

AA 173/2026

1st application - Admissibility - Application for annulment - Administrative Court of First Instance Thessaloniki - Syria - Single man - Single member Appeals Committee - Preliminary question 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 - Türkiye as a safe third country - Türkiye not accepting readmissions from Greece - Preliminary ruling before the CJEU - Application accepted

Administrative Court of First Instance of Thessaloniki
2nd ((Three-Member) Chamber /Annulment Proceedings
Decision No: AA 173/2026
Date of publication: 11/05/2026
Judge: Andromeda Dakoula
(...)

2. (...), with this application, the applicant seeks the annulment of Decision (...) /2024 of the 6th Independent Appeals Committee of the Appeals Authority of the Ministry of Migration and Asylum, sitting in a single-member composition, which dismissed the appeal lodged by the applicant against Decision (...) /2023 of the Fylakio Autonomous Asylum Unit and, ultimately, rejected his application for international protection. The Committee's decision also ordered the applicant's readmission to Türkiye, which was considered a safe third country for him.

3. (...), the proceedings in the present case had been stayed by Decision AD (...) /2024 of this Court, pending a final ruling by the Council of State on the preliminary question referred to it by Decision AD 534/2022 of the 11th Chamber of the Administrative Court of First Instance of Thessaloniki. By Judgment No. 1150/26.6.2025, the Plenary Session of the Council of State has now held, by majority, that Article 89(2) of the Constitution does not permit judicial officers to be entrusted with the duties of a single-member administrative body, even where that body exercises powers of a disciplinary, supervisory or adjudicatory nature. Consequently, Article 5(7) of Law 4375/2016 (Government Gazette A' 51), as that Article was replaced by Article 116(2) of Law 4636/2019 (Government Gazette A' 169) and the said paragraph was reformulated by Article 30(2) of Law 4686/2020 (Government Gazette A' 96), is contrary to the Constitution insofar as it provides that the Independent Appeals Committees may also sit in a single-member composition. However, the Council of State, having taken into account: (a) the large number of decisions rejecting applications for international protection that had been issued by Independent Appeals Committees sitting in a single-member composition, and (b) the difficulties that the Administration would face as a result of the factual situation arising from the retroactive effect of the finding of unconstitutionality, determined, pursuant to Article 50(3b) of Presidential Decree 18/1989 (Government Gazette A' 8), that the effects of the finding of unconstitutionality would take effect from the day preceding the publication of Judgment No. 1150/2025. In light of the above, the contested Decision (...) /2024 is not subject to annulment, due to the limitation placed on the retroactive effect of the finding of unconstitutionality, notwithstanding the fact that it was issued by the 6th Independent Appeals Committee sitting in a single-member composition. (...)

6. (...), on the basis, in particular, 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)" (EU L 180) was adopted. Compared with the previously applicable

Directive 2005/85/EC (EU L 326), that Directive laid down further requirements concerning procedures for granting and withdrawing international protection within the meaning of Directive 2011/95/EU, with a view to establishing a common asylum procedure in the European Union, in order to limit secondary movements of applicants for international protection between Member States where such movements are caused by differences in legal frameworks, and to create equivalent conditions for the application of Directive 2011/95/EU in the Member States. Article 33 of that Directive provides: “1. In addition to cases in which an application is not examined in accordance with Regulation (EU) No 604/2013, Member States are not required to examine whether the applicant qualifies for international protection in accordance with Directive 2011/95/EU where an application is considered inadmissible pursuant to this Article. 2. Member States may consider an application for international protection as inadmissible only if: (a) ... (c) a country which is not a Member State is considered to be a safe third country for the applicant, pursuant to Article 38; (d) ...” and in Article 38 provides that: “1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in the third country concerned in accordance with the following principles: (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; (b) there is no risk of serious harm as defined in Directive 2011/95/EU; (c) the principle of non-refoulement in accordance with the Geneva Convention is respected; (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment, as laid down in international law, is respected; and (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention. 2. The application of the safe third country concept shall be subject to rules laid down in national law, including: (a) rules requiring a connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country; (b) rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant. Such methodology shall include case-by-case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe; (c) rules, in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that the third country is not safe in his or her particular circumstances. The applicant shall also be allowed to challenge the existence of a connection between him or her and the third country in accordance with point (a). 3. When implementing a decision solely based on this Article, Member States shall: (a) inform the applicant accordingly; and (b) provide the applicant with a document informing the authorities of the third country, in the language of that country, that the application has not been examined on its merits. 4. Where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to a procedure is provided in accordance with the basic principles and guarantees described in Chapter II. 5. Member States shall inform the Commission periodically of the countries to which this concept is applied in accordance with the provisions of this Article.”

7. (...), 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 October 2024, *Somateio “Elliniko Symvoulío gia tous Prosfyges” and Others*), 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 conditional upon it being 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 designated by a Member State as generally safe does not, in practice, admit or readmit 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 they are examined on an individual basis, in accordance with Article 10(3)(a) of that Directive and within the time limits laid down in Article 31 thereof (para. 54). (...)

11. (...), as held in Judgment No. 177/2023 of the Plenary Session of the Council of State (and confirmed by Judgments Nos. 1049–1052/2025 of the Plenary Session of the same Court), it follows from the international instruments referred to in the immediately preceding paragraphs that Türkiye initially assumed a legal obligation, subject to certain conditions, to accept the readmission from Greece of third-country nationals who had applied for international protection. However, the evidence submitted before the Council of State demonstrated that Türkiye does not, in practice, comply with the aforementioned legal obligations, since applicants for international protection whose applications have been rejected as inadmissible on the basis of the “safe third country” concept are not readmitted to Türkiye. On the contrary, returns from Greece to Türkiye have been suspended since March 2020, and it cannot be considered that this constitutes merely a temporary non-implementation by Türkiye of the EU-Turkey Statement of 18 March 2016.

12. (...), in the present case, the following emerges from the documents in the case file: On (...)/2023, the applicant, a Syrian national, lodged an application for international protection at the Fylakio Reception and Identification Centre (...). He stated that he had left his country on 1 January 2020 because of the war and had travelled to Türkiye. He entered Greece on (...)/2023. He further stated that he had decided to leave Türkiye because he did not possess legal residence documents and was at risk of deportation. During his personal interview, (...) he was informed that his application would be examined pursuant to the safe third country concept and that he was required to set out the reasons why Türkiye was not a safe third country for him. (...) Furthermore, he stated that he had left his country of origin on 1 January 2020 and crossed into Türkiye through (...), while still a minor and accompanied by his family. During their first attempt to cross the border, they were prevented from doing so by the Turkish authorities, who fired shots. Following their second, successful attempt to cross the border, they settled in the area of (...). However, the applications submitted by his father for the issuance of identity documents (kimlik) were rejected. As a result, the applicant was unable to attend school and was subsequently arrested in July 2023 for the purpose of deportation. According to the applicant’s statements, he was detained for ten days in poor conditions in a detention facility in (...). When he was asked to sign deportation documents, he refused to do so, as a result of which the documents were signed by officers of the Turkish authorities. Ultimately, the applicant was placed in a military vehicle that was to transport him to the Syrian border for deportation. However, approximately three kilometres before reaching the border gate, as he was familiar with the area, he managed to escape by jumping from the vehicle. He further stated that, in 2022, he had worked in Türkiye without remuneration as a barber for approximately seven months in order to learn the trade. As regards the reasons why he left Türkiye and entered Greece through the Evros region (...) in 2023, he stated that Türkiye was not a safe country due to the risk of deportation to Syria and the racism directed against Syrians, which resulted in acts of violence against them. He stated that he himself had been subjected to such violence, having been beaten by a group of Turkish nationals during his stay in the country. His application was rejected as inadmissible by Decision (...)/2023 of the Fylakio Autonomous Asylum Unit, on the ground that the cumulative conditions laid down in Article 91 of Law 4939/2022 were met in his individual case, such that Türkiye could be considered a safe third country for him. The applicant lodged an administrative appeal dated (...)/2023 against that decision, seeking the reconsideration of his application for international protection. That appeal was, however, dismissed by the contested decision on the ground that all the conditions required by law were cumulatively satisfied in his individual case for Türkiye to be considered a safe third country for him, to which he could return and benefit from the protection afforded there to Syrian nationals. More specifically, the

6th Independent Appeals Committee reached that conclusion on the following grounds: (a) As regards the criterion laid down in Article 86(1)(a) of Law 4636/2019 (now Article 91 of Law 4939/2022), in view of the applicant's personal circumstances and the absence of any specific aggravating factors relating to him individually, there was no indication of a reasonable risk that he would be deprived of his liberty in Türkiye, taking into particular account his stay in that country for more than three and a half years and the fact that he had been able to move freely without previously having been arrested or detained. Moreover, the applicant's claims concerning his arrest, detention, attempted deportation and escape while being transported to the border in July 2023 were not considered credible or well-founded, in view of their vague nature and the lack of sufficient detail based on his personal experience. (b) As regards the criteria laid down in Article 86(1)(b) and (d) of Law 4636/2019 (now Article 91 of Law 4939/2022), taking into account that the principle of non-refoulement is recognised in Türkiye both in law and in practice and that Syrian refugees are granted temporary protection status, it could not reasonably be inferred that the applicant would face a risk of refoulement to Syria. In particular, the measures taken by the Turkish State to prevent persons from Syria from entering its territory did not lead to the conclusion that Türkiye would fail to apply the aforementioned principle in respect of Syrian nationals returned from Greece. (c) As regards the criterion laid down in Article 86(1)(c) of Law 4636/2019 (now Article 91 of Law 4939/2022), according to the available recent international sources, there was no situation of internal armed conflict in Türkiye, nor was there indiscriminate violence of such a high level as to give rise to a serious risk that the applicant, solely by reason of his presence in the territory of that country, would be exposed to such a threat. (d) As regards the criterion laid down in Article 86(1)(e) of Law 4636/2019 (now Article 91 of Law 4939/2022), it was possible in Türkiye to seek refugee status and to obtain protection equivalent to that afforded under the Geneva Convention. In particular, asylum seekers from Syria were granted temporary protection status, which ensured their protection, especially with regard to the right to work and access to education and healthcare. (e) Finally, as regards the criterion laid down in Article 86(1)(f) of Law 4636/2019 (now Article 91 of Law 4939/2022), taking into account: (1) the applicant's unhindered passage through Türkiye as a third country; (2) his stay in that country for more than three and a half years without encountering any problems; (3) the permanent residence of members of his family (his parents and one sister) in Türkiye; (4) the fact that the applicant had received training in Türkiye as a barber; and (5) Türkiye's geographical proximity to his country of origin, the required connection between the applicant and Türkiye was considered to exist, on the basis of which it would be objectively reasonable for him to go to that country. In light of the above, the contested decision dismissed the applicant's administrative appeal and his application for international protection and ordered his readmission to Türkiye.

13. (...), with the present application, the applicant submits, inter alia, that, in breach of Article 91(5) of Law 4939/2022, his application for international protection was rejected at second instance as inadmissible by the contested decision, on the ground that Türkiye constituted a safe third country for him, despite the fact that no readmissions to that country have taken place since 15 March 2020. Consequently, since his removal from Greece was impossible, his application should have been examined on its merits.

14. (...), in accordance with the findings set out in paragraph 7 of the present judgment, an application for international protection may not be rejected as inadmissible on the ground that a safe third country exists for the applicant, a third-country national, where that third country does not permit the applicant to enter its territory. Moreover, it follows from the available information, as also accepted by the Council of State (see also Judgments Nos. 1049–1052/2025 of the Plenary Session of that Court), that, at the material time when the contested decision was issued, Türkiye had already, for approximately four years, not accepted the return of third-country nationals (whether asylum seekers or otherwise) to its territory. In those circumstances, the Administration bears the relevant burden of

substantiating the possibility of applicants' readmission to Türkiye. However, it did not produce 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 time (or even at present), the resumption of the implementation of the EU-Türkiye Readmission Agreement or the corresponding Greek-Turkish readmission mechanism could reasonably be expected. In light of the above, the contested decision must be annulled and the case remitted to the Independent Appeals Committee for a fresh and lawful determination. Furthermore, the examination of the remaining grounds for annulment is unnecessary, as they have become devoid of purpose.

15. Consequently, the present application must be upheld, the contested decision annulled, and the case remitted to the Administration for a fresh and lawful determination, in accordance with the specific findings set out in the preceding paragraph. Finally, the court fee paid by the applicant must be refunded to him (Article 36(4), first sentence, of Presidential Decree 18/1989). However, having regard to the circumstances of the case, the respondent Minister should be exempted from the applicant's legal costs [Article 275(1), fifth sentence, of the Code of Administrative Procedure, ratified by the first Article of Law 2717/1999 (Government Gazette A' 97), which applies in the present case pursuant to Article 15(5), first sentence, of Law 3068/2002 (Government Gazette A' 274), as replaced by Article 57(1) of Law 4689/2020 (Government Gazette A' 103), in conjunction with Article 4(1)(f) of Law 702/1977 (Government Gazette A' 268), as that provision was added by Article 50 of Law 3659/2008 (Government Gazette A' 77)]. (...)

The application is accepted.

(...)

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