protection status under the aforementioned article.

In light of the above, the Committee finds that the conditions are met for recognizing the appellant as a beneficiary of subsidiary protection, and her application should be accepted in this respect.

Protocol No: IP/283864/ 2023



1st application - Eligibility - Appeal on first instance - Democratic Republic of Congo - Single woman - Mental health issues - Absence of health care system in the country of origin - Risk of exposure to inhuman and degrading conditions - Subsidiary Protection granted

13th Appeals Committee IP/283864/2023

Date of issue: 17/11/2023

[pages 39-40] Furthermore, the appellant, in the event of return to her country of origin, is at risk as a person suffering from mental illness, based on the state of her mental health. According to available international sources regarding the healthcare system in the Democratic Republic of the Congo and the existing shortcomings and dysfunctions it presents in the medical treatment of individuals with mental health conditions, the Committee finds that the specific circumstances to which the appellant would be subjected to upon return to the Democratic Republic of the Congo constitute essentially a deliberate denial of medical care. These conditions are sufficient to establish that she would be at risk of being exposed to treatment reaching the threshold of severity required to be considered inhuman or degrading treatment within the meaning of Article 3 of the European Convention on Human Rights (ECHR).

Accordingly, the Committee finds that the conditions for recognising the appellant as a beneficiary of subsidiary protection under Article 14(b) of Law 4939/2022 are met, and her appeal should be accepted in this respect.

Protocol No. IP/15213/2024



1st application - Eligibility - Appeal on first instance - Eritrea - Single Male - Wrong Nationality Assessment - Benefit of the doubt - Risk of exposure to inhuman and degrading conditions - Subsidiary Protection granted

5th Appeals Committee IP/15213/2024

Date of issue: 09/01/2024

[pages 13-14] In view of the above, and taking into account the statements made by the appellant both during the registration of his application and during his personal interview, as well as the fact that he is illiterate, resulting in difficulties in both describing the events and providing precise answers to the questions posed, and in light of the benefit of the doubt, the Committee finds that the appellant is of Eritrean origin, residing in Ethiopia.

[page 20] Furthermore, the Committee takes into account the appellant's claims, as assessed, international reports on Ethiopia, as well as the personal circumstances of the case under examination. It also considers the information presented in Chapter C of this decision regarding the living conditions of individuals of Eritrean origin residing in Ethiopia, as well as the appellant's personal situation: he is illiterate, lacks any work skills, is unemployed, owns no property, and has no family or broader support network in Ethiopia. Given these factors, he would be forced to live in an environment that is adverse to him due to his origin. In light of the above, the Committee finds that there is a risk that the appellant's difficulty in securing adequate living conditions in Ethiopia may fall below the minimum standard of dignified living. In addition to the aforementioned factors, due to the complete absence of a support network in Ethiopia, he lacks any form of assistance for reintegration into the country's economic and social life. As previously noted, the social environment in Ethiopia is hostile to him due to his Eritrean origin. Given these circumstances, the Committee finds that the appellant is at risk of being exposed to undignified living conditions in Ethiopia and, being in a vulnerable position and without an adequate support network, may suffer serious harm in the form of inhuman or degrading treatment (subparagraph (b) of Article 14 of Law 4939/2022). Finally, based on the contents of the file, there is no indication that the appellant has committed any of the crimes referred to in Article 16 of Law 4939/2022, nor that he falls under any of the other exclusion grounds outlined in that article. Therefore, there is no reason to exclude him from subsidiary protection status under said article.

Protocol No. IP/76725/2024



1st application - Admissibility - Appeal on first instance - Afghanistan - Single Male - Türkiye as a safe third country - Risk of harm - Residence in Greece exceeding one year - Accepted: Remittal for new examination - Eligibility - Refugee Status granted

8th Appeals Committee IP/76725/2024

Date of issue: 05/02/2024

[page 4] The above appeal was examined at the session of the present Committee on 15-11-2023 and was accepted. Specifically, by decision no. 287253/20-11-2023, the Committee held that the cumulative criteria of Article 86 of Law 4939/2022 were not met for Türkiye to be considered a “safe third country” for the appellant. Consequently, the appeal was accepted, and the decision IP/57758/11-08-2023 of the Thessaloniki Regional Asylum Office was annulled, as it was determined that the application for international protection had been validly submitted and must be examined on its merits. Furthermore, given that the appellant had not undergone an interview regarding the reasons that led him to leave his country, the substantive examination of the case was postponed by the above decision, and the appellant was summoned for an oral interview during today’s session.

[page 21] In the case under examination, the appellant claimed that, if returned to his country of origin, he would be persecuted by the Taliban, firstly because it is highly likely that he would be forced to undergo recruitment and the training imposed on those who join the ranks of the Taliban, something the appellant refuses to do, and secondly because he does not wish to follow the theocratic way of life imposed by the Taliban in the country, which includes mandatory prayer, attendance at the mosque, growing a beard, etc. In the previous chapter, the Committee accepted the claims made by the appellant. Moreover, since August 2021, the situation in Afghanistan has changed: international security forces have permanently withdrawn from the country, and the Taliban are now in power.

[page 23- 24] Based on the most recent developments in the appellant’s country of origin, the fear he expresses, stemming from the reasons mentioned above, is deemed both well-founded and justified. The persecution he risks facing is connected to his political beliefs, in the sense that he opposes the Taliban’s policies, which impose a strict way of life characterised by rigid religious rules and gender-based discrimination. Therefore, the persecution the appellant risks facing is related to one of the grounds listed in Article 1A(2) of the 1951 Geneva Convention. Specifically, regarding the objective element of the fear of harm, it is established that the Taliban government enforces this specific way of life and prohibits the expression of criticism or protest in general. As such, the appellant’s general concern for his physical integrity or even his life, in the event of return, is justified.

As for the possibility of safe internal relocation within the country, the Committee observes that this is not a reasonable option anywhere in Afghanistan, since the persecution from which the appellant is at risk originates from the Taliban government. Furthermore, the appellant belongs to a family that left Afghanistan immediately after the Taliban came to power, as his father worked for the Afghan government and the United Nations High Commissioner for Refugees (UNHCR), and his mother operated a workshop providing sewing and hairdressing lessons. These circumstances collectively form characteristics that make him stand out and attract attention more easily than the average citizen of his country. This increased “visibility” of the appellant’s presence, in combination with the rise of the Taliban to power, are, in the Committee’s view, reasons that significantly increase the risk of harm to the appellant, to the extent that it reasonably constitutes persecution within the meaning of the Geneva Convention. In this case, the agents of persecution are state actors, specifically, the new Taliban government.

In summary, the Committee considers that the criteria required by the 1951 Convention for recognising refugee status are met in the appellant’s case. Finally, there is no indication in the case file, including in the appellant’s own claims, of any circumstances that would justify his exclusion from refugee status under the exclusion clauses of Articles 1D, 1E, or 1F of the 1951 Refugee Convention, or under Article 11 of Law 4939/2022.

Protocol No. IP/81746/2024



Subsequent asylum application - Admissibility - Appeal on first instance - Somalia - Single man - Türkiye as a safe third country - Türkiye not accepting readmissions from Greece - New and substantial evidence - Accepted: Remittal for new examination

18th Appeals Committee IP/81746/2024

Date of issue: 13/12/2024

[pages 9-14] Furthermore, in the present case, as evidenced by the contents of the file, the appellant appeared at the Reception and Identification Centre (RIC) of Ioannina on 11-06-2024 and submitted a subsequent application for international protection. During the registration of the subsequent application, he was asked to indicate whether new reasons had arisen, not mentioned in his previous application, that would justify his belief that Türkiye does not constitute a safe country for him.

The appellant stated: "in Türkiye, I experienced racism and had no one to help me. They called me ugly. When I arrived, a police officer pushed me, hit me, and spoke to me aggressively. Additionally, a woman kept me in her house by force and made me clean and work for her. I had mentioned these things in my previous application, except for the fact that this woman was keeping me there illegally. I didn't mention it because I didn't know it was important to explain."

From the case file, it emerged that the appellant initially submitted an application for international protection on 28-09-2023, which was rejected as inadmissible by the first-instance decision no. IP/271182/13-11-2023 of the Samos Regional Asylum Office, in accordance with Article 89 of Law 4939/2022. This decision was served electronically to the appellant on 14-12-2023 by the Rhodes Regional Asylum Office. The appellant lodged an appeal against the above decision (...), which was rejected by the second-instance decision no. IP/149490/4-3-2024, as Türkiye was deemed a "Safe Third Country" for the appellant (...).

During the preliminary examination of the subsequent application submitted on 11-6-2024, and with regard to the existence of new and substantial elements relevant to the assessment of Türkiye as a Safe Third Country under Article 89 of Law 4939/2022, it was found that: in his initial application, the applicant stated that he left Türkiye due to difficulties in living conditions and finding employment, and that he does not wish to return to his country of origin, Somalia, for safety reasons. People are killed every day, and his father was one of them. During the interview, he claimed that he left Türkiye and cannot return there because, during his stay, he was treated poorly, faced discrimination, received no assistance, did not know how to apply for asylum, and the information he had about Somali asylum seekers discouraged him from doing so. He also stated that Türkiye is not a good country for him to live and work in. Regarding his ties to Türkiye, the applicant stated that he has no family members, relatives, friends, or acquaintances in the country. He lived with an elderly woman who has since passed away, and he did not work while there.

His application was rejected as inadmissible at first instance, as the conditions set by law for Türkiye to be considered a "safe third country" for the specific applicant were cumulatively met, in accordance with Article 91 of Law 4939/2022. In the appeal submitted on 03-01-2024, along with the supporting memorandum, the appellant argued that Türkiye is not a safe third country for him personally, as he fears he will not have access to asylum or employment, is at risk of deportation at any time, and has not developed any ties during his stay there. During his brief stay in Türkiye, he lived, with his mother's knowledge, with an elderly woman whom he helped with her daily needs. She did not assist him in applying for a kimlik (residence permit) and kept his passport until he managed to retrieve it and leave for Izmir and then for Greece. The above application was rejected at the second instance.

In his subsequent application for international protection submitted on 11-06-2024 before the Reception and Identification Centre of Ioannina, the appellant stated that he does not wish to return to Türkiye, as he experienced racism there and had no one to help him. People called him ugly and denied him assistance. He also stated that when he arrived, a police officer pushed him, hit him, and spoke to him aggressively. Additionally, a woman kept him in her home by force and made him clean and work for her. The Service determined that these claims had already been examined and assessed in the first-instance decision no. IP/271182/13-11-2023 of the Asylum Service and the second instance decision no. IP/149490/4-3-2024 of the Appeals Authority, and therefore do not constitute new elements. As a result, the current application was rejected as inadmissible. The present appeal is now being lodged against that decision.

Moreover, following the postponement of a final decision under decision no. IP/727701/11-11-2024 of the present Committee, in order for the competent department of the Asylum Service to submit a report pursuant to Article 37(3)

of Law 3907/2011 with all available relevant information regarding Türkiye's practice on readmissions from Greece, the Asylum Service submitted its observations on 27/11/2024, according to which the contested decision is lawful.

Because the Committee takes into account that Türkiye is included in the National List of Safe Third Countries for applicants whose country of origin is Syria, Afghanistan, Pakistan, Bangladesh, or Somalia, which was established pursuant to Article 86(3) of Law 4646/2019 by the aforementioned Joint Ministerial Decision of the Ministers of Foreign Affairs, Migration, and Asylum. However, as mentioned above, a necessary condition for the application of the provisions on safe third countries is, according to Article 91(5) of Law 4939/2022, that the safe third country of transit must allow the applicant, in principle on the basis of a specific readmission agreement, to return to its territory. This condition must be assessed, according to the interpretive standards outlined above, at the time the decision on the international protection application is issued.

Furthermore, the concept of a new substantial element that renders a subsequent application admissible also includes the objective impossibility of readmitting the applicant for international protection to the safe third country, due to that country's refusal to accept the applicant into its territory. Specifically, when, at the time of examining a particular application for international protection, it is certain, due to the general practice of a country, or its practice toward specific categories of individuals, or even toward the individual applicant, that the country will not accept the applicant's entry into its territory, and it cannot reasonably be assumed that this stance will change in the near future, then it must be accepted that the application in question cannot be rejected as inadmissible on the grounds that the said country constitutes a "safe third country" for the applicant. This holds true even if the country meets the substantive criteria set out in Article 38 of Directive 2013/32/EU and Article 86 of Law 4636/2019.

In the present case, Türkiye has indeed undertaken the legal obligation to accept, under certain conditions, the readmission from Greece of foreign nationals applying for international protection (see Article 8 of the Agreement of 20 January 2000 between the Hellenic Republic and the Republic of Türkiye, ratified by Article One of Law 2926/2001 (Official Gazette A' 139), for the implementation of which the Protocol of 8 November 2001 was drawn up and ratified by Article One of Law 3030/2002 (A' 163); Article 4 of the Agreement of 10 December 2013 between the European Union and the Republic of Türkiye on the readmission of persons residing without authorization, which was ratified on behalf of the Union by the Council Decision of 14 April 2014 (OJ L 134); the Joint Action Plan of 15 October 2015 between Türkiye and the European Union; its activation on 29 November 2015; and finally the EU–Türkiye Statement of 18 March 2016, which states, among other things, that all new irregular migrants arriving on the Greek islands via Türkiye from 20 March 2016 onwards will be returned to Türkiye, provided they do not apply for asylum or their application is rejected as unfounded or inadmissible by the Greek authorities - (see Council of State (Plenary) Decision 177/2023, para. 41).

Furthermore, from the information outlined in the above paragraphs, it appears that the readmission of the appellant to Türkiye is not practically feasible due to Türkiye's refusal, since March 2020, to accept irregular migrants from Greece onto its territory. The Turkish authorities cite COVID-19-related movement restrictions as the reason for this refusal. However, given that these restrictions do not make the return of such individuals impossible (notably, refugee relocations from Türkiye to EU countries continue), and considering the significant time that has passed since the onset of the pandemic as well as the WHO's declaration of its end on 5 May 2023, and the fact that restrictive measures have already been lifted, it is likely that these reasons are being used as a pretext by Türkiye. In reality, Türkiye's refusal may be linked to disputes between the two sides concerning the implementation of mutual obligations under the aforementioned EU-Türkiye Joint Statement, as well as broader political differences between them. Moreover, there is no evidence in the case file or other available information to the Committee suggesting that Türkiye's longstanding position is likely to change in the near future. In this case, given Türkiye's above-mentioned practice and in order to ensure the practical effectiveness of the provisions of Directive 2013/32 (the purpose of which is to guarantee real, easy, and swift access to the international protection procedure), it is not necessary, for the application of Article 91(5) of Law 4939/2022, for the appellant to invoke an explicit refusal from the Turkish authorities regarding a specific readmission request. This is both because such requests are no longer submitted by the Greek authorities to Türkiye on an individual basis, in view of Türkiye's known lack of cooperation in the matter of readmissions, and because, based on the information mentioned above, it is considered certain that Türkiye will not allow the appellant to enter its territory, and there is no indication that this stance will change in the foreseeable future.

Given these circumstances, the Committee finds that the appellant's application must be deemed admissible and examined on its merits in accordance with the provisions of Article 91(5) of Law 4939/2022. Consequently, the contested decision, which ruled otherwise, is unlawful in this respect and must be annulled. However, since the appellant has not yet undergone an interview regarding the reasons that led him to leave his country of origin, the Committee considers it necessary to postpone the examination of the merits of the case and to summon the appellant for an oral hearing.

Protocol No. IP/94488/2025

Subsequent asylum application - Eligibility - Appeal on first instance - Somalia - Single man - Persecution due to membership in a particular social group - Ethnic minority - Application rejected

18th Appeals Committee

Date of issuance: 12/02/2025

(...), from the elements of the administrative file, the following emerge: The appellant submitted a subsequent application before the Ioannina Regional Asylum Office (RAO) on 11/6/2024, requesting the granting of international protection. Subsequently, by decision no. 405944–5/7/2024 of the aforementioned RAO, the said application was rejected as inadmissible, in accordance with Article 94(2) of Law 4939/2022. The above rejection decision was served on the appellant on 17/7/2024 via electronic mail. Against the above rejection decision, the appellant lodged, on 24/7/2024, the present administrative appeal before the Appeals Authority, requesting the re-examination of his application for international protection. By filing act no. 447090 of 24/7/2024, the hearing date of the case was set for 28/8/2024 before the 18th Independent Appeals Committee.

Subsequently, by decision of the 18th Committee dated 13/12/2024, the examination of the above case was adjourned to 2/1/2025, and the appellant was summoned on the same date for an oral hearing before the competent Committee; consequently, his application was deferred for examination on the merits. From the minutes of the oral hearing conducted on 2/1/2025, the completion of the oral examination of the appellant is certified. (...)

(...), the appellant's factual allegations regarding his targeting by Al-Shabaab were not accepted at the assessment stage. Consequently, the question of his inclusion under refugee protection status on the basis of these allegations does not arise, and his fear is not considered well-founded or justified. Whereas, furthermore, as regards the risk of persecution of the appellant due to his membership in the particular social group of persons belonging to the minority clan Madhiban, which belongs to the broader clan group Gaboye, and as a victim of human trafficking from Somalia to Turkey, the Committee finds, as was accepted at the assessment stage, that the appellant did not refer to any specific incident from which it could be inferred that he was targeted or subjected to discrimination due to his clan. Consequently, the claim that he left his country due to clan-based discrimination is not accepted.

Furthermore, from the available information, it does not emerge that all members of the Madhiban clan face the same risk of discrimination, particularly of such severity as to amount to persecution. Moreover, although the appellant belongs to this minority group, it is not considered likely, in view of his personal circumstances (adult, healthy man with prior residence and a family network in the area), that he would be exposed to a real risk of serious harm or persecution solely for this reason. Consequently, the question of his inclusion under refugee protection status on this ground does not arise. Finally, neither can it be inferred from the appellant's allegations nor, in light of his personal circumstances, considered reasonably likely that the appellant would become a victim of human trafficking in the event of his return to Somalia. Therefore, the appellant's fear is not considered well-founded or justified.

(...), consequently, the Committee decides that the appellant does not fall within the refugee status of Article 1A(2) of the Geneva Convention, rejecting as unfounded all claims to the contrary.



1st application - Eligibility - Appeal on first instance - Morocco - Safe country of origin - Single male - Physical disability - Lack of a support network in the country of origin - Risk of serious harm - Subsidiary Protection granted

10th Appeals Committee IP/88371/2025

Date of issue: 11/2/2025

[pages 26-28] Given the above, the Committee takes into account, according to the information presented in a previous paragraph, that the appellant's country of origin has a public healthcare system and has achieved progress in recent years, such as universal health coverage and improvements in health indicators, which reflect advancement. This is despite the fact that strengthening the system remains necessary, including addressing resource inequalities, increasing funding and workforce capacity, managing non-transmittable diseases, adopting digital technologies, and focusing on prevention. These recent steps may pave the way for an effective, inclusive, and patient-centred healthcare system in Morocco. Furthermore, in the appellant's country of origin, discrimination against persons with disabilities is prohibited in employment, education, and access to healthcare.

However, the Committee takes into account: (a) the appellant's state of health following a very serious injury sustained at the Greek-Turkish border, as a result of which he underwent a partial colectomy, partial gastrectomy, and colostomy, and received treatment at the General Hospital of Didymoteicho and the General Hospital of Kavala; (b) that in addressing these issues, he is receiving psychosocial support services from a psychologist at the Kavala Reception Facility, where he resides, as a case of "high medical vulnerability;" (c) that, according to the medical report dated 25-07-2024 from the Kavala Rehabilitation Center "Lydia," the appellant is following an outpatient rehabilitation program that includes physiotherapy, kinesiotherapy, and a strengthening program due to incomplete paraparesis following a spinal cord injury. At the start of treatment, the patient showed reduced muscle strength in the lower limbs, which has gradually improved over time with the help of physiotherapy. At present, the patient is able to walk using a forearm crutch and requires an ankle-foot orthosis on the left lower limb to ensure safe and independent mobility. The patient continues the rehabilitation program with the goal of further strengthening his lower limbs and currently attends 2 to 3 rehabilitation sessions per week, with a total of 16 sessions so far; (d) the short time that has passed since the incident (8-6-2023) that caused his severe injury, and the fact that the rehabilitation program aimed at further strengthening his lower limbs has not yet been completed; (e) that, according to the information provided, despite institutional progress, Morocco continues to face significant challenges in fully upholding its human rights commitments in the area of disability. This is mainly due to longstanding issues and obstacles, namely: (i) the negative social perceptions that stigmatise persons with disabilities; (ii) the insufficient integration of a rights-based approach in the implementation of public policies; and (iii) the low level of coordination among various sectors, both at the national and local levels; (f) that the appellant, as emerged from his testimony with sufficient coherence, does not have a support network in his country of origin, as he is unmarried with no children, his parents are deceased, and his siblings reside outside the country. As a result, there is no network that could provide any assistance upon his return to help him cope with the hardships of daily life, at least during the initial period following his return. These hardships are further exacerbated by his current health condition, at least until full recovery is achieved, as well as by the need to adapt to life in his country of origin under the constraints imposed by his health situation.

In light of the above, the Committee finds that the appellant faces a well-founded and justified risk, in the event of return to his country of origin, of being subjected to inhuman or degrading treatment within the meaning of point (b) of Article 14 of Law 4939/2022, due to the cumulative effect of the aforementioned circumstances. Therefore, the conditions for recognising the appellant as a beneficiary of subsidiary protection are met, and his application should be accepted in this regard. Finally, based on the above facts and all the elements in the case file, there are no grounds for excluding the appellant from subsidiary protection.



1st application - Eligibility - Appeal on first instance - Cameroon - Single mother with minor child
- Gender-based violence - Persecution due to membership in a particular social group - SGBV -
Risk of serious harm - Refugee Status granted

8th Appeals Committee IP/247273/2025

Date of issue: 5/5/2025

[pages 23-24] In the present case, the appellant's claims were accepted in the previous chapter, namely that she had been married to a man who was the leader of a terrorist gang and who raped, tortured, and injured her with a broken bottle in the lower part of her abdomen. Although the appellant managed to escape at one point, he later found her, kidnapped her, and held her for a week, during which he tortured her. She left her country because of the sense of insecurity she felt. Taking these facts into account, in combination with the information presented regarding the extent of gender-based violence in the appellant's country of origin, as well as the actual state protection available to women who become victims of such violence, that is, the conditions, prevalence, and proportion of women who are victimized due to their gender in Cameroon, the Committee finds that the appellant belongs to a particular social group. This group is defined both by the shared characteristic of being women who are victims of gender-based violence and by the potential persecution they may face in the future, consisting of threats to their life, freedom, privacy, and security.

The appellant's situation is rendered even more difficult by the fact that she is the mother of a minor child who was not fathered by her husband. Although Cameroon has criminalised violence against women, as previously mentioned, the legal framework remains incomplete, and its implementation is inadequate. In any case, the overwhelming percentage of women who fall victim to gender-based violence highlights the vulnerable position in which most women in Cameroon continue to find themselves, despite the existence of protective legislation. This is due to the influence of external institutional factors, such as prevailing cultural norms and societal attitudes, that work against them. Moreover, the Committee considers that the experiences the appellant has endured have caused severe psychological trauma and, for this reason, constitute "exceptional circumstances" that would justify recognising her as a refugee, even if there were valid grounds to believe that the past persecution or serious harm might not be repeated.

Consequently, in this case, there exists a well-founded fear of persecution of the appellant on grounds related to her membership in a particular social group, with the agent of persecution being her abovementioned husband, from whose threatening behaviour she cannot receive adequate State protection. Moreover, the risk of persecution could not be mitigated by relocating the appellant to another area of her country, as she is a single woman, the mother of a child born out of wedlock, without resources, property, or an adequate support network in that country. Therefore, she is a person who, in light of the above, may easily become socially isolated or targeted in any region of her country. Finally, there is nothing in the case file, including the appellant's own statements, that indicates the existence of circumstances warranting her exclusion from refugee status under the exclusion clauses of Articles 1D, 1E, and 1F of the 1951 Convention Relating to the Status of Refugees.

In light of all the above, the Committee finds that a well-founded and justified fear of harm is established in the event of the appellants' return to their country of origin. The cumulative requirements of the 1951 Geneva Convention for granting refugee status are met, and therefore, the applications for international protection submitted on 07-08-2023 and 12-12-2023 should be accepted

OMBUDSMAN COMPLAINTS

Access to data in the administrative file relating to nationality assessment

1st Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - 1st Letter of the Greek Ombudsman on the subject - Subject of complaint to the Greek Ombudsman: Access to data in the administrative file relating to nationality verification

Athens, 20/12/2023

Subject: Access to data in the administrative file relating to nationality assessment

The Ombudsman, within the framework of its mandate, examines a complaint (file No.345603) submitted on 11/12/2023 by lawyer A. K. on behalf of her client, Ms M.H., regarding the failure to access data in her administrative file.

1. The complainant, with case no. (...) and folder ID (...), claims to be a citizen of Eritrea. According to the nationality assessment report dated 26-07-2023, following the procedures carried out, her estimated nationality is Ethiopian. Her nationality is also recorded as Ethiopian in the Personal Information Registration Form no. IP/2023/32743 dated 26-07-2023 and in the Unified Registration Form no. IP/2023/36258 dated 28-07-2023. Subsequently, decision no. IP/173318 dated 06-10-2023 of the Lesbos Regional Asylum Office rejected the application for international protection as unfounded and did not accept her claim of being a citizen of Eritrea.

In view of lodging an appeal against the first instance decision, the lawyer, on 01/11/2023, submitted a request to the Closed Controlled Access Centers (C.C.A.C.) for copies of the administrative file maintained for her client and, specifically, "copies of the written questions and the corresponding answers based on which FRONTEX or the Hellenic Police verified her nationality and it was assessed that her nationality is different from the one she declares. In the event that such a record is not kept, I would like to receive a written response stating that no such file with the questions and answers used in the nationality assessment process is maintained."

On 3/11/2023, she was granted by Lesbos C.C.A.C., inter alia, the Screening Report.

It states:

-Estimated Citizenship after screening: ETHIOPIA - Justification: RESULTED FROM THE IDENTIFICATION PROCEDURE - Applicant's statement: ADHERES TO INITIAL DECLARATION.

The report is signed on behalf of the Identification and Nationality Assessment Unit by the responsible officer, the interpreter, and the applicant. However, no document was provided to the lawyer containing the questions posed to the applicant during the nationality assessment process and her answers. In a phone conversation she had with the C.C.A.C. of Lesbos, the response was that the C.C.A.C. does not have access to the nationality assessment interviews conducted by Frontex.

2. The Greek Ombudsman notes that, according to the law, the "Identification and Nationality Assessment Unit" is responsible, inter alia, for recording the personal data of third-country nationals, verifying their identity and nationality, completing the screening form, and producing the nationality assessment report (generated by the electronic application - YPY1x4), which the competent officer then transmits to the Director of the Reception and Identification Center (RIC). Additionally, "Identity details and nationality are determined based on the original passport, identity card (...). In the absence of such documents, the identity details are recorded based on the declaration of the newly arrived individual".¹

It is also stipulated that the personnel of the European Border and Coast Guard Agency are assigned to support the operations of the C.C.A.C.I., and specifically the "Identification and Nationality Assessment Unit," which is headed by

¹Article 41 of Law 4939/2022, Article 3 paragraph 2a, Article 5 paragraph 1, and Article 14 of the Operating Regulation of the RICs, no. 1/7433/15-4-2019 (Government Gazette B' 2219), "General Operating Regulation of Reception and Identification Centers and Mobile Reception and Identification Units"

an officer of the Hellenic Police.² The head of the Unit “specifically supervises the conduct of the identification and nationality assessment procedures and guides the personnel in the performance of their duties”.

3. From the above, it follows that after the nationality assessment (“screening”) procedures are carried out by the competent Unit, the nationality assessment report is signed and delivered to the Head of the C.C.A.C.. It also follows that a screening form is completed. The completion of this form, as well as the outcome reflected in the assessment report, necessarily presupposes that questions are posed to the newly arrived foreign national, with the assistance of an interpreter. These questions and the answers provided by the newly arrived individual must, at the very least, be recorded, even in summary form, either in the screening form or in some form of transcript or record.

Furthermore, it follows that any action carried out within the R.I.C. and C.C.A.C. for the purpose of nationality assessment falls under the responsibilities of the Identification and Nationality Assessment Unit, which is headed by the Hellenic Police. The authority of this body is not affected by the fact that Frontex personnel also participate in the procedure, as such personnel, according to the law, has been assigned to support the competent Unit.

4. At the same time, the nationality details, which are initially recorded during the assessment procedure, may be changed, under Article 84 of Law No. 4939/2022, only by decision of the Head of the Receiving Authority, following an assessment of the competent officer, if during the asylum interview the applicant makes a relevant statement and it is established that these details have been recorded incorrectly. Therefore, for the applicant to evidence the change of nationality, they must have access to all documents related to the screening process, which are automatically included in the administrative file kept by the Reception and Identification Service (R.I.S.). In fact, it is reasonably expected that the relevant Regional Asylum Office (R.A.O.) will also have access to these data, since the registration form of the application for international protection, as a unified form, is completed by the staff of the Reception and Identification Service (R.I.S.).

5. In this context, the applicant's access to the document in which the questions and answers from the nationality assessment procedure are recorded, whether this is the screening form or another transcript that is prepared, may be critically important for the success of the application for international protection in cases such as that of the person concerned. Moreover, it constitutes a prerequisite for exercising her right to an effective appeal against the first instance decision.³

In light of the above, we kindly request that the Lesvos Police Administration and the Administration of the CCAC provide their views on the matter, as well as inform us of the actions they intend to take regarding the request of the person concerned.

² See Articles 2 and 4 of Ministerial Decision No. 25.0/118832 "General Operating Regulation of the Closed Controlled Island Facilities" (Government Gazette B 3191), dated 20/07/2021

³ Article 13 of the European Convention on Human Rights (ECHR), and Article 47 of the Charter of Fundamental Rights of the European Union.

2nd Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - Response of Lesvos C.C.A.C.
Subject: Access to data in the administrative file relating to nationality assessment

Mytilene, 17/10/2024

Subject: Access to data in the administrative file relating to nationality assessment

Following the aforementioned reference letter, the following are clarified due to competence:

According to paragraph 7 of Article 55 of Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard: “ The statutory staff to be deployed as members of the teams shall be able to perform, in accordance with Article 82, the following tasks requiring executive powers, in accordance with the profiles of staff and relevant training::

(a) the assessment of the identity and nationality of persons, including consultation of relevant Union and national databases(...).”.

Under paragraph 1 of Article 3 of Decision No. 553695 (Government Gazette 7533B/31-12-2023) of the Secretary General of the Reception of Asylum Seekers “The Director of the Closed Controlled Access Centers is the head of the Administrative Care, Medical Control, Psychosocial Support and Information Units and has the general supervision of the operation of the C.C.A.C.. More specifically, the Director has the following responsibilities: (...) shall be informed by the Head of the External Policing and Security and Identification and Nationality Screening Units on matters within his/her competence”.

It can be concluded from the above, that the third stage of the reception and identification procedures "Registration and Medical Check", which includes, inter alia, the assessment of the identity and nationality of the Third Country Nationals/ Stateless (Article 41 of Law No. 4939/2022) is carried out by the Identification and Nationality Assessment Unit staffed by Hellenic Police personnel, assisted by personnel of FRONTEX.

The conclusive findings of this stage shall be indicated in the relevant screening report, reflected in the full registration form of the application for international protection and in the identification documents issued in this regard. In particular, the procedure of assessment of nationality constitutes part of a procedure (reception and identification) which, as a rule, leads to the submission of an asylum application and the issuance of an identification document, the details of which may be revised at the request of the applicant on the legal basis of Article 84 of Law No. 4939/2022 (A' 111) according to which “1. Applicants' identity information can be obtained from their passport, their identity card, if it contains their full date of birth, or their birth certificate, if they were born in Greece. By decision of the Head of the Asylum Service, other types of documents may be accepted.

2. In the absence of these documents, the identity information shall be recorded on the basis of the applicant's statement at the time of registration of the application for international protection.

3. The identity information may be modified by decision of the Head of the competent Receiving Authority upon request of the applicant for international protection, accompanied by original documents under para 1, unless the change concerns obvious typing errors or errors obviously due to the transfer of other alphabets to the Latin alphabet, in which case a simple request by the applicant for international protection shall suffice.

4. Exceptionally, the information on nationality and place of birth may be modified by decision of the Head of the Receiving Authority, after an opinion of the competent officer, if during the interview under Article 82 of this Code, the applicant makes a statement to this effect and it is established that this information has been incorrectly recorded. Similarly, in exceptional circumstances, the identity information may be modified if valid and serious reasons are provided during the interview as to why the applicant did not initially declare his/her true identity. The year of birth shall be modified after an age assessment procedure has been carried out in accordance with Article 80 of this Code, unless the interview reveals that the applicant registered as an adult is obviously a minor, in which case a decision of the Head of the competent Receiving Authority after an opinion of the competent officer shall suffice.

5. The procedure for modifying the data referred to in para 3 and 4 shall in no case constitute: a) a reason for delaying the examination of the application or appeal; or b) a reason for postponing the interview of the applicant.

6. In the event that it is established that there is a need to modify the information under para 4, at the stage of examination of the appeal, in accordance with Article 102, the modification shall be made by the decision of the Independent Appeals Committee. Thereafter, the Administrative Director of the Appeals Authority shall inform the Directorate for Information and Communication of the Ministry of Migration and Asylum by any appropriate means in order to take the necessary actions. The need to modify the information referred to in para 4 shall in no case constitute grounds for postponement or referral to the first instance procedure.

7. Exceptionally, in the case where the need to modify the information under para 1, is established after the granting of international protection status or the issuance of a final rejection decision, the modification in accordance with the provisions of para 3 may be made by decision of the Head of the competent Decision Authority."

3rd Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - 2nd Letter of the Ombudsman after having received more complaints

Athens, 26/01/2024

The Ombudsman has received complaints, file numbers 345915, 345917, and 346566, submitted by Ms M. U., Ms M. M., and Ms V. Ch., a lawyer, on behalf of her clients, Mr A. A., Mr R. H., and Mr H. D., concerning the procedure for verifying their nationality.

In particular,

1. The complainant, Ms M. U. (file No. [...] and case No. [...]) informed us with her complaint that she arrived in Lesbos on 15 September 2023 and filed an application for international protection. She was registered by the Greek authorities on 20 September 2023 and stated that she is an Eritrean citizen. According to her, she was born in Eritrea, and a birth certificate had been issued. Her parents were also Eritrean citizens, and the family had lived in Eritrea for two years before fleeing to Ethiopia for safety reasons. As stated, she never had any Ethiopian documents. According to the information in the complaint, during the 5-minute interview conducted by the officials responsible for verifying her nationality, she was not asked any questions to verify her nationality, nor did she receive any documents or transcripts related to the interview. Subsequently, as stated, on 27 November, she was summoned for a personal interview by Lesbos R.A.O.. The person in charge stated that the Asylum Service believes she is an Ethiopian citizen and did not ask her any questions to verify her nationality.

2. The complainant, Ms M. M. (file No. [...] and case No. [...]), informs that she arrived in Lesbos on 15 September and filed an application for international protection. She was registered by the Greek authorities on 20 September 2023 and stated that she is an Eritrean citizen. As stated, she was born in Eritrea, and a birth certificate had been issued. Her parents were also Eritrean citizens, and the family had lived in Eritrea for four years before fleeing to Ethiopia for safety reasons. As stated, she has never had any Ethiopian documents. According to the information in the complaint, her registration document indicates her second nationality as Afghan and estimated nationality as Ethiopian. According to her, during the 5-minute interview with the officials responsible for verifying her nationality, she was not asked any questions to verify her nationality and did not receive any documents or transcripts related to the interview. Thereafter, as stated, on 28 November, she was invited to a personal interview by the RAO of Lesbos. At the beginning of the interview, she stated that she had been a victim of rape in Ethiopia. Her case worker stated that, according to the information in her file and the FRONTEX assessment report, the asylum service believed she was an Ethiopian citizen and asked her if she agreed to continue the interview on the basis that she was an Ethiopian citizen. Following her refusal, it is reported that she was not asked any questions in order to verify her nationality.

3. Ms V. CH., a lawyer, reports three cases of her clients, asylum seekers - who are registered by the R.I.S. as Ethiopians or Sudanese, while they themselves declare that they are Eritrean citizens - as follows:

a) Mr. A A, (file no. (...)), on 24/02/2023, gave an interview for the assessment of his nationality by the Identification and Nationality Assessment Unit of Lesbos C.C.A.C.. After this, assessment report No. 490904/24.02/2023 was issued, which contains a field "Declared Nationality", where Eritrea is indicated and a field "Estimated Nationality", where Ethiopia is indicated. The lawyer then requested the "screening form," which is distinct from the "screening report." However, the response received from Lesbos R.I.S., with protocol no. 512356/20.11.2023 states that "the Reception and Identification

Service cannot contribute as it is not competent.” As stated, the above Report was included into the initial decision of the Asylum Service, which rejected his application for international protection.

b) With regard to Mr. R. H., (file. No (...)), the same factual elements as in the aforementioned case are described by his lawyer, i.e., the statement of the person concerned that he is an Eritrean citizen, but an indication in the Assessment Report of 04/07/2023 that his “Estimated Nationality” is Ethiopian. In this case, a rejection decision was made on the asylum application in the first instance, which included the Assessment Report. The screening form was not given to the lawyer who had made the request.

c) Exactly the same happened with Mr. H. D. (ref. no. (...)), the only difference is that the “Estimated nationality after assessment” is that of Sudan. In this case, the requested “screening form” was also not provided.

At this point, we would like to highlight that we have received a similar complaint in the recent past (file No. 345603/11.12.2023) and addressed it to you in a letter with reference No. 345603/62898/20.12.2023.

In this document we highlighted that, based on the legislation, the “Identification and Nationality Assessment Unit” is responsible, inter alia, for the registration of the personal data of third-country nationals, the assessment of their identity and nationality, the registration and completion of the screening form and the issuance of the screening report and its transmission by the competent screener to the Director of the R.I.C.. In addition, “Identity and nationality data are obtained from the original passport, the identity card. In the absence of these documents, the identity data shall be recorded on the basis of a statement by the person concerned”.¹

It was also emphasised that FRONTEX staff have been deployed to support the operations of the C.C.A.C.I., and in particular, the identification and assessment unit, which is led by a Greek police officer.

As stated above, it is evident from the above that during the procedure, a screening form must be completed, which requires the newly arrived foreigner to answer questions with the assistance of an interpreter.

At the same time, nationality can be modified in accordance with Article 84 of Law No. 4939/2022, only by the decision of the Head of the Receiving Authority, if the applicant makes a relevant statement during the asylum interview. Therefore, the access of the persons concerned to the screening form or to a transcript recording the questions and answers during the assessment procedure is of vital importance for the success of the application for international protection in cases such as those of the persons concerned and is a prerequisite for the exercise and support of an effective remedy against negative first instance decisions.

In response to the above observations and the relevant questions addressed to the Authorities regarding the procedure followed and access to the screening form, we have received a letter from the Director of the Reception and Identification Service, No. 19656/17.1.2024. This document outlines the relevant legislation, but does not address our specific questions.

For this reason, we revisit our request and ask you to inform us about the screening procedure followed in the cases of the complainants, specifically whether the required screening forms were completed, and to allow access to them by the interested parties.

¹Article 41 of Law 4939/2022, Article 3 paragraph 2(a), Article 5 paragraph 1, and Article 14 of the Operating Regulation of the RICs, no. 1/7433/15-4-2019 (Government Gazette B' 2219), titled "General Operating Regulation of Reception and Identification Centers and Mobile Reception and Identification Units.

4th Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - New response from Lesvos C.C.A.C.
Subject: Access to data in the administrative file relating to nationality verification.
from the Assistant Ombudsman

Mytilene, 13/02/2024

Subject: Access to data in the administrative file relating to nationality assessment

Following the aforementioned reference letter, the following are clarified due to competence:

During the nationality assessment procedure for the mentioned third-country nationals, the provisions outlined in the Director of the Reception and Identification Service's document No. 19565/17.01.2024 were applied in their entirety. As stated therein, all the conclusive findings of the nationality assessment stage are indicated in the relevant screening report, are reflected in the full registration form of the application for international protection and in the identification documents issued in this regard; all the above documents, which are separate documents of the administrative file of each individual, are fully accessible to the complainant after submitting a request for copies.

5th Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - 3rd Letter of the Ombudsman
Subject: Access to administrative documents of the nationality verification procedure.

Athens, 07/03/2024

Subject: Access to administrative documents of the nationality assessment procedure.

About:

Dear Sir/Madam,

The Greek Ombudsman, within the scope of its mandate, is examining six complaints submitted by eight individuals who identify themselves as Eritrean nationals, concerning their inability to access elements of their administrative file related to the assessment of their nationality by the Identification and Nationality Assessment Unit of the C.C.A.C. Lesvos.

These are the applicants with the following details: (a) case No. (...) - Folder ID (...), (b) case No. (...) - Folder ID (...), (c) case No. (...) - Folder ID (...), (d) Folder ID (...), (e) Folder ID (...), f) Folder ID (...) regarding these complaints, the Ombudsman has sent two official letters to the CCAC Lesvos and the Lesvos Police Directorate.

Additionally, two other complaints with similar content are under examination, submitted by h) the applicant, Folder ID (...), case no. (...), and z) the applicant, Folder ID (...).

1. The Administration of the R.I.S responded to the Ombudsman's letters, on the one hand citing the relevant legal provisions (ref. no. 19656/17.1.2024), and on the other noting that the individuals concerned have access to all documents containing "the certified findings of the nationality assessment stage" (ref. no. 55249/13.2.2024). At the same time, the Lesvos Police Directorate provided documents recording the details of the individuals concerned (Personal Data Registration Forms and Unified Registration Forms).

2. In the documents which the individuals concerned currently have access to, specific fields are filled in regarding the declared and the estimated nationality. However, none of these documents indicate whether an interview was conducted for the purpose of nationality assessment, nor whether any transcript or record was kept during that interview, based on which the competent Unit reached a conclusion different from the declared nationality. The issue raised in the complaints

is not about access to documents that merely contain the “certified findings” of the nationality assessment process, but rather access to those that evidence the process itself, specifically, in cases where no passport or other identification document is available, to the transcripts or records that were drawn up, recording the questions posed by the officers of the Unit and the answers provided by the individuals concerned regarding their nationality.

3. The Ombudsman notes, also in his interventions to the C.C.A.C. and the Lesvos Police Directorate, that, according to the provisions defining the responsibilities of the Unit, the nationality assessment report is signed after the “screening” procedures have been carried out and a screening form is completed. Therefore, the outcome reflected in the nationality assessment report presupposes a procedure, which must be recorded either solely in the screening form or also in an interview transcript. Furthermore, based on the same provisions, the Identification and Nationality Assessment Unit is supported in its operation by officers from Frontex.¹ Their actions, therefore, constitute an exercise of the Unit’s official authority, and the individual concerned must have access to the relevant documents that are produced, insofar as they affect their rights. In any case, if a document exists that reflects the procedure through which the nationality assessment report was produced, it must be included in the administrative file of the newly arrived individual, as it constitutes the justification for the report, especially when it leads to adverse consequences, as in the case of the individuals concerned.

4. Furthermore, according to Article 84 of Law 4939/2022, the element of nationality may be modified by decision of the Head of the Regional Asylum Office, following the opinion of the competent case worker, provided that during the asylum interview the applicant makes a relevant statement and it is substantiated that this information was incorrectly recorded. Therefore, for the applicant to argue that their nationality was incorrectly recorded, it is necessary that they have access to all documents related to the assessment process, particularly the transcript of the interview or procedure from which the determination originated. Such access may be crucial for the success of the application for international protection and for the exercise of the right to an effective appeal, especially considering that in some cases involving the individuals concerned, the interviews before the Lesvos Regional Asylum Office were interrupted and a rejection decision was issued because the applicants insisted on declaring Eritrean nationality, rather than the estimated Ethiopian nationality, which the Asylum Office treated as binding and not subject to challenge. This practice is contrary to Article 82(4) of Law 4939/2022, as it does not allow for the possibility, through the interview, to establish that the nationality was incorrectly recorded. In any case, it highlights the importance of the applicant having access to all documents related to the nationality assessment process, in order to challenge its outcome.

5. Therefore, the question of whether an interview is conducted for the assessment of nationality, or whether such an interview takes place but is not recorded, or whether it is recorded but the individual concerned is denied access to it, pertains to the transparency of the administrative actions of the competent Unit and the lawful justification of the Nationality Assessment Report. For this reason, the Ombudsman is revisiting the issue and now addresses your Directorate, as the supervising authority over the Lesvos Police Directorate on these matters and as the authority primarily responsible for the functioning of the Identification and Nationality Assessment Units.

In light of the above, we kindly request to be informed of the following:

- a. whether, during the nationality assessment process of newly arrived individuals, an interview is conducted by the officers of the competent Units of the C.C.A.C.I.
- b. whether this interview is recorded in a transcript, and which participants to the procedure sign it.
- c. which actions, measures, and documents produced by the officers of the competent Units form the basis for the conclusion recorded in the Nationality Assessment Report.

Furthermore, we kindly request that you take the necessary actions to ensure that all the above-mentioned individuals are provided with the documents relating to the process of their nationality assessment, as they have only had access to documents that record the outcome of this process to date.

¹General Operating Regulation of Reception and Identification Centers and Mobile Reception and Identification Units,” Ministerial Decision No. 1/7433/15-4-2019 (Government Gazette B’ 2219), Articles 3, paragraphs 2(a) and 2(c), Article 5, paragraph 1, and Article 14. “General Operating Regulation of the Closed Controlled Island Facilities,” 31/12/2023 (Government Gazette B’ 7533), Article 2.

6th Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - 4th letter of the Ombudsman
Subject: Nationality verification procedure in Lesvos C.C.A.C.

Athens, 15/07/2024

Subject: Nationality assessment procedure in Lesvos C.C.A.C.

Honourable Secretary General,

Between December 2023 and June 2024, the Ombudsman has received seven reports (Ref. No 345603, 345917, 344244, 345915, 345919, 346566, 354122) from a total of nine applicants for international protection, regarding the procedure of assessment of their nationality in the context of the reception and identification procedures at Lesvos C.C.A.C..

The complainants stated that they were Eritrean citizens, but their nationality was assumed to be that of Ethiopia or Sudan, following a procedure which they complained was of little duration, without any questions being asked. Furthermore, they complained that during the interviews conducted for the examination of their application for international protection, their claims regarding their Eritrean nationality were not investigated. The complainants' applications for international protection were rejected as unfounded at first instance, and, in the context of the appeal, their lawyers requested access to the relevant documents in the administrative file from Lesvos C.C.A.C.. They received copies of the Screening Report, the Registration of Personal Identity Form, and the Unified Registration Form, but they did not receive any document reflecting the procedure for verifying their nationality.

The legislation stipulates that the Identification and Nationality Assessment Unit is responsible for registering and completing the screening form and the Screening Report, which reflects the result of the assessment procedure¹ and, on the basis of which, the nationality is recorded in both the Registration of Personal Identity Form and the Unified Registration Form. It should be noted that nationality can only be modified if the applicant makes a statement to this effect during the asylum interview, and it is established that these data have been incorrectly recorded.²

In this context, the Ombudsman addressed the issue to the R.I.S. and the Hellenic Police (letters No. 345603/62898/2023, 345917/4285/2024, and 345603/11896/2024), requesting that they submit their opinions on the subject. He highlighted that to question the nationality declared by the newly arrived foreigner and assess whether he has another nationality, a assessment procedure is required. This procedure, if the newcomer does not bring documents, necessarily includes questions from members of the Assessment Unit and answers from the foreigner. This procedure can only be reflected in either the screening form or in another document, such as a transcript. Moreover, the person concerned's access to this document serves not only the principle of transparency in public administration proceedings, but also the exercise of an effective remedy in the asylum procedure. For applicants to raise objections to the estimated nationality before the first instance and, in particular, the second instance examining body, they must have access to a transcript of the questions asked by the Identification and Nationality Assessment Unit and their answers.

The Aliens Department of the Hellenic Police Headquarters replied (document 4000/1-300409 of 21/5/2024) that the competent authority to inform about the procedure is the Reception and Identification Service. In its replies, the R.I.S. confirmed that the provisions of the legislation are respected during the nationality assessment procedure and noted that "all the conclusive findings of the nationality assessment stage are included in the screening report, are reflected in the full registration form of the application for international protection and in the identification documents issued in this regard" (Documents no. 19656/17.1.2024 and no. 55249 /13.2.2024).

¹Article 41(b) of Law 4939/2022, Article 3 paragraph 2(a), Article 5 paragraph 1, and Article 14 of Ministerial Decision No. 1/7433/15-4-2019 (Government Gazette B' 2219), titled "General Operating Regulation of Reception and Identification Centers and Mobile Reception and Identification Units," and Articles 2 and 4 of Ministerial Decision No. 25.0/118832, titled "General Operating Regulation of the Closed Controlled Island Facilities" (Government Gazette B' 3191), dated 20/07/2021.

²Article 84 of Law 4939/2022: "4. By way of exception, the elements of nationality and place of birth may be modified by decision of the Head of the Receiving Authority, following the recommendation of the competent case handler, provided that during the interview referred to in Article 82 of the present Code the applicant makes a relevant statement and it is substantiated that these elements were incorrectly recorded (...)." Paragraph 6 states: "In the event that the need to modify the information referred to in paragraph 4 is identified during the appeal hearing stage, in accordance with Article 102, the modification shall be made by decision of the Independent Appeals Committee."

However, no answer has been provided on the fundamental issue, which is the access, not only to the “conclusive findings” of the assessment procedure, but also to the document recording the procedure itself, which records the questions and answers that revealed that the nationality is different from the one declared by the complainants.

Following the foregoing, Honourable Secretary General, we kindly request your actions to ensure that the nationality assessment procedure at the C.C.A.C.s is documented in a specific form - transcript, to which applicants for international protection have access, in particular in the context of the exercise of an effective appeal in the asylum procedure.

7th Letter on Nationality Assessment

Ombudsman's intervention - Wrong Nationality Assessment - 5th letter of the Ombudsman Subject: Access to administrative documents of the nationality verification process

Athens, 19/02/2025

Subject: Access to administrative documents of the nationality assessment process

Dear Sir/Madam,

The Greek Ombudsman is examining a complaint (Ref. No. 365282) submitted by Ms. A. Kalogridi, acting as the authorized attorney of an Eritrean citizen, (...), born on 01/01/1999, regarding the process of verifying his nationality. According to the content of the complaint, on 16/2/2024, during the registration process within the reception and identification procedure at the Lesvos Reception and Identification Center (RIC), the individual in question declared that he is a citizen of Eritrea. However, the Nationality Assessment Report stated: “Estimated nationality: Ethiopia.” He claims that during the assessment process, he never mentioned that country, was not asked relevant questions, and was not informed that there were doubts concerning his nationality. Furthermore, according to the complaint, the assessment report does not bear the interpreter’s signature.

Subsequently, on 19/3/2024, the individual in question was interviewed at the Lesvos Regional Asylum Office (RAO), during which he was informed for the first time that his nationality was being disputed and was asked related questions by the official conducting the interview. Following this, decision no. IP/415562/10-07-2024 was issued by the Lesvos RAO at first instance, rejecting his claim of Eritrean nationality. Furthermore, decision no. IP/686048/25-10-2024 at second instance rejected his appeal on procedural grounds and ordered his return to Ethiopia. An application for annulment and suspension has been filed against this decision. In light of the pending review of that application, the lawyer submitted a request to the Lesvos Reception and Identification Center (RIC) for a copy of the nationality assessment interview record. However, to date, she has not received this copy.

The Greek Ombudsman has already intervened with your Services regarding this specific issue in nine other cases of applicants for international protection at the Lesvos Reception and Identification Center (RIC), and has received responses from the Reception and Identification Service and the Hellenic Police¹. However, the Ombudsman is compelled to follow up, as the administrative practice of not providing a copy of the screening interview record to applicants whose nationality is assessed differently from their initial declaration, and whose applications for international protection are rejected, continues.

In addition to what has already been detailed in previous interventions, it is emphasized that, as an administrative document, the screening interview record falls within the scope of Article 5 of the Code of Administrative Procedure, i.e., the right of access to administrative documents. Therefore, if an applicant for international protection claims that the initial assessment and recording of their nationality is incorrect, and the Asylum Service rejects this claim, they must be

¹See the documents of the Greek Ombudsman: 1. No. 345603/62898/2023 dated 20-12-2023 and No. 345917/4285/2024 dated 26-1-2024, addressed to the Lesvos C.C.A.C. and the Lesvos Police Directorate, 2. No. 345603/11896/2024 dated 07-03-2024, addressed to the Hellenic Police Headquarters, Directorate for Aliens, 3. No. 345603/35194/2024 dated 15-07-2024, addressed to the General Secretariat for Reception, 4. No. 345603/3670/2025 dated 22-1-2025, addressed to the Hellenic Police Headquarters, Border Protection Directorate.

granted access to the screening interview record as part of their administrative file, based on their legitimate interest in providing counter-evidence regarding their nationality.²

Furthermore, the screening interview record constitutes the reasoning behind the nationality assessment report, particularly when there are no identity documents or when such documents are disputed. The issue of the lack of reasoning in the nationality assessment report has already been noted by the Appeals Committees. According to the 6th Appeals Committee (decision no. IP/44301/2024, dated 22/1/2024): “In the nationality assessment report of the appellant, drafted by the Greek authorities, the estimated nationality is indeed stated as Somali, but without any further reasoning, making it impossible to determine the basis for this conclusion...”.

Similarly, the 20th Appeals Committee (decision no. IP/579728/2024, dated 17/9/2024), took into account, among other things, that “the ‘assessment report’ does not indicate the methods used to determine the nationality (see the assessment report from ...2023, in which the ‘reasoning’ is stated as ‘resulted from the identification process’ and the ‘applicant’s statement’ as ‘insists on initial declaration’), grants the benefit of the doubt to the appellant and accepts his claim of Eritrean nationality.”³

The present complaint also raises the issue of interpretation during the nationality assessment process. The procedure is conducted in accordance with Law 4939/2022 (Article 41), the General Operating Regulation of the Reception and Identification Centers (Ministerial Decision No. 1/7433/15-4-2019, Articles 3 para. 2a and 14), and the General Operating Regulation of the Closed Controlled Access Centers (Articles 2 and 4, Ministerial Decision No. 25.0/118832/20-7-2021). It is noted that, according to Article 70, paragraph 1 of Law 4939/2022, “Information and provision of advice in detention centers and entry points to Greek territory,” interpretation is provided to the extent necessary to facilitate access to the asylum procedure. Furthermore, under Article 74, paragraph 3, applicants have the right to benefit from interpreter services in order to submit their application and present their case to the competent Receiving Authorities, for the conduct of an interview or oral hearing, as well as at all stages of the procedure, both at first and second instance, where effective communication cannot otherwise be ensured.

In light of the above, we kindly request your views regarding the fact that the nationality assessment report concerning the individual in question was not signed by an interpreter. Additionally, we ask that a copy of the screening interview be provided, as it constitutes the reasoning behind the nationality assessment report, in view of the upcoming hearing for the annulment application filed by the individual against the second-instance rejection decision on his application for international protection.

²The only restriction placed on access to the contents of the administrative file in the asylum procedure is in the case of a positive decision on the application. However, even in that case, access to the contents of the administrative file is granted if a specific legitimate interest exists. Article 74 of Law 4939/2022 "Guarantees for applicants": (...) 6. In cases where the applicant is recognised as a refugee, information from the administrative file is disclosed, and copies are provided only if the applicant demonstrates a specific legitimate interest.

³Greek Asylum Case Law Report Issue 2/2024 available at: <https://gcr.gr/en/cases-decisions-before-greek-courts/item/dimosieythike-to-teychos-2-2024-toy-deltioy-nomologias-asyloy/>

Denial of access to elements of the administrative file to the legal representative due to the non-acceptance of a simple authorisation bearing a certified signature by the lawyer himself.

1st Letter on Authorisation

Ombudsman's intervention - 1st Letter of the Ombudsman on the subject - Subject of complaint to the Ombudsman: Denial of access to elements of the administrative file to the legal representative due to the non-acceptance of a simple authorisation bearing a certified signature by the lawyer himself.

Athens, 12/04/2024

Dear Sir/Madam,

The Ombudsman, within the framework of his mandate under Article 103, paragraph 9 of the Constitution and Law 3094/2003, examines complaint No. 350858 submitted by Ms Athina Kalogridis, a lawyer from the NGO Equal Legal Aid, concerning access to the administrative file of her clients in order to file an application for annulment and a request for provisional measures against the decisions rejecting their application for international protection before the Athens Administrative Court of First Instance.

In response to the complaint, it is requested that the Authority intervene following the Administration's refusal to grant access to the administrative file and to provide copies of it. The first case is that of a citizen of Eritrea, who was served with the second rejection decision on 13-03-2024, and the deadline for filing the application for annulment is 12-04-2024. On 21-03-2024, the lawyer requested copies of her client's administrative file from the Regional Asylum Office of Thessaloniki, which is the competent authority in the case, submitting a copy of her lawyer's identity card and a written authorisation with the applicant's certified signature by the lawyer.

The second case concerns a citizen of Ghana who received a second-instance decision rejecting his application for international protection. The lawyer requested on 29-03-2024 that copies of his administrative file be provided by the Thessaloniki Asylum Unit for Safe Countries, which is competent for his case. Along with the online application, the lawyer submitted a copy of her lawyer's identity card and a written authorisation with the applicant's certified signature, as witnessed by the Accommodation Facility where the applicant resides.

According to the complaint, until now, in the cases of applicants for international protection who had received a second refusal decision and therefore could not have their signatures certified by a public authority, the Asylum Service used to accept both the authorisations in which the lawyers certified the authenticity of the signature and the authorisations in which the authenticity of the signature was certified by the Accommodation Facilities. However, citing internal instructions, Thessaloniki R.A.O and Thessaloniki Asylum Unit for Safe Countries refused to grant the copies to the complainant, arguing that her clients no longer have the status of an applicant for international protection. Therefore, in line with these instructions, the provisions of the Civil Code about power of attorney (Article 217) and the provisions of the Code of Administrative Procedure apply, whereas the certification of the authenticity of the signature by the Manager of the Accommodation Facility does not apply either, for the same reason.

The Ombudsman underlines that the clients of the complainant continue to have the status of an applicant for international protection for the purpose of filing the application for annulment, while retaining the right to representation, legal assistance and defence, and this is because the procedure for the examination of the application for international protection has not been completed. Law No. 4939/2022, in two sections referring to the possibility of filing an application for annulment, refers to those who have been rejected as "applicants for international protection," unconditionally, leaving no room for a different interpretation. In particular:

In Article 76 para. 3 Law No. 4939/2022 provides that:

“In the event of an action before the Court, applicants may receive free legal aid, under the terms and conditions of Law 3226/2011 (A'24), which applies accordingly.”

Also, in Article 114 para. 1 provides that:

“Applicants for international protection shall have the right to apply for annulment before the competent administrative court, in accordance with the provisions of Article 15 par. 4 of Law No 3068/2002, against decisions taken pursuant to the provisions of this Part.”

Therefore, applicants' access to justice and their related right to full access to their administrative file should not be obstructed without legitimate grounds. Similarly, the provisions of the same law and the Directive, which provide for the provision of legal assistance at all stages of the procedure, must be respected.¹ In particular, Article 76, paragraph 6(a) sets out that “Attorneys-at-law or other advisers authorised under par. 1 shall be entitled to provide all legal assistance to the applicant at all stages of the procedure.”

Finally, it is emphasised that the position of the lawyer as a co-functionary of justice, whose task is to defend their client before any authority, service or court must enjoy respect and honour (articles 1-5 and 34-38 of the Code of Lawyers, Law No. 4194/2013).

Further to the above, we kindly request that the lawyer in question be granted immediate access to the administrative files of her clients, so that she may review them and be able to exercise the right to file for annulment before the competent courts, in the context of protecting the right to a fair trial and to an effective and efficient remedy.

In anticipation of your reply in accordance with article 4, paragraph 5 of Law 3094/03 and informing us of any actions you intend to take or have already taken in relation to the above requests, we thank you in advance for your cooperation and remain at your disposal for any further information or clarification.

¹Article 22 of Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast), which provides for the right to legal assistance and representation at all stages of the procedure, including after a negative decision.

2nd Letter on Authorisation

Ombudsman's intervention- 1st Response of Thessaloniki Asylum Unit of Safe Countries
Subject: "Reply concerning case no. [...] of a citizen of Ghana"

Thessaloniki, 13/05/2024

SUBJECT: "Reply concerning case no. (...) of a citizen of Ghana"

In response to your aforementioned letter, we would like to inform you of the following:

In accordance with Article 76 para. 1 of Law No. 4939/2022, "Applicants have the right to consult a lawyer or other consultant on matters relating to their application at their own expense. Unless special provisions provide otherwise for particular acts, the power of attorney to a lawyer to represent applicants before the authorities of this Part or the authorization to a consultant or other persons shall be up to date and shall be given by private document, where the authenticity of the applicant's signature is required, which may be done by showing the asylum seeker's card to any public authority. The original document of the authorisation shall be submitted to the competent authorities."

For the lawyer's authorisation to be valid throughout the asylum procedure, it is required as a prerequisite either the submission of the lawyer's authorisation with the applicant's signature certified by a public authority or the applicant's oral declaration that he/she is represented by this lawyer. This authorisation shall be submitted either in person by the lawyer or electronically and shall be registered in the applicant's file.

In addition, Article 11 para. 1 of the Code of Administrative Procedure provides that "The certification of the authenticity of the signature of the person concerned shall be carried out by any administrative authority or by the Citizens' Service Centre (K.E.P.), except for the services of the Hellenic Police, on the basis of the identity card or the corresponding documents outlined in Article 3. No certification of the authenticity of the signature of the person concerned is required when they appear in person for their affairs in public sector services or the K.E.P., presenting their identity card or the corresponding original documents. In cases where the law requires a certification of the authenticity of the signature of the person concerned, the approved electronic signature or the approved electronic seal of the person concerned shall be sufficient, if the document is circulated electronically," whereas Article 3 (4) of the Code of Administrative Procedure expressly provides: "(...) The identity of foreigners is proved, in the case of citizens of a Member State of the European Union, by their identity card or passport, while, in other cases, by their passport or other document on the basis of which they are allowed to enter the country, or the documents issued by the competent Greek authorities. (...)"

With regard to the certification of the authenticity of the signature of an applicant for international protection by a lawyer, the Code of Lawyers explicitly defines the cases in which a lawyer may certify the authenticity of the signature of his/her client. In particular, Article 36 para. 2 para. E provides that "the lawyer's work includes, inter alia (...) the certification of the authenticity of the signature of his client, as provided for in para. 2 of Article 42 of the Code of Criminal Procedure, as well as in any other specific provision."

From the above, it follows that the relevant provision of the Code of Lawyers stipulates that a lawyer's duties include the certification of the authenticity of their client's signature, when this is explicitly provided for by a specific legal provision. Specifically, in cases of authorisations governed by Article 76(1) of Law 4939/2022, there is no explicit provision allowing for the certification of the authenticity of the signature of an applicant for international protection by a lawyer. Consequently, based on the aforementioned provisions, the lawyer of an applicant for international protection is not authorised to certify the authenticity of the applicant's signature; instead, such certification must be provided by a public authority, excluding the services of the Hellenic Police.

According to our records, A. R. (nationality) GHANA, resident of the Accommodation Facility in Veroia:

He submitted an initial application for international protection (No. 184549/11.10.2023) before Lesbos R.I.C. (Case No (...)). His application was examined on 18/10/2023, and the first-instance decision No. 377174/22.12.2023 of the Lesbos Regional Asylum Office was issued. It was sent to the applicant via the email address declared by him and was served on 24.12.2023, as is evident from the service act of 22.12.2023 of Lesbos Regional Asylum Office.

On 22.12.2023, the applicant filed a request for free legal aid and on 10.1.2024, he filed an appeal against the aforementioned decision (no. 18320/10.01.2024), which was rejected by the decision of the 15th Appeals Committee (no. 182814/20.3.2024). It was served to the applicant electronically, as stated in the service act No. 100350/26.3.2024 of the Thessaloniki Asylum Unit of Safe Countries.

Subsequently, on 29.3.2024, Mr. A. R. requested, through his lawyer, Ms A. K., copies of his file at Thessaloniki Regional Asylum Office, through the online services of the Ministry of Migration and Asylum and this request was forwarded to our Office on 03.04.2024 due to its competence and received the reference number of incoming document 114777/4-4-2024 (see relevant 2).

On 08.04.2024, through the online services of the Ministry of Migration and Asylum, a request for copies to the Thessaloniki Regional Office was submitted, which was forwarded on the same day due to its competence to Thessaloniki Asylum Unit of Safe Countries and received the reference number of incoming document 218441/8.4.2024 (see relevant 4).

Taking into account that the submitted authorisation did not fulfil the conditions stipulated by the legislation (see ref. 3), as described above, as well as the fact that Mr A.R. is entitled to have access to the administrative file of his case and to receive copies of it, our Office transmitted copies of his administrative file on the same day to the e-mail address indicated by him. As a result, Mr A.R. had immediate and full access to the administrative file upon his request.

3rd Letter on Authorisation

Ombudsman's intervention - 2nd Response of Thessaloniki Asylum Unit of Safe Countries -
SUBJECT: "Supplementary letter concerning Case No [...] of a third-country national of a citizen of Ghana"

Thessaloniki, 03/06/2024

SUBJECT: "Supplementary letter concerning Case No. (...) of a third-country national of a citizen of Ghana"

In response to your above-mentioned letter, we would like to clarify the following:

A. R. (nationality) GHANA) no longer has the status of an applicant for international protection, as defined in Article 1(c) of Law No. 4939/22, as his application for international protection was rejected in the second instance by a decision of the Appeals Authority, which was notified to him on 23/03/2024.

For this reason, the general provisions of the Civil Code on power of attorney (Article 217), of the Lawyers' Code (Articles 1, 2, 3 and 36) and of the Code of Administrative Procedure on the submission of requests to the Administration, and in particular Article 11(1) on the certification of the authenticity of the signature and Article 3(1) on the proof of identity shall apply.

As a consequence of the above and after reviewing the request for copies of the file of Ms. K. (ref. no.114777/04.04.2024), we inform you that the Thessaloniki Asylum Unit of Safe Countries has accepted the above request. The copies were sent to the email address declared by Ms K. on 03.06.2024.

4th Letter on Authorisation

Ombudsman's intervention - Answer of Thessaloniki Regional Asylum Office
SUBJECT: Ombudsman's document No 350858/18482 dated 12.04.2024

Thessaloniki, 05/06/2024

In response to your above-mentioned document, we inform you of the following:

According to the information system of the Asylum Service, it appears that Ms. A. A., a citizen of Eritrea, according to her declaration, filed an asylum application at Lesvos C.C.A.C on 28/08/2023, with case number (...) (FolDer ID (...)), which was rejected in the first instance according to the rejection decision no. 57131/25.01.2024. Subsequently, on 05/02/2024, she filed an appeal against the first instance decision, which was examined and rejected by the Appeals Authority pursuant to the second instance decision No. 160366/08,03,2024, which was served on her electronically on 11-03-2024.

On 21-03-2024, the lawyer of the NGO Equal Legal Aid, Ms A.K., requested access to the administrative file of the above (case No (...)). On 29/03/2024, the Thessaloniki R.A.O. replied in writing to the said request, indicating the possibility, either to have Ms. A. A. appear in person at the R.A.O. - without requiring a specific predetermined appointment, or to produce the power of attorney document from her appointed lawyer. Consequently, the Thessaloniki R.A.O. has never prevented the persons concerned from accessing the administrative file, but has provided the conditions for such access, as laid down by law.

Pursuant to Article 1(c) of Law No 4939/2022, it is defined that: "c) "applicant for international protection" or "applicant for asylum" or "applicant" is a citizen of a third country or a stateless person, who declares orally or in writing before any Greek authority, at the points of entry into the Greek territory or within it, that he or she seeks asylum or subsidiary protection in our country or in any way requests not to be deported to a country for fear of persecution on the grounds of race, religion, nationality, political opinion or membership of a particular social group, in accordance with the Geneva Convention, or because he or she is in danger of suffering serious harm, in accordance with Article 14 of this Code, and on whose application a final decision has not yet been taken. Furthermore, an applicant for international protection is also considered to be a third country national who has lodged an application for international protection in another EU Member State pursuant to Regulation (EU) 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in a Member State by a third country national or a stateless person (L 180) or in another state bound by and applying the aforementioned Regulation, and who is transferred to Greece, pursuant this Regulation."

Also, according to Article 1(23) of Law No. 4939/2022, it is defined that "“final decision” means: (a) the decision of the Independent Appeals Committees determining whether or not a third country national or stateless person is recognised as a refugee or beneficiary of subsidiary protection, which is issued on the appeal against the decisions of the Asylum Service pursuant to Article 97 or (b) the decision of the Asylum Service against which the aforementioned appeal cannot be brought due to the expiry of the time limits for lodging an appeal."

Therefore, as it is clear from the definition of the aforementioned provisions, the rejection decision by the Appeals Authority is a final decision, which means that the procedure for examining the application for international protection at the Asylum Service has been completed. Consequently, the particular third-country national, since her application for international protection has been rejected in the second instance by a decision of the Appeals Authority, no longer holds the status of an applicant for international protection. For that reason, she is no longer entitled to hold an international protection applicant's card, which is immediately cancelled and returned to the Asylum Service, while the applicant must leave Greek territory if she has no other legal documents (Article 97 of Law 4939/2022, Articles 21, 22 and 23 of Law 3907/2011). The second instance rejection decision has no suspensive effect; therefore, any application for annulment to the administrative courts must be accompanied by an application for provisional measures to ensure the applicant's stay in Greek territory.

In view of the foregoing, in the Asylum Service's view, in this particular case, provision 76 para. 1 of the aforementioned law does not apply. Instead, the general provisions of Civil Code on power of attorney (Article 217), the Lawyers' Code (Articles 1, 2, 3 and 36) and the Code of Administrative Procedure concerning the submission of applications to the administration, and in particular Article 11(1) on the certification of the authenticity of signatures and Article 3(4) on proof of the applicant's identity shall apply.

“In cases where the law requires a certification of the authenticity of the signature of the interested party, the approved electronic signature or the approved electronic seal of the interested party is sufficient, if the document is circulated electronically”. Article 3 para. 4 stipulates: “The identity of foreigners shall be proved, in the case of citizens of a Member State of the European Union, by their identity card or passport, while in other cases, by their passport or other document on the basis of which they are allowed to enter the country, or by documents issued by the competent Greek authorities. ... Where the application is not submitted in person, it must be accompanied by a certified photocopy of the identity card or equivalent documents.”

Based on the above, the lawyer who submits an electronic request to the Administration for copies of the file of his/her client, who no longer has the status of an applicant for international protection, is required to include in the request the full details of his/her client, which in the case of a foreigner are proven, as mentioned above, by his/her passport or other document allowing him/her to enter the country or the documents issued by the competent Greek authorities, e.g. the second instance decision rejecting the application for international protection and, in addition, it should be included the name and surname of the lawyer, the bar association of which he/she is a member, his/her registration number, his/her contact details and an indication that he/she is acting as a lawyer representing the foreign national in question.

If these conditions are met, then the lawyer is entitled to receive copies of the client's file. In any case, the provision of additional documents, such as a power of attorney with a certified signature, is considered an additional element facilitating the procedure.

ANNEXES

Annexe 1: Asylum applications (first and subsequent) per year

Year	Asylum Applications
2015	13,185
2016	51,034
2017	58,618
2018	66,914
2019	77,227
2020	40,471
2021	28,276
2022	37,362
2023	64,212
2024	73,687
As of November 2025	57,158

Annexe 2: Decisions on First and Second Instance: Total number of first applications, subsequent applications, appeals, and cases supported with free legal aid from the registry of the Asylum Service

	Asylum Applications	Subsequent applications	Decisions on the first instance		Decisions on the second instance		Total # of positive decisions 1st and 2nd instance	Appeals submitted	Free legal Aid from the registry
2022	37,362	22% (8,265) are subsequent applications	59,593	Positive: 32% Negative and inadmissible: 35% Other: 33%	17,317	Positive: 6% Negative and inadmissible 91% (15,758) Other 3%	19,933 (Refugee status: 19,026 Subsidiary protection: 907)	16,830	(54%) 9,031
2023	64,212	10% (6,321) are subsequent applications	52,314	Positive: 47,7% Negative and inadmissible: 31,5% Other: 20,8%	13,086	Positive: 6,7% Negative and inadmissible: 89,9% (11,764) Other: 3,4%	25,813 (Refugee status: 25,000 Subsidiary protection: 813)	10,973	(63%) 6,892
2024	73,687	6,4% (4,687) are subsequent applications	77,392	Positive: 51,1% Negative and inadmissible: 23,1% Other: 25%	13,304	Positive: 5% Negative and inadmissible: 92,2% (12,266) Other: 3%	40,237 (refugee status: 39,834 Subsidiary protection 403)	12,029	(67%) 8,080

Annexe 3: First instance decisions

2022	Total decisions on the 1st instance: 59,593	Decisions in substance 1st instance: 30,886	Inadmissible decisions 1st instance: 8,962	Explicit/Implicit withdrawals, archived cases: 19,725
		Refugee status: 18,730 Subsidiary protection: 513 Negative -rejected as unfounded: 3,281 Negative- exclusion from refugee status: 38 Negative- examination with accelerated procedure: 8,324	Border procedure- safe third country: 3,601 Dublin regulation: 1,214 Inadmissible subsequent applications: 4,144 Inadmissible rejected on formal grounds: 3	Explicit withdrawals: 817 Archived: 6,369 Implicit withdrawals: 12,559
2023	Total decisions on the 1st instance: 52,314	Decisions in substance 1st instance: 32,529	Inadmissible decisions 1st instance: 8,901	Explicit/Implicit withdrawals, archived cases: 10,884
		Refugee status: 24,345 Subsidiary protection: 591 Negative -rejected as unfounded: 2,339 Negative- exclusion from refugee status: 87 Negative- examination with accelerated procedure: 5,167	Border procedure- safe third country: 3,454 Dublin regulation: 1,189 Inadmissible subsequent applications: 4,257 Inadmissible rejected on formal grounds: 1	Explicit withdrawals: 765 Archived: 181 Implicit withdrawals: 9,938
2024	Total decisions on the 1st instance: 77,392	Decisions in substance 1st instance: 50,117	Inadmissible decisions 1st instance: 7,330	Explicit/Implicit withdrawals, archived cases: 19,945
		Refugee status: 39,271 Subsidiary protection: 296 Negative -rejected as unfounded: 3,408 Negative- exclusion from refugee status: 92 Negative- examination with accelerated procedure: 7,050	Border procedure- safe third country: 2,143 Dublin regulation: 2,150 Inadmissible subsequent applications: 3,037 Inadmissible rejected on formal grounds: 0	Explicit withdrawals: 764 Archived: 37 Implicit withdrawals: 19,144
First half of 2025	Total decisions on the 1st instance: 26,919	Decisions in substance 1st instance: 16,600	Inadmissible decisions 1st instance: 3,247	Explicit/Implicit withdrawals, archived cases: 7,072
		Refugee status: 11,622 Subsidiary protection: 256 Negative -rejected as unfounded: 1,158 Negative- exclusion from refugee status: 22 Negative- examination with accelerated procedure: 3,542	Border procedure- safe third country: 357 Dublin regulation: 925 Inadmissible subsequent applications: 1,965 Inadmissible rejected on formal grounds: 0	Explicit withdrawals: 293 Archived: 13 Implicit withdrawals: 6,766

Annexe 4: Second instance decisions

2022	Total decisions on second instance: 17,317	Decisions in Substance Second Instance: 10,829	Inadmissible decisions 2nd instance: 6,043 (35% out of total decisions on second instance)	explicit/implicit withdrawals/ archived cases: 445
		Refugee status: 656 Subsidiary protection: 394 Negative rejected: 3,157 Negative rejected as unfounded: 28 Negative rejected as manifestly unfounded: 1,790 Negative rejected as manifestly unfounded- safe country of origin: 4,700	Dublin regulation: 51 Inadmissible subsequent: 2,089 Inadmissible on formal grounds: 60 Inadmissible- border procedure -safe third country: 2,708	
2023	Total decisions on second instance: 13,086	Decisions in Substance Second Instance: 7,605	Inadmissible decisions 2nd instance: 5,030 (38% out of total decisions on second instance)	explicit/implicit withdrawals/ archived cases: 451
		Refugee status: 655 Subsidiary protection: 222 Negative rejected: 1,595 Negative rejected as unfounded: 11 Negative rejected as manifestly unfounded: 1,599 Negative rejected as manifestly unfounded- safe country of origin: 3,442	Dublin regulation: 22 Inadmissible subsequent: 2,131 Inadmissible on formal grounds: 35 Inadmissible- border procedure -safe third country: 1,237	
2024	Total decisions on second instance: 13,304	Decisions in Substance Second Instance: 8,323	Inadmissible decisions 2nd instance: 4,588 (35% out of total decisions on second instance)	explicit/implicit withdrawals/ archived cases: 393
		Refugee status: 563 Subsidiary protection: 107 Negative rejected: 2,270 Negative rejected as unfounded: 0 Negative rejected as manifestly unfounded: 1,588 Negative rejected as manifestly unfounded- safe country of origin: 3,674	Dublin regulation: 124 Inadmissible subsequent: 1,693 Inadmissible on formal grounds: 78 Inadmissible- border procedure -safe third country: 1,132	
2025	Total decisions on second instance: 5,007	Decisions in Substance Second Instance: 3,209	Inadmissible decisions 2nd instance: 1,685 (33% out of total decisions on second instance)	explicit/implicit withdrawals/ archived cases: 113
		Refugee status: 177 Subsidiary protection: 68 Negative rejected: 776 Negative rejected as unfounded: 0 Negative rejected as manifestly unfounded: 747 Negative rejected as manifestly unfounded- safe country of origin: 1,402	Dublin regulation: 98 Inadmissible subsequent: 649 Inadmissible on formal grounds: 19 Inadmissible- border procedure -safe third country: 66	

Annexe 5: Appeals rejected due to late submissions

Year/ Period	Total decisions on appeals	Total appeals rejected as inadmissible ¹	Percentage of inadmissible decisions	Appeals rejected for late submission	% of appeals rejected for late submission out of all appeals	% of appeals rejected for late submission out of total inadmissible appeals
2022	17,317	6,043	35%	1,096	6%	18%
2023	13,086	5,030	38%	1,523	12%	30%
2024	13,304	4,588	35%	1,526	11%	33%
First half of 2025	5,885	1,970	33%	984	17%	50%

¹ Dublin regulation, Subsequent applications, rejection of formal grounds, border procedure-safe third country (Türkiye, AI, NM), out of time appeals.

Annexe 6: Data on applications for annulment, interim measures and applications for legal aid

For the period of the last 5 years, from 2020 up to September 3 2025, the following interim measures and applications for annulment have been submitted to the Administrative Court of First Instance of Athens and Thessaloniki, respectively:

	Total	
Year	Interim measures	Applications for annulment
2020	412	1,472
2021	470	1,521
2022	486	1,329
2023	249	653
2024	247	423
2025	140	317

For the period of the last 5 years, from 2020 up to September 3 2025, the following decisions on interim measures and applications for annulment have been issued by the Administrative Court of First Instance of Athens and Thessaloniki, respectively:

	Total	
Year	Interim measures	Applications for annulment
2020	389	425
2021	447	366
2022	486	1,611
2023	243	1,409
2024	225	860
2025	99	485

Negative decisions issued by both Administrative Courts are analysed as follows:

	Administrative Court of First Instance of Thessaloniki			Administrative Court of First Instance of Athens			Total			
Year	Negative/ on the merits	Negative/ inadmissible	Negative/Wit-drawal	Negative/ on the merits	Negative/ inadmissible	Negative/Wit-drawal	Negative/ on the merits	Negative/ inadmissible	Negative/Wit-drawal	Total Negative decisions
2020	37	67	1	7	64	2	44	131	3	178
2021	1	19	2	14	192	22	15	211	24	250
2022	155	330	13	78	730	22	233	1,060	35	1,328
2023	103	101	15	148	504	22	251	605	37	893
2024	12	91	21	81	313	47	93	404	68	565
2025	17	78	13	29	247	20	46	325	33	404

Applications for state-funded free Legal Aid are analysed as follows:

	Administrative Court of First Instance of Thessaloniki			Administrative Court of First Instance of Athens			Total		
Year	Applications for Legal Aid	Positive decisions on Legal Aid Applications	Negative decisions on Legal Aid Applications	Applications for Legal Aid	Positive decisions on Legal Aid Applications	Negative decisions on Legal Aid Applications	Applications for Legal Aid	Positive decisions on Legal Aid Applications	Negative decisions on Legal Aid Applications
2020	56	26	30	237	183	49	293	209 (71%)	79
2021	112	69	40	316	208	84	428	277 (65%)	124
2022	169	120	51	283	178	120	452	298 (66%)	171
2023	65	57	9	85	72	17	150	129 (86%)	26
2024	82	75	8	140	117	13	222	192 (87%)	21
2025	57	39	15	77	61	4	134	100 (75%)	19

Year	Total number of applications for annulment submitted	Total number of decisions on applications for annulment	Total positive decisions (% out of total # of decisions issued)		Total negative decisions (% out of total # of decisions issued)		Total negative on the merits (% out of total # of negative decisions issued)		Total negative inadmissible (% out of total # of negative decisions issued)		Total Negative/withdrawals	Total number of cases supported with free Legal Aid (% out of the total number of applications submitted)	
2020	1,472	425	247	58%	178	42%	44	25%	131	74%	3	209	14%
2021	1,521	366	116	32%	250	68%	15	6%	211	84%	24	277	18%
2022	1,329	1,611	283	18%	1,328	82%	233	18%	1,060	80%	35	298	22%
2023	653	1,409	516	37%	893	63%	251	28%	605	68%	37	129	20%
2024	423	860	295	34%	565	66%	93	17%	404	71%	68	192	45%
2025	317	485	81	17%	404	83%	46	11%	325	81%	33	100	31%

Year	Total number of decisions on applications for annulment	Cases examined in the merits						Cases rejected by the Court as inadmissible	
		Total number of cases examined in the merits (% out of the total # of decisions issued)		Positive (% out of the on the merits examined)		Negative (% out of the on the merits examined)		Negative inadmissible decisions (% out of the total decisions issued)	
2020	425	291	69%	247	85%	44	15%	131	31%
2021	366	131	36%	116	87%	15	12%	211	58%
2022	1,611	516	32%	283	55%	233	44%	1,060	66%
2023	1,409	767	55%	516	67%	251	33%	605	43%
2024	860	388	45%	295	76%	93	24%	404	47%
2025	485	127	26%	81	64%	46	36%	325	67%

Annexe 7: Asylum Applications per Country of Origin

The counties in orange are those for which Türkiye is considered a safe third country, and they are examined through the admissibility procedure, which consists of two steps: first, on admissibility, and then on the merits. The countries in blue are considered safe countries of origin and are examined under the accelerated procedure - faster with fewer safeguards and shorter deadlines.

<u>Applications per country of origin in 2022</u>		
Country of Origin	Number of applications	Percentage
Afghanistan	5.624	15,1%
Syria	5.050	13,5%
Pakistan	4.572	12,2%
Palestine	2.907	7,8%
Iraq	2.671	7,1%
Somalia	2.171	5,8%
Bangladesh	1.945	5,2%
Egypt	1.594	4,3%
Türkiye	1.434	3,8%
Albania	1.289	3,5%
Other	8.105	21,7%
Total	37.362	100%

<u>Applications per country of origin in 2024</u>		
Country of Origin	Number of applications	Percentage
Syria	22.302	30,3%
Afghanistan	15.528	21,1%
Egypt	7.549	10,2%
Türkiye	4.276	5,8%
Palestine	2.579	3,5%
Iraq	2.450	3,3%
Eritrea	2.297	3,1%
Pakistan	2.101	2,9%
Yemen	1.580	2,1%
Somalia	1.577	2,1%
Other	11.448	15,5%
Total	73.687	100,0%

<u>Applications per country of origin in 2023</u>		
Country of Origin	Number of applications	Percentage
Syria	14,015	21.8%
Afghanistan	9,488	14.8%
Palestine	6,736	10.5%
Iraq	6,455	10.1%
Pakistan	4,077	6.3%
Somalia	2,935	4.6%
Türkiye	2,714	4.2%
Egypt	2,498	3.9%
Eritrea	1,826	2.8%
Congo (DRC)	1,528	2.4%
Other	11,940	18.6%

<u>Applications per country of origin in 2025</u>		
Country of Origin	Number of applications	Percentage
Afghanistan	7.734	28,2%
Egypt	4.529	16,5%
Sudan	1.804	6,6%
Syria	1.601	5,8%
Pakistan	1.315	4,8%
Bangladesh	1.243	4,5%
Nepal	1.218	4,4%
Tureky	873	3,2%
Sierra Leone	778	2,8%
Iraq	767	2,8%
Other	5.563	20,3%
Total	27.425	100,0%

Annexe 8: Vulnerabilities identified during the identification and registration procedureSource: [MoMA Statistics](#), Data Collection and Processing: [Equal Legal Aid](#)

Year	Total new registrations	Vulnerability Identification on the Islands	Vulnerability Identification on the Mainland	Total (other than UMC and separated)	UMC or separated	Total	Survivors of GBV (Victims of physical abuse)	Victims of trafficking	Victims of Torture	Serious medical condition
2021	6,939	2,379		1,431	948	2,379	478	29	0	0
2022	15,627	4,895		2,943	1,952	4,895	1,723	164	0	0
2023	55,875	6,792	1,312	5,740	2,364	8,104	2,115	114	0	0
2024	65,072	11,565	2,169	9,554	4,180	13,734	0	171	3,115	895
2025 (9 months)	35,711	4,976	3,919	6,838	2,057	8,895	0	207	3,495	533

SIMPLIFIED OVERVIEW OF THE ASYLUM PROCEDURE IN MAINLAND GREECE

