

AΔ235/2026

Forth subsequent asylum application - Admissibility - Erroneous finding that an element is non-essential - Application for annulment - Administrative Court of First Instance Thessaloniki - Pakistan - Single Man - Persecution due to religion - Safe Country of Origin - Single member Appeals Committee - Preliminary question pending before the Council of State - Non-retroactive effect of the Council of State judgment on the unconstitutionality of the single-member composition of the Appeals Authority - Interview conducted in a language that the applicant does not fully understand - Application rejected

Administrative Court of First Instance Thessaloniki
2nd (Three-Member) Chamber /Annulment Proceedings
Decision No:AΔ 235/2026
Publication date: 24/6/2026
Judge Rapporteur: Stylianos Papadopoulos
(...)

2. (...), with the present application, the applicant, a Pakistani national, admissibly seeks the annulment of Decision (...)/2023 of the 15th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member composition, by which his administrative appeal against Decision (...)/2023 of the Autonomous Asylum Unit for the Examination of International Protection Applications of Nationals of Safe Countries of Origin was dismissed and, ultimately, his fourth subsequent application for international protection was rejected as inadmissible. By the same decision, a return measure was also imposed on the applicant, without granting him a period for voluntary departure from the country.

3. (...), the proceedings in the present case had been stayed by Decision (...)/2024 of this Court until the Council of State issued a final ruling on the preliminary question referred by Decision AD534/2022 of the 11th Chamber of this Court. By Decision No. 1150/2025, the Plenary Session of the Council of State has now held, by majority, that Article 89(2) of the Constitution does not permit a judicial officer to be entrusted with the duties of a single-member administrative body, even where that body exercises disciplinary, supervisory or adjudicatory functions. Consequently, Article 5(7) of Law 4375/2016, as that Article was replaced by Article 116(2) of Law 4636/2019 and the said paragraph was subsequently reformulated by Article 30(2) of Law 4686/2020, is contrary to the Constitution insofar as it provides that the Independent Appeals Committees may also sit in a single-member composition. However, pursuant to Article 50(3b) of Presidential Decree 18/1989, the Council of State determined that the effects of the finding of unconstitutionality would take effect from the day preceding the publication of Decision No. 1150/2025. In light of the above, due to the limitation placed on the retroactive effect of the finding of unconstitutionality, the contested decision is not subject to annulment, notwithstanding the fact that it was issued by the 15th Independent Appeals Committee sitting in a single-member composition. (...)

6. (...), furthermore, on the basis of Article 78(2)(d) TFEU, 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)” (L 180/60) was adopted. That Directive was transposed into the national legal order by Part Four of Law 4939/2022, which provides: Article 87: “1. ... 8. A decision rejecting an application for international protection shall state the factual and legal reasons for the rejection. A decision rejecting an application for international protection shall also order the return of

the applicant, in accordance with the provisions of Law 3907/2011 or Law 3386/2005, as applicable... 9. ...” in Article 89 that: “1. The determining authorities shall, by means of a relevant decision, reject an application for international protection as inadmissible where: (a) ... (e) the application constitutes a subsequent application by the applicant and the preliminary examination, pursuant to Article 94(2) of this Code, has not demonstrated the existence of new substantial elements; or (f) ... 2. ...” Article 94: “1. In the case of a subsequent application, the competent determining authorities shall examine the elements of the subsequent application in conjunction with the information contained in the file relating to the previous application. 2. The subsequent application shall be examined..., initially at a preliminary stage, during which it shall be assessed whether new substantial elements have arisen or have been submitted by the applicant which, through no fault of his or her own, the applicant was unable to invoke during the examination of the previous application at first instance or in the appeal lodged pursuant to Article 97 of this Code, and which affect the assessment of the application for international protection. At this stage, the applicant shall submit in writing to the competent receiving authorities any new elements produced, without an interview being conducted. 3 ... 4. Where, during the preliminary examination referred to in paragraph 2, the applicant submits new substantial elements which, through no fault of his or her own, he or she was unable to invoke either during the examination of the previous application or in the appeal lodged pursuant to Article 97 of this Code, and which affect the assessment of the application for international protection, the application shall be declared admissible, shall be examined further in accordance with the provisions of this Part, and the applicant shall be issued an international protection applicant card. Otherwise, the application shall be rejected as inadmissible. 5 ... 7. An identical subsequent application, without the submission of new elements, shall be rejected as inadmissible on the basis of the principle of *res judicata*, without a hearing, in accordance with the final sentence of paragraph 2 of this Article. 8...” and in Article 102: “1. ... 10. When examining the appeal, the Committee shall examine the case *de novo*, both as to law and as to the merits, and shall issue a reasoned decision on the appellant’s application for international protection.”

7. (...) It follows from the above provisions that, in order for a decision to be taken on the admissibility of a subsequent application for international protection, that subsequent application must first undergo a preliminary examination in order to determine whether new elements or findings have arisen or have been submitted by the applicant concerning the assessment of whether he or she meets the conditions required to qualify as a beneficiary of international protection. The examination of the admissibility of the subsequent application shall continue only where such new elements or findings in relation to the first application for international protection do in fact exist, in order to ascertain whether they significantly increase the likelihood that the applicant meets the conditions required to qualify for such status. Furthermore, although the wording of those provisions does not define 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 which are new either because they arose after a decision had been taken on the previous application or because they were submitted for the first time by the applicant (CJEU, judgment of 9 September 2021, C-18/20, *XY v Bundesamt für Fremdenwesen und Asyl*, paras. 33–37), even though they already existed, provided that the failure to submit them during the examination of the first application is considered justified. Finally, the term “substantial” elements should be understood as referring to elements capable of reopening the procedure for examining the asylum application because they are sufficiently different from those previously submitted to give rise to a reasonable belief that they could lead to the recognition of international protection status, notwithstanding the final rejection of the previous application.

8. (...), with the present case, the following emerges from the documents in the administrative file: The applicant, a Pakistani national born on (...)/1993, initially lodged an application for international

protection on (...) /2018 with the Regional Asylum Office of Thrace. When registering that application, the applicant stated that he did not wish to return to his country of origin because he had been a teacher at his church's Sunday school and the mother of a Muslim girl had sought his help because she believed that her daughter had been affected by evil spirits. He arranged a meeting with the bishop and, following a prayer session, the girl was miraculously healed. Subsequently, the girl's mother asked for a Bible and the girl began reading it. When her brother learned of this, he became enraged, assaulted the applicant and threatened his life. The applicant subsequently went to the police, who recorded his complaint but took no action. For that reason, he left his country because he feared for his life. (...). He further claimed that the conduct of the police officers was due to the fact that they were Christians and were treated differently, since most police officers were Muslims. He further stated that they began receiving threats by telephone and that the persons concerned were looking for him. As a result, he and his family were forced to leave their village and move to (...). However, the telephone threats continued there as well, with the persons concerned stating that they wanted him, were looking for him and intended to kill him. (...) As regards the risk he would face if required to return to Pakistan, he stated that he feared that he would be assaulted and killed. The aforementioned application for international protection was rejected as unfounded by Decision (...) /2019 of the Regional Asylum Office of Thessaloniki. The applicant lodged an administrative appeal against that decision, which was dismissed by Decision (...) /2020 of the 13th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a three-member composition. (...) Subsequently, on (...) /2023, the applicant appeared before the Autonomous Asylum Unit for the Examination of Applications for International Protection lodged by Nationals of Safe Countries of Origin and submitted a new, fourth subsequent application for international protection. Upon registration of that application, the applicant stated that he did not wish to return to his country of origin because he had no one in Pakistan, as his parents did not want him because he had caused problems by giving the Holy Bible to a girl. He further stated that he was afraid to return to Pakistan because of his religion (Roman Catholic Christian). The above application for international protection was rejected by Decision (...) /2023 of the Autonomous Asylum Unit for the Examination of International Protection Applications of Nationals of Safe Countries of Origin, on the ground that a comparative examination of the applicant's previous and subsequent applications showed that he had not submitted any new and substantial elements within the meaning of Article 94(4) of Law 4939/2022. The applicant lodged an administrative appeal against that decision, which was dismissed by the contested Decision (...) /2023 of the 15th Independent Appeals Committee of the Ministry of Migration and Asylum, sitting in a single-member composition. By the same decision, a return measure was also imposed on the applicant, without granting him a period for voluntary departure from the country. More specifically, having examined the contents of the individual case file relating to the initial application for international protection, the Committee found that, in the subsequent application at issue, the applicant relied on the same reasons for not wishing to return to his country of origin as those which had already been examined and rejected on the merits. In light of the above, the Committee concluded that the preliminary examination of his subsequent application had not revealed, nor had the applicant submitted, any new substantial elements, and held that the conditions laid down in Article 94(2) of Law 4939/2022 for declaring his application admissible were not met. Furthermore, on the basis of the information available to the Committee concerning the security situation in Pakistan, which is included in the National List of Safe Countries of Origin, there was nothing to indicate that, if returned to the area of his last residence in his country of origin, the applicant would be at risk, as a civilian, of facing a serious and individual threat to his life or physical integrity by reason of indiscriminate violence in situations of armed conflict, since the situation in his country, at the time the contested decision was issued, could not be characterised as a situation of international or internal armed conflict.

9. (...) with the application under consideration, the applicant submits, first, that the contested decision was issued in breach of Article 74(3) of Law 4939/2022 because, as he claims, the registration of his application was unlawfully conducted without the presence of an interpreter and in Greek, a language of which he has only an elementary knowledge. As a result, he was unable to describe accurately the new elements on which he wished to rely, and his subsequent application was rejected as inadmissible. That plea must, however, be rejected as unfounded, since it is apparent from the international protection application form dated (...)/2023, which bears the applicant's signature at the end, that the registration of his application was conducted in Greek because the applicant himself had indicated Greek as his language of communication. He was also informed orally of his rights and obligations, as well as of the subsequent stages of the procedure. In any event, the applicant had the opportunity to raise any additional claims in his administrative appeal, but failed to do so.

10. (...) The applicant further submits that his subsequent application for international protection was rejected by the contested decision in breach of his right to a prior hearing, as guaranteed by Article 20(2) of the Constitution. However, under Article 94 of Law 4939/2022, an obligation to invite the applicant to an interview (first before the competent officer of the Asylum Service and subsequently before the Appeals Committee) following the submission of a subsequent application arises only where the preliminary examination of that application establishes that substantial new elements have in fact been submitted or have arisen. That is not the case here. Moreover, in any event, it does not follow, including from the arguments raised in the present application for annulment, that the applicant would have put forward grounds capable of altering the assessment made in the contested decision concerning the rejection of his application for international protection and the imposition of the return measure (see CJEU, judgment of 10 September 2013, C-383/13, *M.G. and N.R.*, paras. 39, 40 and 44). Accordingly, this ground for annulment must also be rejected as unfounded.

11. (...) Accordingly, the application under consideration must be dismissed and the court fee paid shall be forfeited in favour of the State (Article 36(4), second sentence, of Presidential Decree 18/1989 – Government Gazette A' 8). However, having regard to the circumstances, the applicant shall be exempted from the payment of legal costs (Article 4(1)(f) of Law 702/1977, Government Gazette A' 268, as added by Article 50 of Law 3659/2008 – Government Gazette A' 77, in conjunction with Article 275(1), fifth sentence, of the Code of Administrative Procedure, ratified by the first article of Law 2717/1999, Government Gazette A' 97). (...)

The application is rejected.

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