

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF J.B. v. GREECE

(Application no. 54796/16)

JUDGMENT

Art 13 (+ Art 3) • Expulsion • Effective remedy • Convention-compliant examination of a Syrian national's asylum claim in the context of his potential return from Greece to Türkiye under the EU-Türkiye Statement of 18 March 2016 • Striking-out of substantive Art 3 complaint due to granting of refugee status in France did no deprive applicant of his victim status under Art 13 • Applicant's arguable Art 3 claim engaged State's obligations under Art 13 • When asylum seekers' return was governed by a structured framework of cooperation between two Convention member States (rather than by *ad hoc* diplomatic undertakings) with clear and objectively verifiable conditions, the assessment of risk must take account of that broader context • Principle that diplomatic assurances must be specific not to be applied mechanically where the receiving State participated in an established, mutually agreed mechanism for the treatment of returnees • General assurances embedded in such an agreement and implemented through ongoing institutional cooperation, might suffice to dispel a real risk of treatment contrary to Art 3 provided they offered a sufficiently reliable guarantee of protection • Assurances in the present case, assessed within the broader framework of the EU-Türkiye Statement and in conjunction with objective material, constituting a coherent and mutually reinforcing set of guarantees domestic authorities could rely on • Thorough multi-layered examination of the applicant's asylum claim • Individualised assessment • Applicant afforded the opportunity to rebut the presumption that Türkiye was a safe third country for him • Effective safeguards enabling the applicant to assert his fears of treatment contrary to Art 3 capable of protecting him from being arbitrarily returned to Türkiye and, through chain *refoulement*, to his country of origin
Art 3 (substantive) • Degrading treatment • Applicant's detention, pending expulsion, for one month and nineteen dates in a police station without amenities required for prolonged periods of detention

Prepared by the Registry. Does not bind the Court.

STRASBOURG

26 May 2026

FINAL

26/08/2026

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.



In the case of J.B. v. Greece,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Peeter Roosma*, President*,
Ioannis Ktistakis,
Darian Pavli,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 54796/16) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Syrian national, Mr J.B. ("the applicant"), on 9 September 2016;

the decision to give notice to the Greek Government ("the Government") of the complaints under Articles 13 and 3 of the Convention concerning the asylum procedure in Greece and under Article 3 concerning his removal to Türkiye and the conditions of his detention in Mytilene police station and to declare the remainder of the application inadmissible;

the decision not to have the applicant's name disclosed;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by Gisti (Groupe d'information et de soutien des immigrés) jointly with the International Federation for Human Rights, and by the AIRE (Advice on International Rights in Europe) Centre, the European Council on Refugees and Exiles, the International Commission of Jurists and the Dutch Council for Refugees jointly, who were granted leave to intervene by the President of the Section;

Having deliberated in private on 28 April 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the potential return of the applicant from Greece to Türkiye under the EU-Türkiye Statement of 18 March 2016. The applicant complained about several deficiencies during the removal process and in the examination of his asylum claim by the Greek authorities. He further complained about the risk he entailed if returned to Türkiye, including the risk of chain *refoulement*, as well as about the conditions of his detention in

Mytilene police station. He referred to Article 13 in conjunction with Article 3 of the Convention, as well as Article 3 taken alone.

THE FACTS

2. The applicant was born in 1965 and lives in Caen. He was represented by Ms M. Tzeferakou, Ms E. Velivasaki and Ms N. Strachini, lawyers practising in Athens, Irakleio and Chios respectively.

3. The Government were represented by their Agent, Mrs N. Marioli, President at the State Legal Council, as well as by their Agent's delegates, Mr K. Georgiadis, Senior Advisor and Ms Z. Chatzipavlou, Legal Representative at the State Legal Council.

4. The facts of the case may be summarised as follows.

5. According to the applicant, he left Syria in April 2015 because he was in danger from Islamic State due to being of Armenian origin and a Christian, and also because the country was at war. He reached Türkiye through Lebanon, where he stayed for approximately a year, having been given temporary protection status. While he was there, he had to conceal his ethnicity and religion.

6. On 7 May 2016, the applicant was arrested in Lesvos by the Greek authorities of the Central Port Authority of Mytilene because he had entered the country unlawfully.

7. A certificate in Greek and Arabic dated 7 May 2016 stated that the applicant was served with a factsheet addressed to detained aliens who were liable to expulsion or re-admission to a third country through which they had passed, which explained the applicant's rights to him.

I. ASYLUM PROCEEDINGS

8. On 9 May 2016 the applicant expressed his wish to seek asylum. On 13 May 2016, his application for international protection was registered with the Regional Asylum Office of Lesvos. He asked to be recognised as a refugee and to be granted asylum in Greece.

9. On 20 May 2016, an interview was conducted by a member of the personnel provided by the European Asylum Support Office (EASO), a European Union Agency which preceded the European Union Agency for Asylum (EUAA), with the assistance of an Arabic and English interpreter, and then an interview report was prepared in English. The report stated that the applicant had been informed that the Asylum Office would consider if he could be returned to Türkiye under the "Safe Third Country Principle"; in the affirmative, his asylum claim would be declared inadmissible. Part of that process was the interview. During his interview, the applicant was asked several questions, on his personal data, his family and where they were located, any health issues he faced, the details of his travelling to Greece and

how and when he had arrived. He was further asked about the circumstances in which he lived in Türkiye, where he worked, if he had experienced any problems because of his Armenian ethnicity and religion, if he had come in contact with Turkish authorities, had been affected personally by the war between Armenia and Azerbaijan, feared anything specific in Türkiye and had anything to add. The applicant stated that he did not suffer from any mental health problems, that he was in good health and that his wife, two minor children and mother still lived in Syria. He had left Syria and entered Türkiye legally through Lebanon on 6 April 2015. He had remained in Türkiye until 6 May 2016 but had not applied for international protection there because there were serious problems between Armenians and Turks. During his stay, he had been forced to conceal his Armenian ethnicity and Christian religion so as not to face any difficulties. He had left Türkiye as he felt it was not safe for him: there was a war between Armenia and Azerbaijan and Türkiye supported Azerbaijan. While he was living near Istanbul, he had worked illegally as a sculptor for five employers, one of whom had not paid him, so he had asked some influential Alawi people to intervene. He stated that he feared retaliation from his former employer, though he had not experienced any problems with him after he was paid. He had tried to reach Greece but was arrested by the Turkish police and detained for four days. The EASO officer concluded the report by saying that all of the applicant's statements about his identity, country of origin, itinerary and stay in Türkiye were accepted. There was no evidence on the file that the applicant's life and liberty had been threatened in Türkiye, as his fears of being discriminated against because of his religion and ethnicity were based on general assumptions, given that he had never faced any such problems during the year he had lived in Türkiye. He was not ill-treated by the police who had arrested him in the exercise of their ordinary duties. He could therefore be returned to Türkiye as a safe third country.

10. The applicant's application for international protection was rejected as inadmissible by Decision no. 32316/24-5-2016 of the Regional Asylum Office of Lesvos on the grounds that Türkiye had been the applicant's "first country of asylum" or would be a "safe third country" for him, in accordance with Article 18 of Presidential Decree ("p.d.") no. 113/2013, as he had entered Greece from Türkiye after 20 March 2016. The decision took into account, *inter alia*, the domestic legislation (Law no. 4375/2016, p.d. no. 141/2013, p.d. no. 113/2013); the EU-Türkiye Statement of 18 March 2016 (see paragraph 52 below); the applicant's request for international protection; the interview with the applicant and the documents he had produced; a letter of 12 April 2016 from the Ambassador of Türkiye's Permanent Delegation to the Director-General of the European Commission's Directorate-General for Migration and Home Affairs; a letter of 5 May 2016 from the Director-General of the European Commission's Directorate-General Migration and Home Affairs to the Greek Secretary General for

Population and Social Cohesion; and a letter of 4 May 2016 about the conditions of Syrian nationals in Türkiye from the UNHCR to the Alternate Minister for Migration (see paragraph 53 below). The Asylum Service concluded that neither the applicant's life nor his liberty was threatened in Türkiye because of his race, religion, ethnicity, membership of a particular social group or political opinion; that the applicant could ask for international protection in Türkiye, which would accept him following the EU-Türkiye Statement of 18 March 2016; and that as a Syrian, the applicant could have temporary protection in Türkiye, including from *refoulement*. The applicant was informed by the decision that he could lodge an appeal against it within five days of being notified of it and that if Türkiye did not accept the applicant, his application for international protection would be considered by the Greek authorities. There was also reference in the decision to various material that had been taken into account by the Asylum Service in reaching its conclusions, namely Turkish legislation, including the Temporary Protection Regulation and the Law on Foreigners and International Protection; the Report on Türkiye by the European Council on Refugees and Exiles (ECRE) published in December 2015; a report by the UNHCR entitled "Regional Refugee & Migrant Response Plan for Europe; Eastern Mediterranean and Western Balkans Route (January-December 2016) – 19 January 2016"; and press articles concerning allegations about forced returns from Türkiye to Syria with the note that despite those allegations, there were no indications that Türkiye would return Syrians who were readmitted from Greece to Syria. Lastly, it also referred to Türkiye's hosting of more than 2.5 million Syrian refugees as reported in the US Department of State's "Country Report on Human Rights Practices 2015-Turkey".

11. The decision was written in Greek and the applicant was notified of it on 27 May 2016 in the presence of an interpreter. According to the notification certificate, the interpreter informed the applicant that he had the right to appeal against the decision to the Appeals Committee within five calendar days and that an appeal would have an automatic suspensive effect.

12. On the same day, the applicant lodged an appeal with the Appeals Committee against the decision. It appears from the application form and filing receipt that the applicant was informed by a member of the personnel provided by the EASO, with the assistance of an Arabic interpreter, that his appeal would be heard by the 11th Appeals Committee on 31 May 2016. He was also informed that the appeals were generally heard on the papers, without the applicant being present, though he could ask to be heard. In the usual way, his request would be considered by the Appeals Committee, which would inform him if it was accepted. He was further informed that he should submit any additional documents by the date on which his appeal would be heard.

13. On 2 June 2016 the 11th Regular Appeals Committee in decision no. 32316/2-6-2016 dismissed the applicant's appeal as unfounded and found

that the application for international protection was inadmissible under Article 10 of p.d. no. 113/2013. In particular, the Appeals Committee concluded that Türkiye was a safe country for the applicant under the criteria set out in Article 20 of p.d. no. 113/2013, given that he had lived in that country for one year, had worked for five employers and had not encountered any problems attributable to his religion or ethnic origin. The only problem that he had faced in Türkiye was related to his not having received his salary from one employer. This had been resolved with the intervention of certain third parties. Lastly, the Committee found that he had no fear of persecution on the basis of his religion, nationality, membership of a particular social group or political opinion; that Türkiye observed the principle of *non-refoulement*; that he did not belong to a vulnerable social group; and that he could ask for international protection and claim recognition as a refugee to receive protection under the 1951 Refugee Convention relating to the Status of Refugees ("the Refugee Convention"). In making this decision the Appeals Committee took into consideration, *inter alia*, the same documents as had the Asylum Committee (see paragraph 10 above). The applicant was notified of the decision on 3 June 2016.

14. The applicant filed an application for annulment of the above-mentioned decision of the 11th Appeals Committee ("*αίτηση ακύρωσης*") in the Administrative Court of Appeal of Piraeus on 7 June 2016 and an application for suspension of the decision ("*αίτηση αναστολής*") on the next day. In his application for annulment, the applicant underlined that he had not had any legal assistance during his interview for asylum or the appeal he had lodged with the Appeals Committee. The applicant gave the following reasons for annulment of the decision:

a) his interview had been conducted by an employee of EASO and not by a public servant; the interview had been conducted in English, which is not an official language of the Greek administration;
b) he was not called to appear in person before the Appeals Committee, which considered only his file and based its decision on some documents from UNHCR and the European Commission that had not been copied to him;
c) his asylum request had not been considered on its individual merits, but instead the authorities had relied on the EU-Türkiye Statement, which however was not binding nor had it been adopted through the regular legislative process;
d) the Appeal Committee had erred in its findings of fact about the risks he had faced in Türkiye and had erroneously found Türkiye to be a safe third country for the applicant.

The applicant referred to the tension between Türkiye and Armenia and, relying on various sources such as Human Rights Watch and the US Department of State, claimed that Armenians were at risk of ill-treatment by

the Turkish authorities. He further argued that the temporary protection offered to Syrians by Türkiye was not equivalent to the protection required by the 1951 Refugee Convention and that the Appeals Committee had failed to investigate whether Türkiye would breach the principle of *non-refoulement*. Lastly, he asked the court to send a request for a preliminary ruling to the Court of Justice of the European Union ("CJEU") asking whether the EU-Türkiye Statement had been adopted using the procedure provided for by Article 218 of the Treaty on the Functioning of the European Union ("TFEU") and whether Article 38 (1) (e) of 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 ("the Asylum Procedures Directive"), should be interpreted so as to require that the safe third country had ratified the 1951 Refugee Convention in full.

15. On 15 July 2016, the aforementioned application for suspension was dismissed by the Piraeus Court of Appeal in decision no. N56/2016. The domestic court stated that the applicant's arguments concerning Türkiye's failure to implement the Refugee Convention and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (hereafter: "the Convention against Torture") were manifestly ill-founded, as those were matters that could not be taken into account on an application for suspension of the decision in issue. General arguments regarding Türkiye did not mean that the applicant would not be safe if he were returned there. From the information provided, and the applicant's replies during his asylum interview, it did not appear that he would run a real and individualised risk of persecution or of mistreatment or expulsion to Syria if he returned to Türkiye. His concerns regarding his ethnicity and religion were not enough to justify his fear of being returned to Türkiye, and neither were his general allegations. The applicant's arguments regarding the procedure for claiming asylum were also unfounded: on the one hand, he had been interviewed with the assistance of an interpreter and on the other hand, he had not suffered any harm from the lack of legal assistance, given that he had submitted a procedurally correct appeal against the dismissal of his claim for asylum, as well as an application for annulment and an application for suspension of the decision on his appeal. Lastly, the applicant's allegation that he was not a danger to public order was irrelevant to the consideration of his asylum application. Taking further into account the letter dated 5 May 2016 of the Director General of Immigration and Internal Affairs of the European Commission, the letter dated 4 May 2016 of the UNHCR which confirmed that UNHCR made every effort to monitor the situation of Syrians who were readmitted from Greece to Türkiye, and the letter dated 9 June 2016 of the UNHCR which confirmed that the readmitted Syrians who had voluntarily returned to Türkiye and asked to be registered for the protection offered under the Temporary Protection

Regulation had succeeded, the domestic court dismissed the application for suspension.

16. On 31 May 2017 the Administrative Court of Appeal in Piraeus dismissed the applicant's application for annulment of the decision of the 11th Appeals Committee in its decision no. A460/2017. The court held that the law allowed interviews to be conducted by EASO officers and that the applicant's procedural rights had not been violated given that:

a) he was assisted by an interpreter both during his interview and when he was informed about the hearing of his appeal;

b) that he had been heard in person by the Asylum Committee, even if not by the Appeals Committee; and

c) that he had not suffered any harm from the lack of legal assistance or the short deadlines, given that he had lodged an appeal against the refusal of his asylum claim on time, and that he had also made an application for annulment, accompanied by an application for suspension of the decision of the Appeals Committee. As regards the applicant's arguments about the situation of refugees in Türkiye and the latter's ratification of the Refugee Convention with a geographical limitation excluding Syrians, the domestic court held that it was not required that a country in which an applicant sought asylum had ratified the Refugee Convention, with or without geographical restriction, but it sufficed that it offered protection equivalent to the protection offered by the Refugee Convention. The Report of the fact-finding mission to Türkiye by Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees (30 May-4 June 2016) filed by the applicant did not prove the applicant's arguments, as it confirmed that the allegations of forced returns of Syrians to Syria had not been verified, and that Syrians had the right to temporary protection and the right to work. The Appeals Committee had considered the legislation and the general conditions of protection of Syrian refugees in Türkiye, and it had therefore given sufficient reasons for its decision. As regards the applicant's fears that he would be sent to Syria, he had not referred to any specific actions or omissions of the Turkish authorities which would justify such fears; his concerns about being discriminated against on the basis of his ethnicity and religion were not sufficient to accept that he would be in the danger he feared in Türkiye. His allegations were vague and, given that he had lived over a year in Türkiye without experiencing any problems because of his ethnicity or religion, the applicant did not face a real and individual risk of persecution or ill-treatment from the Turkish authorities. In any event, the applicant's asylum claim had been assessed on an individual basis, so his allegations about routine deportations were unfounded. Given the above considerations, the applicant could be said to have a link with Türkiye as he had resided there for a long period of time, so the decision being challenged was well reasoned and justified. Lastly, the applicant's arguments

regarding the status of the EU-Türkiye Statement were not relevant, as the contested decision had not been based on it.

17. The applicant lodged an appeal on points of law against that decision with the Supreme Administrative Court on 31 May 2018. The appeal was heard on 27 September 2022, but no decision had been given at the time of the applicant's latest submissions on 1 August 2025.

II. PROCEEDINGS CONCERNING THE APPLICANT'S REMOVAL TO TÜRKIYE

18. On 9 May 2016 the Director of the Lesvos Police Directorate issued decision no. 6634/1/71/4665-ξθ/9-5-2016, directing the expulsion of the applicant as an alien, on the basis that there was a procedure for him to be readmitted to Türkiye. It ordered the detention of the applicant pending his immediate readmission to Türkiye. The decision stated that the applicant had the right to appeal against it within five days of being notified of it to the General Regional Police Director of the North Aegean (hereafter: "the Police Director") and that he also had the right, within the same deadline, to lodge objections to his detention with the appropriate Administrative Court of First Instance. That decision was served on the applicant on the same day, as evidenced by a certificate of notification in Greek.

19. On 9 June 2016 the applicant filed an appeal against the expulsion decision of 9 May 2016 with the Police Director. He argued that he ran a severe risk of being sent from Türkiye to Syria, where he could not be granted refugee status and where his life and freedom were threatened because of his ethnicity. Moreover, he had claimed asylum and therefore, the decision he was challenging should have never been issued.

20. On 11 July 2016 the Police Director dismissed the applicant's appeal in its decision no. 9760/20/1/793-ζ/11-7-2016, with the twofold justification that the appeal had been filed out of time and that the decision being challenged had been lawfully made. The decision of the Police Director was served on the applicant in Greek; in the certificate, it was stated that the applicant had been informed of his right to appeal within the legal deadline and that he had refused to sign an acknowledgement that he had been notified of that decision.

21. On 20 July 2016, the applicant filed an application for annulment of the two above-mentioned decisions, namely the expulsion decision of 9 May 2016 and the dismissal on 11 July 2016 of his appeal against that expulsion decision, in the Administrative First Instance Court of Mytilene. The applicant argued that he had not been informed about his right to appeal in a language he understood and that the expulsion decision had been served on him in a language he did not understand, so he was not to blame for his appeal being filed out of time. As reasons for annulling the decisions, he put forward:

a) that the administration should have heard him before issuing the decision so he could explain the risks he ran in Türkiye;
b) that he did not have the right to an effective remedy for not having been given appropriate information about his right to appeal and for not having been given legal assistance;
c) that the EU-Türkiye Statement was not binding and the administration had interpreted it erroneously by proceeding to mass expulsions;
d) that his expulsion was contrary to Greece's international obligations because he was at risk of being tortured if he was sent to Türkiye and from there to Syria;
e) that the decision to expel him was made after he had expressed his wish to make a claim for asylum and was therefore invalid; and
f) that no sufficient reasons had been given for the disputed decisions.

He also asked for a request for a preliminary ruling to be sent to the CJEU. He referred to, *inter alia*, a medical reference dated 16 July 2016 asking for an evaluation of his psychological health, as he had had a panic attack while in detention; two resolutions of PACE; and various reports from Amnesty International, the National Commission for Human Rights, ECRE and other national and international monitoring bodies.

22. On the same day, he filed an application in the same court for suspension of the above decisions, as well as a request for an interim order. The request for an interim order was granted on 28 July 2016. It was valid until the decision on the application for suspension. The decision could also have been set aside by the court of its own motion.

23. In the meantime, on 22 July 2016, the Director of the Lesvos Police Directorate decided in decision no. 6634/1/71/4665ρ-δ/22-7-2016 that the applicant should be removed from Greece but without being detained until his removal. The decision was served on the applicant, and he was notified of it the same day, as evidenced by the certificate of service, which was in Greek. In particular, the decision not to detain him took into account the Administrative First Instance Court of Mytilene's judgment no. 8/2016 of 22 July 2016, which had upheld the applicant's objections to his detention (see paragraph 35 below), had suspended the execution of decision dated 9 May 2016 on the expulsion of an alien and had given the applicant 30 days to leave the country, requiring him to live at the premises of the former PIKPA at Neapoli, Mytilene (an accommodation centre for asylum seekers) until his departure.

24. On 25 July 2016, the applicant filed an appeal against the new decision to expel him with the Police Director and on 29 July 2016 he adduced the Administrative First Instance Court of Mytilene's interim order of 28 July 2016, which had granted his request for interim order (see paragraph 22 above).

25. On 1 August 2016 the Police Director issued decision no. 9760/20/1/793-ιστ/1-8-2016, which, having regard to the interim order of the Administrative First Instance Court of Mytilene, suspended the execution of the contested decision until the delivery of a decision on the applicant's application of 20 July 2016 for suspension (see paragraph 22 above). On 2 August 2016, a police officer attempted to serve the above decision on the applicant at PIKPA Neapolis, in the Municipality of Mytilini, but he did not appear to be living there.

26. On 22 August 2016, the Administrative First Instance Court of Mytilene revoked the interim order of 28 July 2016, having taken into account decision N56/2016 of the Administrative Court of Appeal in Piraeus, which had dismissed the applicant's application of 7 June 2016 for suspension of the decision of the Appeals Committee (see paragraph 15 above).

27. On 22 September 2016, the applicant filed an application in the Administrative First Instance Court of Mytilene for annulment of the following:

a) decision no. 9760/20/1/793-ιστ/1-8-2016 of the Police Director, which had directed a temporary suspension of execution of the decision of the Director of the Police Division of Lesvos no. 6634/1/71/4665-ρ-δ / 22-7-2016 (see paragraph 25 above);

b) decision of the Director of the Lesvos Police Directorate no. 6634/1/71/4665-ρ-δ / 22-7-2016 itself: this had suspended the execution of decision dated 9 May 2016 to expel the applicant from Greece and had ordered the applicant to leave the country within 30 days (see paragraph 23 above);

c) decision no. 6634/1/71/4665-ξθ / 9-5-2016 of the Director of the Lesvos Police Directorate of 9 May 2016 to expel the applicant (see paragraph 18 above); and

d) decision no. 9760/20/1/793-ζ/11-7-2016 of the Police Director, who dismissed the applicant's appeal against the decision of 11 July 2016 to expel him to Türkiye (see paragraph 20 above).

The applicant argued, in particular, that if he were returned to Türkiye, the principle of *non-refoulement* would be violated; that he could not be recognised as a refugee under the 1951 Refugee Convention; that he would be detained in humiliating conditions; and that he faced a risk of ill-treatment because of his ethnicity and religion. He also argued that insufficient reasons had been given for the contested decisions and he asked for a request for a preliminary ruling from the CJEU regarding the EU-Türkiye Statement.

28. On the same day, the applicant filed an application for suspension of execution of the disputed decisions pending a decision on the application for annulment.

29. That application for suspension was decided on 27 December 2016 in decision no. 21/2016 of the Administrative First Instance Court of Mytilene.

It dismissed the application for suspension on the grounds that, irrespective of the damage alleged by the applicant, there could be no order for suspension given that the application for annulment of 22 September 2016 was manifestly inadmissible. In particular, the court took into consideration that:

a) the first and the second of the contested decisions were decisions enforcing respectively the interim order of 28 July 2016 and decision no. 8/2016 dated 22 July 2016 on the applicant's objections to his detention, which were decisions that could not be challenged with the application for annulment; and

b) the third and fourth decisions had already been challenged by the applicant by his application for annulment dated 20 July 2016; the law did not allow a person to make two concurrent applications for annulment of an administrative act so the second application, dated 22 September 2016, was inadmissible.

30. On 18 January 2017 the Administrative Court of First Instance of Mytilene in its decision no. 1/2017 dismissed the application of 20 July 2016 to suspend the expulsion decision of 9 May 2016 and the dismissal of 11 July 2016 of the applicant's appeal against that expulsion decision (see paragraph 22 above). In particular, the Administrative Court of First Instance of Mytilene held that the risks the applicant had referred to did not constitute a reason to suspend the execution of the decisions he had challenged in principle but were rather the consequences of the dismissal of his appeal against the decision on his asylum claim. In any event, the applicant's eventual return to Türkiye would not cause him any irreparable harm consisting of being exposed to a risk of persecution or other unfavourable treatment by Turkish authorities for reasons falling within the scope of the Refugee Convention, nor had it been proved that the Turkish authorities were unable or unwilling to provide protection in the event that he was persecuted by non-state actors.

31. With regard to the applicant's application of 20 July 2016 for annulment of the expulsion decision of 9 May 2016 and the decision of 11 July 2016 dismissing his appeal, on 4 December 2020 the Administrative Court of Mytilene delivered decision no. 42/2020, dismissing it. The domestic court held that there was no requirement in Greek law to serve a removal decision on a foreign national in a language he understood. The decision should include information about how the foreigner could lodge an appeal, and he could refuse to receive it or to sign the notification certificate because of his lack of understanding Greek. In the present case, the removal decision of 9 May 2016 had been served on the applicant and he had lodged an appeal against it on 11 July 2016 that was dismissed as out of time (see paragraph 20 above). However, the applicant had signed the notification certificate, which informed him how to appeal and what the deadline was, without saying that he did not understand Greek and could not read what the document said.

32. On the same date, the Administrative Court of Mytilene in its decision no. 43/2020 dismissed the second application for annulment, which had been lodged by the applicant on 22 September 2016. The court's reasoning was the same as for the application for suspension (see paragraph 29 above).

33. In his letter dated 1 August 2025 the applicant informed the Court that on an unspecified date he had moved to France where he now lives, having been granted refugee status.

III. PROCEEDINGS CONCERNING THE APPLICANT'S DETENTION

34. On 7 July 2016 the applicant filed objections to his administrative detention in the Administrative First Instance Court of Mytilene. He submitted that he was Syrian, that he was not a danger to public order, and he was not a flight risk. He had lodged an asylum claim which had been rejected. He further adduced a certificate from the non-governmental organisation "Solidarity of Lesvos" that he would be hosted in their premises and complained, *inter alia*, about the conditions of his detention. The objections were dismissed in decision no. AP4/2016 of that court on the same day. The court held that the applicant had entered the country illegally and that if he was not detained, it was possible that he would try to prevent his removal by moving within Greece.

35. Following that, in the light of new evidence provided by the applicant, the Administrative First Instance Court of Mytilene in its decision no. 8/2016 of 22 July 2016 set aside its decision no. AP4/2016 and upheld the applicant's objections to his detention. It considered that the application for annulment of the rejection of the applicant's asylum claim and the application for suspension of the removal decision constituted new evidence that reversed the situation that had been taken into account in that court's decision no. AP4/2016. Given the certificate from "Solidarity of Lesvos" that the applicant would be hosted in their premises and the fact that he had not demonstrated criminal behaviour during his stay in Greece, the court ordered that he be released from detention and gave him 30 days to leave the country.

IV. CONDITIONS OF THE APPLICANT'S DETENTION

36. On 3 June 2016 the applicant was transferred from Moria camp to Mytilene police station, where he was detained until 22 July 2016. According to him, the conditions were humiliating: he did not have access to outdoor activities or yarding, to natural light and fresh air and to telephoning. His access to his lawyer was not unrestricted. The premises were only cleaned once per month, and he did not have access to hot water. No personal hygiene items or bedsheets and pillows were given to him and there were no tables or chairs for mealtimes. Apart from the objections he lodged twice with the Administrative First Instance Court of Mytilene on 7 and 21 July 2016, he

also complained to the police authorities about the conditions in which he was being detained on 18 July 2016.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW AND RELEVANT CASE-LAW

37. Articles 76, 77 and 83 of Law no. 3386/2005 governing the conditions and procedure of administrative expulsion of foreign nationals, as in force at the material time, are reproduced, in so far as relevant, in *Barjamaj v. Greece*, no. 36657/11, §§ 17-18, 2 May 2013).

38. The Asylum Procedures Directive was transposed into the domestic law by Law no. 4375/2016, which came into force on 3 June 2016, with the exception of Article 60 § 4, which came into force on the publication of the law in the Government Gazette on 3 April 2016. The applicant's appeal against the original refusal of his asylum claim was decided by the Appeals Committee on 2 June 2016. It could thus not be decided under the provisions of the new law, which came into force on 3 June 2016. The applicant's asylum application was examined under Articles 18 and 20 of Presidential Decree no. 113/2013 ("Establishment of a uniform procedure for the recognition of third-country nationals and stateless persons of refugee or subsidiary protection status in compliance with Directive 2005/85 / EC ... ") and in accordance with the procedure provided for in Article 60 § 4 of Law 4375/2016, which was in force when the original claim was made.

39. Articles 18 and 20 of Presidential Decree no. 113/2013 in their relevant parts read as follows:

Article 18
Inadmissible applications

"The deciding authority shall reject as inadmissible a claim for asylum by a relevant decision if:

...

c) the applicant enjoys sufficient protection by a country which is not a Member State and is considered the first country of asylum for the applicant, pursuant to Article 19 or...;

d) the Authorities consider that a country is a safe third country for the applicant in accordance with Article 20, or

..."

Article 20
Safe Third Country

"1. A country is considered a safe third country for a specific applicant when all of the following criteria are met:

a. his life and freedom are not threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion;

b. the country observes the principle of *non-refoulement*, in accordance with the Refugee Convention;

c. there is no risk of serious harm to the applicant under Article 15 of Presidential Decree 96/2008;

d. that country prohibits the removal of an applicant to a country where he or she would be at risk of torture or cruel, inhuman, or degrading treatment or punishment, as defined in international law;

e. the applicant will have an opportunity to claim refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention; and

f. the applicant has a connection with that third country on the basis of which it would be reasonable for him or her to go there.

2. The fulfilment of the above criteria shall be considered on a case-by-case basis and for each applicant separately. Where a decision is taken solely on the basis of this Article, the Examining Authorities shall inform the applicant accordingly and provide him with a document informing the authorities of the third country concerned that the application has not been examined in substance.

3. Where the third country concerned does not allow the applicant to enter its territory, the application shall be examined on its merits by the Competent Examination Authorities."

40. Article 60 of Law no. 4375/2016 ("Borders Procedure") transposing Article 43 of the Asylum Procedures Directive, as in force at the material time, read as follows:

"...

4. In the event of arrivals involving a large number of third-country nationals or of stateless persons lodging applications for international protection at the border or in a transit zone of a port or airport, or while they are in Reception and Identification Centres, by joint decision of the Ministers of the Interior and Administrative Reconstruction and National Defence, the following shall apply by way of exception:

a. The registration of applications for international protection, service of decisions and other procedural documents, and the receipt of appeals may be carried out by personnel of the Greek Police or personnel of the Armed Forces.

b. Interviews with applicants for international protection may also be conducted by personnel provided by the European Asylum Support Office.

...

d. The decision on the application for international protection shall be issued no later than the day after the interview and shall be served no later than the day after its issuance.

e. Appeals shall be heard within three (3) days of being lodged. The decision on the appeal shall be issued no later than two (2) days after hearing or the submission of the memorandum and shall be served no later than the day following issue. In the event of a request for a hearing in person by the appellant, as provided for in Article 62(1)(e) hereof, the Appeals Committee may, at its discretion, invite the appellant to a hearing.

f. Those who fall under the provisions of Articles 8 to 11 of Regulation (EU) No. 604/2013 of the European Parliament and of the Council, as well as persons belonging to vulnerable groups, are exempt from the above procedure in accordance with paragraph 8 of Article 14.

..."

41. Furthermore, the right of an application for annulment against a decision of the Appeals Committee to the Three-Member Administrative Court is provided by Article 29 of Presidential Decree no. 114/2010 and Article 15 of Law no. 3068/2002, and the right of appeal against the decision of the Three-Member Administrative Court to the Supreme Administrative Court is provided by Article 15 of Law no. 3068/2002. In the case of an appeal, there is also the right to file an application for suspension of execution of the decision appealed against (Articles 52 and 65 of Presidential Decree no. 18/1989).

42. On 22 September 2017, the Supreme Administrative Court, sitting in its Plenary formation, delivered decisions nos. 2347/2017 and 2348/2017 on the appeals lodged by two male Syrians who had challenged decisions of the Asylum Appeals Committees refusing their claims for international protection on the grounds that Türkiye was a "safe third country" for them. The domestic court held, in particular, the following:

a) the composition of the Appeals Committee with two serving judges and a member of the UNHCR was in conformity with the Constitution;

b) the fast-track procedure for assessment of asylum claims was allowed by the Asylum Procedures Directive and that procedure could be adopted immediately on the passing of Law no. 4375/2016, whether or not there had been a joint ministerial decision as foreseen in Article 60, or of a decision of the Council of the European Union;

c) the conduct of interviews by EASO officer was not contrary to the Constitution or the Regulation (EU) No. 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office, in force at that time;

d) the recording of the interview that had been written in English and not in Greek had not caused any harm to the asylum-seekers involved;

e) the issues considered as regards the asylum claim were lawfully restricted to whether Türkiye would be a safe third country for the asylum-seekers and did not include an examination of the risks they might run in Syria;

f) the way the Asylum Service considered the asylum claim was sufficient and neither the Asylum Procedures Directive nor the Charter of Fundamental Rights of the European Union required an asylum seeker to be heard in person by the Appeals Committee either;

g) the application of the concept of a safe third country came from Articles 54-56 of Law no. 4375/206 and not from the EU-Türkiye Statement, which provided for the return to Türkiye of persons whose asylum claims had

been rejected as inadmissible, making arguments about whether the EU-Türkiye Statement was binding on Greece or had been properly transposed into domestic law irrelevant;

h) the Asylum Appeals Committee was not prevented either by European or by domestic law from taking into account assurances given by other States even if the asylum seekers had not been informed about them, given that they had expressed their arguments on the situation in Türkiye for Syrian refugees, which was the main focus of the letters containing the assurances;

i) the decisions of the Asylum Appeals Committee were fully reasoned and had taken into account all available evidence;

j) the evidence available did not prove that there was a general practice of detention of Syrians in Türkiye; and

k) it was not necessary for a country to have ratified the Refugee Convention without any geographical limitation for it to be characterised as safe third country; Syrian refugees that were readmitted from Greece were protected from *refoulement* and enjoyed temporary protection, as well as residence rights and a right to work similar to that of Turkish citizens. The country therefore offered protection comparable to that required by the Refugee Convention.

The Supreme Administrative Court therefore dismissed the appeals.

II. INTERNATIONAL LAW AND MATERIALS

A. United Nations

43. The relevant provisions of the 1951 Convention relating to the Status of Refugees have been reproduced in *M.A. and Others v. Lithuania* (no. 59793/17, § 51, 11 December 2018).

B. Council of Europe

1. Parliamentary Assembly of the Council of Europe ("PACE")

44. On 20 April 2016 the Parliamentary Assembly adopted Recommendation 2109 (2016) on "The situation of refugees and migrants under the EU–Turkey Agreement of 18 March 2016", which reads as follows:

> "1. The Parliamentary Assembly takes note of the European Union–Turkey Agreement (EU–Turkey Agreement) of 18 March 2016, adopted against the background of the unprecedented numbers of refugees and migrants arriving in western Europe *via* the Eastern Mediterranean and Western Balkans route in 2015, which has generated political tensions in many States and an institutional crisis in the European Union. It recalls the fact that Turkey currently hosts over 2.7 million Syrian refugees, on whom it estimates having spent over €7 billion.
>
> 2. The Assembly considers that the EU–Turkey Agreement raises several serious human rights issues relating to both its substance and its implementation now and in the future, in particular the following:

2.1 the Greek asylum system lacks the capacity to ensure timely registration of asylum applications, issuing of first instance decisions or determination of appeals; the new Greek Law No. 4375/2016 may help to address earlier shortcomings, but it will not ensure adequate capacity;

2.2 detention of asylum seekers in the "hotspots" on the Aegean islands may be incompatible with the requirements of the European Convention on Human Rights (ETS No. 5), due notably to procedural failures undermining the legal grounds for detention and inadequate detention conditions;

2.3 children and vulnerable persons are not systematically referred from detention to appropriate alternative facilities;

2.4 returns of Syrian refugees to Turkey as a "first country of asylum" may be contrary to European Union and/or international law, as Turkey may not ensure protection that is "sufficient", according to the position of the Office of the United Nations High Commissioner for Refugees (UNHCR), and there have been reports of onward refoulement of Syrians;

2.5 returns of asylum seekers, whether Syrian or not, to Turkey as a "safe third country" are contrary to European Union and/or international law; as Turkey does not provide them with protection in accordance with the 1951 Convention relating to the Status of Refugees, non-Syrians do not have effective access to the asylum procedure and there have been reports of onward refoulement of both Syrians and non-Syrians;

2.6 remedies against decisions to return asylum seekers to Turkey do not always have an automatic suspensive effect, as required by the European Convention on Human Rights;

2.7 resettlement of Syrian refugees from Turkey is made conditional on the number of returns to Turkey from Greece and will subsequently depend on the Voluntary Humanitarian Readmission Scheme, which in practice is likely to generate unacceptably low levels of resettlement;

2.8 there have been unreasonable delays in the European Union's disbursement of the financial assistance promised to Turkey to help support Syrian refugees in the country, which should not depend on developments in the Aegean Sea.

3. The Assembly also has concerns relating to certain parallel initiatives in areas closely related to the EU–Turkey Agreement, in particular the following:

3.1 the closure by "the former Yugoslav Republic of Macedonia" of its southern border, coupled with the EU–Turkey Agreement, has added to the pressure on Greece, a country already struggling with the effects of budgetary and financial austerity;

3.2 most European Union member States have effectively failed to honour their pledges to relocate refugees from Greece, despite the growing pressure that country is under;

3.3 it is premature to consider resuming transfers to Greece under the Dublin Regulation given the continuing inadequacies of its asylum system, the additional pressure of its current situation and the fact that the Committee of Ministers of the Council of Europe has not yet closed supervision of execution by Greece of the judgment of the European Court of Human Rights in the case of M.S.S. v. Belgium and Greece.

4. The Assembly therefore recommends that Greece, as an implementing party of the EU–Turkey Agreement, and the European Union, insofar as it provides relevant operational assistance to the Greek authorities:

4.1 refrain from automatic detention of asylum seekers and ensure strict adherence to the requirements of national law, the European Convention on Human Rights and European Union law concerning both the grounds for and conditions of detention, with adequate provision for alternatives where detention is not justified or otherwise inappropriate, including following the expiry of time limits;

4.2 systematically ensure that children and vulnerable persons are promptly excluded from detention and referred to appropriate alternative facilities;

4.3 ensure that the rights and provisions under Directive 2013/33/EU of the European Parliament and of the Council laying down standards for the reception of applicants for international protection are fully respected for all refugees and migrants arriving in Greece;

4.4 refer the question of interpretation of the concept of "sufficient protection" in Article 35 of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (Asylum Procedures Directive) to the Court of Justice of the European Union and, until such interpretation has been given, refrain from involuntary returns of Syrian refugees to Turkey under this provision;

4.5 refrain from involuntary returns of asylum seekers to Turkey under Article 38 of the Asylum Procedures Directive;

4.6 ensure that sufficient resources from within the Greek administration or from other European Union member States are rapidly made available so as to allow effective access to a proper asylum procedure and rapid first instance decisions and appeal determination, in accordance with European Union law, especially for applicants in detention;

4.7 revise the legislation to ensure that all appeals against decisions to return to Turkey have an automatic suspensive effect;

4.8 ensure that all migrants and asylum seekers whose applications are not accepted are treated with dignity and in full compliance with Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals.

5. The Assembly also recommends to the European Union, its member States, and States participating in European Union resettlement schemes, as appropriate, that:

5.1 resettlement pledges made under the 20 July 2015 European Union agreement on resettlement be rapidly and fully honoured, regardless of developments in the implementation of the EU–Turkey Agreement; beyond that, substantial numbers of Syrian refugees should be resettled from Turkey;

5.2 family reunion of refugees be allowed without any delay or complicated procedures, in order to prevent family members from being forced to take an irregular route to reunification;

5.3 the financial assistance promised to Turkey in November 2015 to help support Syrian refugees be disbursed without further delay;

5.4 commitments to relocate refugees from Greece be rapidly fulfilled;

5.5 there be no further consideration of resuming transfers to Greece under the Dublin Regulation until the Committee of Ministers has closed its supervision of execution by Greece of the judgment in the case of M.S.S. v. Belgium and Greece.

6. Finally, the Assembly recommends that Turkey:

6.1 withdraw its geographical limitation to the 1951 Convention relating to the Status of Refugees and recognise the status and fully respect the rights of refugees under that convention;

6.2 refrain from any onward refoulement of asylum seekers returned from Greece, ensuring access to the asylum system and to an effective remedy with a suspensive effect against removal as required by the European Convention on Human Rights;

6.3 ensure that all migrants and asylum seekers returned from Greece are treated in full accordance with international standards, including on detention."

45. On 12 October 2022 the Parliamentary Assembly adopted Recommendation 2238 (2022) on "Safe third countries for asylum seekers", which reads as follows:

"1. The Parliamentary Assembly refers to its Resolution 2461 (2022) "Safe third countries for asylum seekers" and emphasises the need for greater co-ordination among Council of Europe member States in order to effectively protect the human rights of asylum seekers and the right to asylum in Europe.

2. Welcoming Recommendation No. R (97) 22 of the Committee of Ministers of the Council of Europe to member States containing guidelines on the application of the safe third country concept, the Assembly recommends that the Committee of Ministers:

2.1. review this Recommendation in the light of relevant jurisprudence of the European Court of Human Rights, develop new standards to enable member States to improve their assessment of the safety of third countries and regularly update them in accordance with future legal developments and jurisprudence;

2.2. consider setting standards on the transfer, return and readmission of asylum seekers and refugees, taking due account of the effective protection of their human rights under the European Convention on Human Rights (ETS No. 5) and their right to apply for asylum under international refugee law;

2.3. seek co-operation of the Council of Europe and its member States with the European Union Agency for Asylum, in order to prevent discrepancies in the application of the safe third country concept in Europe to the detriment of human rights and the right to apply for asylum;

2.4. invite member States to inform the Committee of Ministers about their practice regarding the safe third country concept as well as their practice as regards procedural means available to rebut the presumption of safety of a country."

2. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ("CPT")

46. Following its visit to Greece in April and July 2016, the CPT published its report dated 26 September 2017 (CPT/Inf (2017) 25). Its paragraph that dealt with the police station in Mytilene stated:

"...

78. The material conditions in the police stations of Chios Town, Mytilene and Samos were poor.

...

At Mytilene Police Station, the detention area consisted of a narrow corridor off which there were five cells (two with seven plinths, two with six plinths and one with two plinths) and a toilet and shower facility. The facility was very dirty and shabby, the toilets emitted a foul smell and were unhygienic and dilapidated, and there was hardly any light (natural or artificial). The small two plinth cell was also very sombre. At the time of the visit, seven men and one woman were being held at the facility. There was no outdoor exercise yard."

C. European Union Law and Practice

1. European Union Law

47. The relevant provisions of the TFEU and of the Charter of Fundamental Rights of the European Union are reproduced in so far as relevant in *N.D. and N.T. v. Spain* [GC] (nos. 8675/15 and 8697/15, §§ 42-43, 13 February 2020).

48. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (OJ 2013 L 180, p. 60; "the Asylum Procedures Directive") in its relevant parts reads as follows:

Article 6
Access to the procedure

"1. When a person makes an application for international protection to an authority competent under national law for registering such applications, the registration shall take place no later than three working days after the application is made.

If the application for international protection is made to other authorities which are likely to receive such applications, but not competent for the registration under national law, Member States shall ensure that the registration shall take place no later than six working days after the application is made.

Member States shall ensure that those other authorities which are likely to receive applications for international protection such as the police, border guards, immigration authorities and personnel of detention facilities have the relevant information and that their personnel receive the necessary level of training which is appropriate to their tasks and responsibilities and instructions to inform applicants as to where and how applications for international protection may be lodged ..."

Article 8
Information and counselling in detention facilities and at border crossing points

"1. Where there are indications that third-country nationals or stateless persons held in detention facilities or present at border crossing points, including transit zones, at external borders, may wish to make an application for international protection, Member States shall provide them with information on the possibility to do so. In those detention facilities and crossing points, Member States shall make arrangements for interpretation to the extent necessary to facilitate access to the asylum procedure.

2. Member States shall ensure that organisations and persons providing advice and counselling to applicants have effective access to applicants present at border crossing

points, including transit zones, at external borders. Member States may provide for rules covering the presence of such organisations and persons in those crossing points and in particular that access is subject to an agreement with the competent authorities of the Member States. Limits on such access may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the crossing points concerned, provided that access is not thereby severely restricted or rendered impossible."

Article 26
Detention

"1. Member States shall not hold a person in detention for the sole reason that he or she is an applicant. The grounds for and conditions of detention and the guarantees available to detained applicants shall be in accordance with Directive 2013/33/EU.

2. Where an applicant is held in detention, Member States shall ensure that there is a possibility of speedy judicial review in accordance with Directive 2013/33/EU."

Article 33
Inadmissible applications

"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) another Member State has granted international protection;

(b) a country which is not a Member State is considered as a first country of asylum for the applicant, pursuant to Article 35;

(c) a country which is not a Member State is considered as a safe third country for the applicant, pursuant to Article 38;

..."

Article 38
The concept of safe third country

"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 accordance with the following principles in the third country concerned:

(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 him or her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

4. Where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to a procedure is given 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."

2. CJEU's case-law

49. Three separate actions for annulment were made by NF, NG and NM to the General Court on 22 April 2016, seeking the annulment of the EU-Türkiye Statement and arguing that it constituted an attempt by the European Council to set up an international agreement that was in breach of EU law. The General Court of the European Union made three orders on 28 February 2017 (NF v European Council (T-192/16, EU:T:2017:128); NG v European Council (T-193/16, EU:T:2017:129); and NM v European Council (T-257/16, EU:T:2017:130)) dismissing the actions for annulment. The General Court said that independently of whether it constituted a political statement or a measure capable of producing binding legal effect, the EU-Türkiye Statement, as published by means of press release No. 144/16, could not be regarded as a measure adopted by the European Council, or by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponded to the contested measure, and which would commit the EU to an international agreement with a third country. The General Court therefore had no jurisdiction to rule on the

lawfulness of that statement. The appeals brought against these orders were dismissed as inadmissible by the Court of Justice of the European Union by an order of 12 September 2018 (*NF and Others v European Council,* joined cases C-208/17 P to C-210/17 P, EU:C:2018:705).

50. The case *Elliniko Symvoulio gia tous Prosfyges and Ypostirixi Prosfygon sto Aigaio*, (C-134/23 EU:C:2024:838, judgment of 4 October 2024) concerned a request for a preliminary ruling under Article 267 TFEU from the Greek Supreme Administrative Court on the interpretation of Article 38 of the Asylum Procedures Directive read in the light of Article 18 of the Charter of Fundamental Rights of the European Union. The events of that case had taken place after the present case and had to do with the designation of Türkiye as a safe third country by a ministerial decision in 2021. Since March 2020 Türkiye had no longer readmitted applicants for international protection to its territory if the Greek authorities had refused to hear their claims because a "safe third country" was available.

51. The Court of Justice of the European Union held that where a Member State has, by an act of general application, designated a third country as generally safe, despite the suspension by that country of the possibility for applicants for international protection to enter its territory, that Member State must ensure that each of the applicants concerned has the right to access a procedure for the examination of his or her application for international protection. Moreover, where it was established that a third country designated as generally safe by a Member State did not in fact admit or readmit the applicants for international protection concerned, that Member State could not reject their applications for international protection as inadmissible on the basis of Article 33(2)(c) of the Asylum Procedures Directive. Furthermore, that Member State could not unjustifiably postpone the examination of those applications and must, *inter alia*, ensure that that examination is conducted on an individual basis, in accordance with Article 10(3)(a) of that directive and in compliance with the time limits set out in Article 31 thereof.

D. The EU-Türkiye Statement and related documents

52. On 18 March 2016, the European Council and Türkiye reached an agreement aimed at stopping the flow of irregular migration *via* Türkiye to Europe. Their joint statement, as published by means of Press Release No. 144/16, reads as follows:

> "Today the Members of the European Council met with their Turkish counterpart. This was the third meeting since November 2015 dedicated to deepening Turkey-EU relations as well as addressing the migration crisis.
>
> ...
>
> Turkey and the European Union reconfirmed their commitment to the implementation of their joint action plan activated on 29 November 2015. Much progress has been achieved already, including Turkey's opening of its labour market to Syrians under

temporary protection, the introduction of new visa requirements for Syrians and other nationalities, stepped up security efforts by the Turkish coast guard and police and enhanced information sharing. Moreover, the European Union has begun disbursing the 3 billion euro of the Facility for Refugees in Turkey for concrete projects and work has advanced on visa liberalisation and in the accession talks, including the opening of Chapter 17 last December. On 7 March 2016, Turkey furthermore agreed to accept the rapid return of all migrants not in need of international protection crossing from Turkey into Greece and to take back all irregular migrants intercepted in Turkish waters. Turkey and the EU also agreed to continue stepping up measures against migrant smugglers and welcomed the establishment of the NATO activity on the Aegean Sea. At the same time Turkey and the EU recognise that further, swift and determined efforts are needed.

In order to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk, the EU and Turkey today decided to end the irregular migration from Turkey to the EU. In order to achieve this goal, they agreed on the following additional action points:

1) All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey. This will take place in full accordance with EU and international law, thus excluding any kind of collective expulsion. All migrants will be protected in accordance with the relevant international standards and in respect of the principle of non-refoulement. It will be a temporary and extraordinary measure which is necessary to end the human suffering and restore public order. Migrants arriving in the Greek islands will be duly registered and any application for asylum will be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR. Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive will be returned to Turkey. Turkey and Greece, assisted by EU institutions and agencies, will take the necessary steps and agree any necessary bilateral arrangements, including the presence of Turkish officials on Greek islands and Greek officials in Turkey as from 20 March 2016, to ensure liaison and thereby facilitate the smooth functioning of these arrangements. The costs of the return operations of irregular migrants will be covered by the EU.

2) For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start. Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly. On the EU side, resettlement under this mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015, of which 18.000 places for resettlement remain. Any further need for resettlement will be carried out through a similar voluntary arrangement up to a limit of an additional 54.000 persons. The Members of the European Council welcome the Commission's intention to propose an amendment to the relocation decision of 22 September 2015 to allow for any resettlement commitment undertaken in the framework of this arrangement to be offset from non-allocated places under the decision. Should these arrangements not meet the objective of ending the irregular migration and the number of returns come close to the numbers provided for above, this mechanism will be reviewed. Should the number of returns exceed the numbers provided for above, this mechanism will be discontinued.

3) Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU, and will cooperate with neighbouring states as well as the EU to this effect.

4) Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme.

5) The fulfilment of the visa liberalisation roadmap will be accelerated vis-à-vis all participating Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met. To this end Turkey will take the necessary steps to fulfil the remaining requirements to allow the Commission to make, following the required assessment of compliance with the benchmarks, an appropriate proposal by the end of April on the basis of which the European Parliament and the Council can make a final decision.

6) The EU, in close cooperation with Turkey, will further speed up the disbursement of the initially allocated 3 billion euros under the Facility for Refugees in Turkey and ensure funding of further projects for persons under temporary protection identified with swift input from Turkey before the end of March. A first list of concrete projects for refugees, notably in the field of health, education, infrastructure, food and other living costs, that can be swiftly financed from the Facility, will be jointly identified within a week. Once these resources are about to be used to the full, and provided the above commitments are met, the EU will mobilise additional funding for the Facility of an additional 3 billion euro up to the end of 2018.

7) The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.

8) The EU and Turkey reconfirmed their commitment to re-energise the accession process as set out in their joint statement of 29 November 2015. They welcomed the opening of Chapter 17 on 14 December 2015 and decided, as a next step, to open Chapter 33 during the Netherlands presidency. They welcomed that the Commission will put forward a proposal to this effect in April. Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States' positions in accordance with the existing rules.

9) The EU and its Member States will work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria, in particular in certain areas near the Turkish border which would allow for the local population and refugees to live in areas which will be more safe.

All these elements will be taken forward in parallel and monitored jointly on a monthly basis.

..."

53. With respect to the assurances provided for the fulfilment of the agreed terms, the following sources were cited by the Government:

a) the letter from the Ambassador of Türkiye's Permanent Delegation to the EU dated 12 April 2016 to Matthias Ruete, Director-General of the European Commission's Directorate-General for Migration and Home Affairs, stating that:

"Turkey assures that due to the Syrian crisis, citizens of Syrian Arab Republic who irregularly crossed into the Aegean islands *via* Turkey as of 20 March 2016 and being

taken back by Turkey as of 4 April 2016, will be granted temporary protection status in line with the Temporary Protection Regulation no 2016/8722 Amending the Temporary Protection Regulation. Each Syrian national returned to Turkey who previously enjoyed the temporary protection status or who transited the country and did not previously enjoy the temporary protection status and who do not have a profile that could bring them under the scope of the exclusion clauses, as set out in the above mentioned Regulation and relevant Turkish national or international law and legislation will be granted such status in accordance with the above mentioned Regulation and other relevant legislations";

b) a letter of the Ambassador of Türkiye's Permanent Delegation to the EU dated 24 April 2016, which stated:

"Turkey confirms that non-Syrians who seek international protection having irregularly crossed into the Aegean islands *via* Turkey as of 20 March 2016 and being taken back by Turkey as of 4 April 2016, will be able to lodge an application for international protection in accordance with the Law on Foreigners and International Protection and its secondary legislation. Each non-Syrian national in need of international protection returned to Turkey, who previously benefited from international protection will be able to apply for international protection in order to have the previous status regranted upon their return within a reasonable time. Through an individual assessment, each non-Syrian national seeking international protection in Turkey for the first time will be registered within a reasonable time and have an effective opportunity to apply for international protection in accordance with the above-mentioned Law and other relevant legislation, including as regards procedural time limits and rights, and will enjoy protection from refoulement in accordance with international, standards. I would be grateful if you could ensure this letter is shared with the competent Greek authorities and I confirm that the commitments provided in this letter shall be considered equivalent to the granting of an individual assurance in respect of each such person.";

c) a letter from the Director-General of the European Commission's Directorate-General for Migration and Home Affairs dated 5 May 2016 and addressed to the Greek Secretary General for Population and Social Cohesion in which, *inter alia*, he stated:

"... I am pleased to share with you considerations set out below with a view to facilitating the implementation by the Greek authorities of the EU-Turkey Statement of 18 March 2016. The considerations are based on the information which is at the disposal of the Commission concerning the relevant legal framework applicable in Turkey and its application, including information obtained in me context of the ongoing visa liberalization dialogue between the European Commission and the Turkish authorities... Following the subsequent regulatory amendments adopted by Turkey (Regulation on the amendment of the Temporary Protection Regulation (Cabinet decree no. 2016/8722 of 6 April 2016), Regulation for the work permit to applicants of international protection and beneficiaries of international protection (official Journal of 26th April 2016), in conjunction with the assurances provided by Turkey by letters of 12 April 2016 (2016/70946263/-AVBIR DT/10779626) and 24th April 2016 (2016/70946263-AVOIR DT/10830418) for Syrian nationals and non-Syrian nationals respectively, which have been forwarded to yourselves, the Commission considers that Turkey has taken all the necessary measures specified in its above mentioned Communication.... Finally, the Turkish authorities have made a commitment to allow the European Union to regularly monitor the situation of Syrians and non-Syrians returned to Turkey, including access to refugee camps and centres. The first visit is planned to take place at

> the beginning of May 2016. Equally, on 29 April 2016, Turkey and UNHCR concluded Standard Operating Procedures on ensuring access to removal centres by UNHCR, which foresees, *inter alia*, the monitoring of Turkey's practices in relation to international protection procedures. ";

d) a letter dated 29 July 2016 sent by the Commissioner for Migration to the Greek Alternate Minister for Migration Policy stating, *inter alia*, the following:

> "...notwithstanding recent developments in Turkey, the Turkish legal framework, combined with the assurances that Turkey provided for the treatment of Syrian nationals and non-Syrians who had applied for asylum in Greece having irregularly crossed into the Aegean islands *via* Turkey...still can be considered as sufficient protection or protection equivalent to that of the Geneva Convention. The Commission bases its considerations on recent commitments made publicly by the Turkish authorities, including the Minister for EU Affairs Omer Celic, that the EU-Turkey Statement and specifically the Turkish legal framework on international protection in conjunction with the aforementioned assurances continues to be effectively implemented. Moreover, for the time being, the Commission has no indications to the contrary.";

e) a letter from the UNHCR dated 4 May 2016 in reply to a query from the Greek authorities dated 27 April 2016 about the conditions of Syrian nationals in Türkiye, to the Alternate Minister for Migration, which says, among other things, that:

> "...The Temporary Protection Regulation established by Turkey provides a list of rights and assistance measures to Syrian nationals hosted in the country. There is also provision for social assistance that is gradually being secured, especially for the Syrians living outside the camps, where about 90% of the 2.1 million registered Syrian refugees temporarily live. According to the recent amendment to the Temporary Protection Regulation, Syrian citizens who arrived in the Greek islands after 20 March 2016 and who returned to Turkey will be able to enjoy temporary protection regardless of whether they were previously registered in Turkey. We also understand that Turkey provided assurances to the European Union regarding the enjoyment of temporary protection by any Syrian citizen who returned to Turkey from Greece in the framework of the EU-Turkey Statement of 18 March 2016. In view of these assurances, Syrian citizens, whose individual circumstances were adequately assessed by the Hellenic Asylum Service and which do not fall within one of the special categories provided by Greek law and who are returned by the Hellenic Asylum Service Greek Aegean Islands to Turkey, will in principle be eligible for temporary protection in Turkey ... ";

f) a "Report on Turkey" published on 10 August 2016 by Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees, in which it is stated that during a visit in Türkiye from 30 May to 4 June 2016, the Special Representative had met representatives of numerous bodies and organisations that provide assistance and protection to refugees. He stressed among others the willingness of the Turkish authorities to cooperate with members of the Council of Europe mission, the international recognition of Türkiye's rapid construction of temporary shelters for Syrian refugees, the access to free health care that registered asylum applicants were given and that they could obtain a work

permit, and that Syrians returned from Greece were not detained (see also paragraphs 56-57 below);

g) a letter of 14 December 2016 from the UN High Commissioner for Refugees to the Asylum Service, on the situation of Syrian nationals who had been returned from Greece to Türkiye under the EU-Türkiye Statement, which reads:

> "... This letter provides information on the UNHCR's remarks regarding the situation of Syrian nationals who have been subject by Greece to a readmission procedure from Greece to Turkey in accordance with the EU – Turkey Statement and follows the previous, from May 4 and June 9, 2016, letters of the UN High Commissioner for Refugees. As stated in our letter of 9 June 2016, a detailed assessment of the individual circumstances of each asylum seeker is required to take place in Greece, including for those belonging to minority groups, before the return of an asylum seeker to Turkey, in accordance with the relevant international, European and national standards. We also pointed out in the letter of May 4, 2016 that Syrian nationals, whose individual circumstances have been duly assessed by the Greek Asylum Service, who do not fall within the special categories established by Greek law and who are returned from the Greek islands to Turkey, should in principle benefit originally or again from temporary protection in Turkey. In this regard, we would like to highlight the following issues: the possibility of monitoring by UNHCR, the (re)establishment of the temporary protection regime and the access to rights under that regime. As regards UNHCR's possibility to monitor the situation of Syrian nationals undergoing a readmission procedure, UNHCR considers this issue to be a priority and the cooperation of the Turkish authorities on this issue has positively contributed thereto. There are, however, three specific challenges: Firstly, UNHCR does not enjoy at this stage unimpeded and predictable access to the pre-departure centres in Turkey and the Duzici Reception Centre. Since April 2016, UNHCR has submitted 16 requests for access to the Duzici Reception Centre and has been granted access thereto 12 times. During these visits, UNHCR has been able to conduct individual interviews with 45 of the 82 Syrians who were subject to readmission until November 7, 2016. Secondly, UNHCR should request a permit to visit the Centre at least five working days earlier, which in practice does not allow the timely follow-up of some individual cases. Thirdly, UNHCR does not systematically receive information on the legal status and location of the persons who have been subject to readmission from Greece and is not always in a position to identify and monitor the situation they are in, as of the moment of their departure from the host centre. As regards the temporary protection status of Syrian nationals who have been subject to a readmission procedure from Greece, the procedure we have observed is as follows: upon arrival, Syrian nationals are taken to Duzici Reception Centre, a closed structure, where they get pre-registered. For the time being, this procedure is completed within seven days. From the moment their pre-registration is completed, the Syrian nationals are referred to a town where they wish to stay and they are asked to communicate with the Provincial Divisions of Immigration Management, in order to have their registration procedure completed and become able to have access to the rights and services arising from the temporary protection status. According to the Turkish authorities, instructions have been sent to all Provincial Divisions, in order for the temporary protection status to be activated for those who have had their security checks completed at the place of their pre-registration and to give priority to persons with special needs who are subject to readmission procedure from Greece. Among the 82 Syrian nationals that became subject to readmission procedure from Greece, UNHCR can confirm, on the basis of direct communication, that 12 received or recovered temporary protection. Despite its efforts, UNHCR did not manage to

> communicate with most of the others. 13 more persons with whom contact was made, have not completed the procedure yet or are waiting for the reactivation of their status. UNHCR is not in a position to estimate the average duration of such procedure... Regular updates of the situation is uploaded at UNHCR's website (http://data.unhcr.org/syrianrefugees/documents.pho?page=1&view=grid&Language%5B%5D=1&Country%5B%5D=2240). Considering that you will find this information useful, UNHCR will go on informing you about our observations which are based on continuous supervision."

54. The relevant information as regards the influx of migrants towards Greece and their management thereof, as transmitted by the Greek Government, as well as the details of the EU-Türkiye Statement, have been summarised in *J.R. and Others v. Greece* (no. 22696/16, §§ 36-42, 25 January 2018).

E. Reports on the situation of Syrian refugees in Türkiye

1. UNHCR

55. In a letter dated 23 December 2016, UNHCR replied to a query regarding Syrians readmitted to Türkiye. It said that Syrian nationals whose individual circumstances had been duly assessed by the Greek authorities should in principle be able to benefit from temporary protection in Türkiye. While UNHCR was monitoring the situation in Türkiye and had visited the reception centre in Duzici twelve times since April 2016, it still did not enjoy unhindered access to the reception centre and had not been able to contact the majority of readmitted Syrians. Syrians who had been readmitted to Türkiye enjoyed the same rights as the 2.7 million Syrian refugees living in Türkiye, namely the right to enrol their children in school and to work, irrespective of whether they had been recognised as entitled to temporary protection.

2. Special Representative of the Secretary General of the Council of Europe on migration and refugees

56. On 10 August 2016, Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees, published the report of a fact-finding mission to Türkiye that took place from 30 May 2016 to 4 June 2016. He described the legislation that dealt with those seeking of international protection in Türkiye. He noted several delays in the registration of Syrian asylum-seekers, and he reported that he had heard allegations of involuntary returns to Syria, which he had not been able to verify. The Turkish authorities replied that if people who were apprehended were found to have Syrian nationality, they were swiftly sent back to the provinces where they had registered; if they had no temporary protection card, they were registered and released.

57. As regards the situation of Syrians readmitted from Greece, he said:

"Syrians returned from Greece under the EU-Turkey agreement are also flown directly to Adana and transferred to Düziçi camp. By the time I visited, the 12 Syrians who had been returned from Greece under the EU-Turkey agreement to date had either been released or had voluntarily returned to Syria.

Although the authorities informed me that those residing in Düziçi were free to leave at any time, none of the residents whom I interviewed believed that this was the case. They all stated that when they had asked to be released they had been told to "wait a little while longer". Some had been in the camp for more than a month. Staff of the camp carried handcuffs and truncheons. Entry to the camp was manned by security officers and there was a heavy metal gate. The camp itself was surrounded by a fence topped with barbed wire.

I was particularly troubled by the situation in Düziçi. I have no doubt that the residents of the camp are in *de facto* detention, without any of the safeguards afforded to them by law. The detention of Syrians returned from Greece is especially concerning since it would appear that it has no legal basis: the Turkish authorities have given assurances to the European Commission that all Syrians returned under the EU-Turkey agreement will be granted temporary protection in Turkey. There is therefore no prospect of removal such as to justify Article 57 detention; and since they are under the temporary protection regime, Article 68 is not applicable.

..."

3. European Asylum Support Office (EASO)

58. Following a request, the applicant was given access to the EASO document "Turkey: Content of Protection – Country Information Pack, last updated in August 2019". The report provides sources for, *inter alia*, events and the legal situation about the Turkish protection system for Syrian and non-Syrian asylum seekers, access to procedures for protection, the use of the concept of "safe third country", removal / detention centres, alleged pushbacks or *refoulement*, voluntary returns and readmission. According to the report, the Temporary Protection Regulation did not foresee the administrative detention of persons being within the scope of temporary protection. Two types of administrative detention were foreseen in the domestic legislation dealing with foreigners, namely the administrative detention of applicants for international protection during the processing of their applications; and administrative detention for the purpose of removal.

59. As regards the alleged pushbacks, the report refers to other reports from Amnesty International, Human Rights Watch, and Norwegian Organisation for Asylum Seekers (NOAS), which reported deportations of Syrians and violations of the principle of *non-refoulement* in the period of 2017-18. It reported that between 21 March 2016 and 12 March 2019, a total of 2,224 persons had been returned from Greece to Türkiye, 1,485 of whom had been returned under the EU-Türkiye Statement and 600 under the Greece-Türkiye bilateral protocol. By September 2017, all Syrians readmitted to Türkiye under the statement had been pre-registered for temporary protection with the exception of 16 persons who had returned voluntarily to Syria. Various sources claimed there had been a lack of independent oversight

of removal centres since the implementation of the EU-Türkiye Statement. Access by international organisations and local NGOs had been very limited, which in turn had undermined the monitoring of the situation of returnees from Greece since April 2016.

4. Amnesty International

60. On 22 September 2017 Amnesty International issued a public statement indicating that the legislative changes introduced through Executive Decree 676 under the state of emergency in Türkiye had increased the risk of *refoulement* for asylum-seekers and refugees in Türkiye.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION BY THE APPLICANT'S REMOVAL

61. The applicant complained that if he were removed to Türkiye that would give rise to a violation of Article 3 and Article 8 of the Convention. The Court, being the master of the characterisation to be given in law to the facts of the case (see, *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 110-26, 20 March 2018, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023) considers that the applicant's complaint falls to be examined under Article 3 of the Convention which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

62. Article 37 § 1 of the Convention provides:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that:
>
> (a) the applicant does not intend to pursue his application; or
>
> (b) the matter has been resolved; or
>
> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.
>
> 2. The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course."

63. The Court notes that in his letter dated 1 August 2025 the applicant informed the Court that on an unspecified date he had moved to France where he had been granted refugee status (see paragraph 33 above).

64. The Court therefore considers, in the light of the applicant's submissions, that it would no longer be justified to continue the examination

of his complaint that he risked ill-treatment contrary to Article 3 of the Convention if he were to be removed to Türkiye (Article 37 § 1 (c) of the Convention) (see *M.D. and Others v. Russia*, nos. 71321/17 and 8 others, § 56, 14 September 2021). The Court is furthermore satisfied that respect for human rights, as defined in the Convention and the Protocols thereto, does not require it to continue its examination of this part of the application (Article 37 § 1, *in fine*). Accordingly, the Court decides to strike the present application out of its list of cases in so far as it concerns the applicant's complaint that he would risk ill-treatment in the event that he was expelled to Türkiye from Greece.

II. ALLEGED VIOLATION OF ARTICLE 13 IN CONJUNCTION WITH ARTICLE 3 OF THE CONVENTION IN THE CONTEXT OF THE EXAMINATION OF THE APPLICANT'S ASYLUM CLAIM AND THE REMOVAL PROCEDURE

65. The applicant complained that the Greek authorities had failed to conduct a proper examination of his individual asylum claim or to investigate the conditions of refugees in Türkiye. He alleged several shortcomings in the asylum procedure and in the procedure concerning his return to Türkiye, relying on Article 13 in conjunction with Article 3 of the Convention. Article 13 reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

1. The parties' arguments

66. The Government contended that the application was premature as the applicant had lodged it on 9 September 2016 when he had not yet exhausted domestic remedies. In particular, as regards the applicant's claim for international protection, the decision of the Administrative Appeal Court of Piraeus no. A460/2017 was delivered on 31 May 2017, that is to say after the applicant had lodged his application with the Court, and his appeal against that decision to the Supreme Administrative Court was still pending when the Government submitted their observations on 16 August 2017. Moreover, the domestic remedies relating to the applicant's readmission to Türkiye were still pending when the application was lodged with the Court. Some of them had suspensive effect, and some of them have not yet been determined.

67. The applicant argued that his applications in the domestic courts were not effective, as they did not have an automatic suspensive effect. He further argued that his application to the Supreme Administrative Court against decision no. A460/2017 of the Administrative Appeal Court of Piraeus was

not an effective remedy, given leading judgments nos. 2347/2017 and 2347/2018 of the Plenary of the Supreme Administrative Court, which dealt with the legality of the procedure followed in the applicant's case and with the designation of Türkiye as a safe third country. Article 12 § 1 of Law no. 3900/2010 had amended Article 53 § 3 of Presidential Decree no. 18/1989 and had introduced a new statutory provision governing the admissibility of appeals on points of law. This allowed an appeal on points of law only where there was no case-law of the Supreme Administrative Court on the issue, or where the judgment appealed against was contrary to the case-law of the Supreme Administrative Court or of another supreme court or was contrary to a final judgment of an administrative court. It was therefore clear that the applicant's appeal on points of law had had no prospect of success.

2. The Court's assessment

68. The general principles on the exhaustion of domestic remedies have been reiterated in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014) and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* ([GC], no. 21881/20, §§ 138-44, 27 November 2023).

69. The Court further has accepted that the last stage of domestic remedies may be reached after the application to the Court has been lodged but before its admissibility has been determined (see *Molla Sali v. Greece* [GC], no. 20452/14, § 90, 19 December 2018).

70. Turning to the circumstances of the present case, the Court notes that the applicant lodged his application with the Court on 9 September 2016. At that time, the Administrative Appeal Court of Piraeus had not yet delivered decision no. A460/2017 on the applicant's appeal against the decision of the 11th Appeals Committee about his international protection claim. The aforesaid appellate court's decision was delivered on 31 May 2017. Since those proceedings ended prior to the determination by the Court of the admissibility of the complaint, this part of the Government's objection as to non-exhaustion cannot be upheld (ibid.).

71. The Court further notes that the applicant's appeal to the Supreme Administrative Court against the decision of the Administrative Appeal Court of Piraeus was heard on 27 September 2022 and, according to the information at its disposal, no decision has been delivered yet. In this regard, the Court reiterates that particular attention should be paid to the speediness of remedial action itself, it not being excluded that the adequate nature of the remedy can be undermined by its excessive duration (see *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 292, ECHR 2011). In any event, the Court finds that the applicant's appeal on points of law was not an effective remedy in the circumstances of the case. In particular, having regard to leading decisions nos. 2347/2017 and 2348/2017 of the Plenary of the Supreme Administrative Court, which ruled on same issues as those raised by the applicant in his

appeal on points of law and in the present application (see paragraph 42 above), his appeal on points of law was bound to fail as it did not comply with the applicable conditions of admissibility for appeals on points of law under Article 53 § 3 of Presidential Decree no. 18/1989 (see *Tsiolis v. Greece*, no. 51774/17, § 37, 19 November 2024). It therefore follows that the remedy referred to by the Government, an application for which is still pending before the domestic courts, is not an effective one in the circumstances of the present case.

72. The rest of the Government's submissions concerned the remedies the applicant had sought for his removal and which were still pending when the applicant made his application to this Court. This part of the Government's objection lost its relevance because, in the meantime, all proceedings in respect of available remedies related to the applicant's removal have been concluded, notably by decisions nos. 1/2017 and 42/2020 of the Administrative Court of First Instance of Mytilene (see paragraphs 30-31 above). The Court therefore dismisses the Government's objections.

73. Although the respondent State did not raise any objection as to the Court's jurisdiction *ratione personae* as regards this complaint, this issue calls for consideration *proprio motu* by the Court. The Court considers that the question whether the applicant retained his victim status within the meaning of Article 34 of the Convention is closely linked to the substance of his complaint under Article 13 in conjunction with Article 3 of the Convention and must therefore be joined to the merits of that complaint (see *A.R.E. v. Greece*, no. 15783/21, § 202, 7 January 2025).

74. The Court further notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The applicant's arguments

75. The applicant complained about multiple shortcomings in the asylum and the removal procedure, which in his view were such that he faced the risk of *refoulement* to Türkiye without any real examination of the merits of his asylum claim, in violation of Article 13 in conjunction with Article 3 of the Convention.

76. The applicant first argued that he had an arguable claim under Article 3 for the purposes of Article 13 of the Convention. He maintained that Türkiye was not a safe third country for him. On the one hand, the risks run by minorities were well documented by international organisations, as were the poor reception conditions that were in breach of Article 3 of the Convention. Moreover, the applicant ran the risk of *refoulement* to Syria, where he was in danger of being targeted by ISIS on the basis of his religious or ethnic identity. This was clear from various reports, in addition to the fact

that the national legislation lacked clarity and adequate safeguards against *refoulement*. Türkiye's geographical reservation to its obligations under the 1951 Refugee Convention was still in force, which meant that non-European citizens could not obtain refugee status under the 1951 Refugee Convention. The only protection afforded to Syrians like the applicant was under the Temporary Protection Regulation, which was less protective than Article 3 of the Convention and with which the authorities could comply or not, at their discretion. Temporary protection status could be terminated or suspended by the Turkish Council of Ministers, and the legislation provided no effective legal remedies for that. Those excluded could be removed to Syria, as the appeals were not automatically suspensive, and be detained pending removal. The *coup d'État* in July 2016 had aggravated the situation further and the applicant, as a non-Muslim Syrian refugee of Armenian origin who suffered from post-traumatic stress disorder (PTSD), was particularly vulnerable to arbitrary acts of the State. In addition, during the protracted procedure of registration for the status of asylum-seeker, Syrians did not have access to social rights and services and were left to survive without having access to accommodation, work, health care or social assistance. Even after registration, most asylum-seekers were left to survive on their own means, as in practice only a small percentage had access to accommodation and there were several limitations to their right to work.

77. The applicant relied on numerous reports, for example those of the Greek Council of Refugees, Asylum Information Database (AIDA), the Greek Ombudsman, CPT, Amnesty International and the UN Special Rapporteur on the human rights of migrants, which dated back as far as 2017. In his view, they proved there were systemic problems in the asylum procedure in Greece and in the situation of asylum-seekers in Türkiye.

78. As regards the merits of his complaint under Article 13 of the Convention, the applicant identified procedural irregularities in the Greek administrative and legal system and also inadequate consideration of the substance of his asylum claim by the Greek authorities.

79. The applicant had been heard in person only once, before the Asylum Committee, and that interview had failed to clarify important details of his story. The EASO interviewer had failed to ask important questions about the existing safeguards in Türkiye against *refoulement* and against discrimination against vulnerable groups, or about the living conditions of the applicant while he was in Türkiye. He had also failed to clarify the circumstances under which the applicant had been forced to leave Syria. Even if the applicant had not brought up the risks he would face in Türkiye, the authorities should have investigated the conditions the applicant would find himself in, given that that information was freely ascertainable from a wide number of sources and the Greek authorities needed it in order to comply with the principle of *non-refoulement*. Moreover, the decision of the first asylum service had been written in Greek and was communicated to the applicant by an EASO officer

through an interpreter, neither of whom read or spoke Greek. It was unclear to the applicant how the content of the decision was understood by the EASO officer and subsequently communicated to the applicant. In addition, the applicant had not been provided with legal assistance, so he had not been able to support his appeal against the initial refusal of his asylum claim. In any event, that decision had been served on him only in Greek, and the documents it referred to, such as letters from the European Commission or the UNHCR, had not been attached.

80. The domestic authorities had implemented the EU-Türkiye agreement without properly assessing the applicant's claim for international protection or investigating the conditions in which refugees lived in Türkiye. Greece had failed to set practice rules for what the authorities needed to be satisfied about in order to remove a particular asylum-seeker to a safe third country under Article 38 (2) (b) of the Asylum Procedures Directive. No risk assessment of the situation the applicant would face in Türkiye had been carried out; thus no clear understanding of his situation in the receiving country had been gained. In this regard, the applicant stressed that it was for the authorities to observe the principle of *non-refoulement*, whether or not an asylum-seeker himself raised the risks he might face.

81. The refusal of the applicant's claim for international protection was based on a standard text that was repeated in all refusals of asylum claims from Syrians. The Appeals Committee had based its decision solely on three documents, namely the diplomatic assurances provided by Türkiye on 12 April 2016; the letter from the Director-General of DG Migration and Home Affairs of the European Commission to the Greek authorities of 5 May 2016, which confirmed that Türkiye might be a "safe third country"; and a letter from the UNHCR dated May 2016 in reply to a question from the Greek Asylum Service referring to the Temporary Protection offered to Syrians in Türkiye, but nothing about what happened in practice. However, these documents were not binding, and, in any event, the applicant had not had access to them.

82. The reports of international organisations setting out the issues faced by Syrian refugees in Türkiye were ignored both by the Asylum service and by the Appeals Committee. The Piraeus Administrative Court of Appeal in its decision no. A460/2017 equally ignored the report dated 10 August 2016 of Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees, filed by the applicant. That report referred to the unlawful *de facto* detention of Syrians who had been readmitted from Greece; the lack of safeguards during the detention of foreigners in Türkiye; the lack of clarity around the termination of temporary protection status and access to international protection; and even the *refoulement* of certain Syrians.

83. The domestic court had further failed to correctly assess the applicant's allegations, deciding that he had faced no problems while living

and working in Türkiye. However, the applicant had not obtained a work permit while living in Türkiye and had been forced to hide his ethnicity and religion, facts that the court ignored. The Appeal Court had failed to properly assess both the dangers to the applicant in Türkiye as an asylum-seeker belonging to a minority and the reception conditions for refugees there. Similarly, in assessing the applicant's objections to his removal the courts had equally failed to properly examine the systemic shortcomings in the asylum procedure and the situation in Türkiye.

84. As regards the remedies he had sought against his removal, the applicant argued that he had only been notified about the removal decision in Greek and without an interpreter, resulting in his never being informed about his rights. The applicant's access to a remedy was therefore only theoretical as he could not be expected to file a written appeal with the police authorities in Greek without the support of a Greek-speaking lawyer and without any legal assistance. In any event, the decision that the applicant should be removed was made immediately on his arrest, without the asylum procedure having been completed, and both removal decisions were solely based on the EU-Türkiye Statement, without any individual assessment of the applicant's situation or an examination of the situation in Türkiye.

2. The Government's arguments

85. The Government firstly argued that the applicant did not have an arguable claim under Article 13 of the Convention. For third-country nationals like the applicant who entered Greece from Türkiye after 20 March 2016 without going through any lawful formalities, the EU-Türkiye Statement of 18 March 2016 meant that they would be returned to Türkiye. It also provided that the return of irregular migrants would be in full compliance with EU and international law; thus, it would not be treated as any form of mass expulsion, and would be compliant with the appropriate international standards and with the principle of *non-refoulement*. The EU-Türkiye Statement did not make any affirmation as to whether Türkiye was a safe third country. In the present case, the assessment of whether Türkiye was a "safe third country" for the applicant was made on the basis of the criteria established in Article 20 of p.d. no. 113/2013. The applicant's international protection claim was examined at both first and second instance after an assessment of the overall security of the country and a subsequent assessment at the individual level of the situation of the applicant. As regards the general assessment of whether Türkiye was a safe country, the Asylum Service and the Appeals Committee (as reflected in the above-mentioned decisions concerning the applicant) took into account the legal framework of the status of asylum seekers and particularly of Syrian asylum seekers in Türkiye, as well as official documents of the European Union and the UNHCR. Those official documents confirmed that UNHCR was guaranteed access to Türkiye

in order to record and monitor the country's practices in relation to the international protection of refugees.

86. The administrative authorities' assessment was further confirmed by the domestic courts. In particular, the Administrative Court of Piraeus, when considering the applicant's application for suspension in its decision no. N56/2016 assessed whether the applicant faced a genuine and special risk of persecution and ill-treatment in Türkiye because of his ethnicity and religion. The court rejected the applicant's allegations as general and vague, since the applicant did not produce any specific evidence to support them.

87. The applicant had failed to demonstrate that he was in a situation of current, direct and individual risk of *refoulement* in Türkiye. He also did not provide any evidence about his alleged lack of real access to the labour market; on the contrary, he presented a card issued by the Turkish authorities to Syrians giving them access to the healthcare system. The Government further noted that the applicant had not relied on any health issue when he applied for international protection.

88. In view of the Turkish legislative framework concerning the status of Syrian asylum seekers, the available and reliable information from international sources regarding the general situation in Türkiye of Syrian nationals applying for asylum following readmission, together with the applicant's allegations and personal circumstances, which were repeatedly, fully and thoroughly examined by the Greek administrative and judicial authorities, the Government asserted that if the applicant had been returned to Türkiye he would have run no risk of suffering treatment contrary to Article 3 of the Convention and therefore he had no arguable complaint for the purposes of Article 13 of the Convention.

89. As regards the remedies available, the Government argued that the applicant had had at his disposal a complete legal framework, which provided all the procedural guarantees required and protected the applicant against direct or indirect *refoulement* to Syria. The Greek legislation in force, which was based on EU asylum law requirements, as well as the way in which it was applied in the applicant's case, ensured a serious and quick examination of his application for asylum.

90. The legislation and relevant practice meant that all third-country nationals or stateless persons received information on their arrival at the Reception and Identification Centre about their rights and obligations from both UNHCR and civil society organisations. Leaflets describing the asylum procedure were available in numerous languages, as well as on the Asylum Service's website.

91. The applicant's asylum claim was considered pursuant to Articles 18 and 20 of p.d. no. 113/2013, as in force at the time. The applicant's interview was conducted by an EASO officer, assisted by an interpreter who spoke Arabic, whom the applicant had said he understood, and his rights were explained to him. The questions put by the EASO officer were appropriate in

view of the personal and general circumstances surrounding the applicant's asylum claim, and the applicant was asked if he wanted to add anything. The applicant was given the opportunity to contest that Türkiye was a safe place for him, that he had a sufficient link with that country and to submit any other objections. The refusal decision clearly showed that both the applicant's personal situation and the objective circumstances were considered before the EASO officer concluded that the asylum claim was inadmissible because Türkiye was a safe third country for the applicant. The decision was served on the applicant, who was informed by an interpreter about the content and that he had a right to appeal within five days form the service of the decision. The applicant was not put at a disadvantage by the fact that the interpreter did not speak Greek, as in any event he spoke Arabic, a language that the applicant understood. The applicant then lodged an appeal and was further informed through an interpreter about his right to ask to be heard in person and to submit additional documents to the Appeals Committee. The filing of the appeal had an automatic suspensive effect, as was explained to the applicant. The Appeals Committee dismissed the appeal after a thorough consideration of the law and the substance of the applicant's case, and after reassessing and reevaluating the evidence in the file and included full and comprehensive reasoning. All these arguments were further considered in leading decision no. 2347/2017 of the Plenary of the Supreme Administrative Court, which held that the participation of EASO officers was in conformity with the Constitution and EU law and that the procedure followed, which was the same as in the applicant's case, had not caused any harm to the asylum-seeker in that case. The diplomatic assurances and relevant documents that were taken into account constituted appropriate evidence and no national or European legislation prevented the authorities from relying on them when assessing whether Türkiye constituted a safe third country for asylum-seekers.

92. Furthermore, by the time the applicant lodged his appeal with the Appeals Committee, the framework for providing free legal assistance to applicants for international protection was being prepared. In particular, at the time, free legal assistance was provided by a UNHCR programme which progressively covered legal assistance before the Appeals Committee and in certain first instance cases. In the meantime, the State prepared a register for lawyers, under the terms of Ministerial Decision 12205/2016 on the "Provision of legal assistance to applicants for international protection" which was about to be completed when the Government made its observations. The applicant had suffered no harm from having no legal assistance for his appeal to the Appeals Committee, as he had lodged his appeal on time. He was then assisted by lawyers in making his applications for annulment and for suspension. He had set out all the reasons why the decision refusing his application for international protection was in error. The domestic courts had thoroughly examined the applicant's arguments with

reference to the appropriate legislative framework and had rejected them with full and detailed reasoning.

93. As regards the applicant's removal, the applicant had been fully informed about his procedural rights when he was served with the decision to expel him and received the leaflet for aliens liable to expulsion and readmission. He had several potential remedies, which he had exercised. In decision no. 1/2017, the Administrative Court of First Instance of Mytilene found that the irreparable harm alleged by the applicant was the consequence of the refusal of his asylum claim and that, in any event, he would not be exposed to a risk of persecution or another unfavourable treatment by the Turkish authorities for any of the reasons in the Refugee Convention, nor would the Turkish authorities fail to protect him if he was persecuted by non-state actors.

94. Furthermore, the police authorities implemented the judgments of the judicial authorities. They revoked their previous and made new decisions in accordance with the court judgments.

95. The applicant's asylum claim was therefore considered seriously, in accordance with the requirements of national and EU law. He was able to exercise his right to an effective remedy both in the primary and secondary processes in which the appropriate authorities considered his application for international protection and in the domestic courts. Because the applicant had had unhindered access to the asylum process, he had been fully informed about his rights and obligations, and his claim was considered promptly, by qualified personnel, on an individual basis, and following a thorough, objective and impartial examination, he was given reasons for the decisions arrived at. The same applied to the process by which the decision was taken to expel the applicant, where he was also provided with the right to an effective remedy. The applicant's right to an effective remedy was secured by the entirety of the administrative and judicial mechanism available to him.

3. The third-party interveners

96. The AIRE Centre, the Dutch Council for Refugees, the European Council on Refugees and Exiles and the International Commission of Jurists submitted joint observations, after having been granted leave to intervene. They argued that Türkiye's asylum system was characterised by multiple deficiencies, such as the dual protection structure and the maintenance of a geographical reservation to the 1951 Refugee Convention, the lack of registration system and of procedural safeguards, instances of forced returns and lack of effective remedies in law and in practice. Relying on *Othman (Abu Qatada) v. the United Kingdom* (no. 8139/09, § 189, ECHR 2012 (extracts)), the third-party interveners submitted that generic assurances given when a country was being designated as a safe third country should be assessed with caution, taking into account any rapidly changing

circumstances and should be tested against detailed information from credible sources.

97. The third-party interveners submitted that enquiries should be made as to whether Türkiye constituted a safe-third country, including an analysis of the reports of international and civil organisations and an individual assessment of whether it would be safe for the individual asylum-seeker. The third-party interveners highlighted that the EU-Türkiye Statement was not an act of the European Council but an arrangement between Member States and Türkiye and therefore the "Bosphorus principle" did not apply and Member States remained fully responsible for safeguarding the principle of *non-refoulement* under the Convention. Even though Article 6 of the Convention did not apply to migration and asylum matters under the Court's case-law, when the issue arose in respect of a State that was both party to the Convention and an EU Member State, Article 47 of the Charter of Fundamental rights of the European Union applied to the interpretation of all its provisions, including those dealing with rights to asylum and migration policies. Lastly, the above third-party interveners voiced concerns about the interviews being conducted by EASO officers, as there were language barriers and as it had become clear that the Asylum Service relied exclusively on those interviews and did not hear directly from the asylum-seekers. The *de facto* delegation by the Greek State of its decision-making powers and obligations could lead to a failure of the State to ensure the rigorous scrutiny required and to provide a clear and reliable framework for an effective remedy against *refoulement* as required by Article 13 of the Convention.

98. Gisti and the International Federation For Human Rights ("FIDH"), who submitted joined written observations, highlighted that international organisations, national and international NGOs and other monitoring bodies had extremely limited access to asylum-seekers in Türkiye following their readmission from Greece. After the EU-Türkiye Statement, the Temporary Protection Regulation was amended so that temporary protection could be afforded to Syrians irrespective of their previous status in Türkiye, but it was only discretionary, and it was not clear what happened to Syrians who were not granted that protection. However, even if that status was granted, it offered only very fragile protection, especially for Syrians who were readmitted to Türkiye. It was well documented that Türkiye had proceeded to forced returns of Syrians to Syria in breach of the principle of *non-refoulement* and that readmitted Syrians were detained in Duzici camp for registration purposes, for which the limited evidence showed that conditions were very bad.

99. Gisti and FIDH submitted that diplomatic assurances were not sufficient for the authorities to ensure that the asylum process in Greece adequately protected against the risk of ill-treatment. The process should include an obligation to assess the risks of a breach of Article 3 of the Convention. They further voiced concerns that asylum claims were not

thoroughly assessed in the interviews conducted by EASO officers and that decisions refusing asylum claims were standardised. Lastly, they submitted that Greek asylum system was characterised by systemic shortcomings, such as slowness in considering the claims coupled with lack of effective access to information, to language assistance and to legal advice for claimants.

4. The Court's assessment

(a) General Principles

100. The relevant general principles in respect of Article 3 of the Convention have been stated in *Saadi v. Italy* ([GC], no. 37201/06, §§ 124-136, ECHR 2008), *Othman (Abu Qatada) v. the United Kingdom* (no. 8139/09, §§ 187-89, ECHR 2012 (extracts)) and *Ilias and Ahmed v. Hungary* ([GC], no. 47287/15, §§ 124-50, 21 November 2019). The relevant general principles in respect of Article 13 in conjunction with Article 3 of the Convention have been stated in *M.S.S. v. Belgium and Greece* (cited above, §§ 286-93).

101. In particular, *Ilias and Ahmed* (cited above, §§ 128-41) concerned the removal of asylum-seekers whose asylum applications had been declared inadmissible by the authorities of the removing State because they had arrived from a neighbouring State, to which they had been removed, and the removing State had designated that neighbouring non-EU State a "safe third country" in its legislation. In that case, the Court set out the relevant principles under Article 3 of the Convention in cases concerning the removal of asylum-seekers to third intermediary countries which were not members of the European Union without an assessment by the authorities of the removing State of the merits of the asylum claim. The Court subsequently also applied these principles to cases in which applicants who had sought to lodge an asylum application with border officials and/or communicated fear for their safety to them had been denied entry to the territory in question and removed in a summary manner to a third country outside the European Union (see *M.K. and Others v. Poland*, nos. 40503/17, 42902/17 and 43643/14, §§ 171-86, 23 July 2020; *D.A. and Others v. Poland*, no. 51246/17, §§ 58-70, 8 July 2021; and *O.M. and D.S. v. Ukraine*, no. 18603/12, §§ 80-98, 15 September 2022).

102. In all cases of removal of an asylum-seeker from a Contracting State to a third intermediary country without examination of the asylum requests on the merits, regardless of whether the receiving third country is an EU Member State or not or whether it is a State Party to the Convention or not, it is the duty of the removing State to examine thoroughly whether or not there is a real risk of the asylum-seeker being denied access, in the receiving third country, to an adequate asylum procedure, protecting him or her against *refoulement* (see *Ilias and Ahmed*, § 134, and *M.K. and Others v. Poland*, § 173, both cited above). The examination must precede the removal to the

third country (see *Ilias and Ahmed*, § 137, and *M.K. and Others v. Poland*, § 178, both cited above). If it is established that the existing guarantees in this regard are insufficient, Article 3 implies a duty that the asylum-seekers should not be removed to the third country concerned (see *Ilias and Ahmed*, § 134, and *M.K. and Others v. Poland*, § 173, both cited above).

103. In *Ilias and Ahmed* the Court further stated that in addition to the main question of whether the individual would have access to an adequate asylum procedure in the receiving third country, where the alleged risk of being subjected to treatment contrary to Article 3 concerned, for example, conditions of detention or living conditions for asylum-seekers in the receiving third country, that risk was also to be assessed by the expelling State (see *Ilias and Ahmed*, cited above, § 131).

104. Failure to discharge the above-mentioned procedural obligation under Article 3 of the Convention to assess the risks of treatment contrary to that provision prior to removing asylum-seekers to a third intermediary country constitutes a violation of Article 3 of the Convention (see *Ilias and Ahmed*, cited above, §§ 163-64).

105. In cases concerning the expulsion of asylum-seekers the Court has explained that it does not itself examine the actual asylum applications or verify how the States honour their obligations under the Refugee Convention. Its main concern is whether effective guarantees exist that protect the applicant against arbitrary *refoulement*, be it direct or indirect, to the country from which he or she has fled (see, among other authorities, *T.I. v. the United Kingdom* (*dec.*), no. 43844/98, ECHR 2000-III).

106. As the Court has held on many occasions, Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint; however, the remedy required by Article 13 must be "effective" in practice as well as in law (see *Kudła v. Poland* [GC], no. 30210/96, § 157, ECHR 2000-XI).

107. The "effectiveness" of a "remedy" within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant. Nor does the "authority" referred to in that provision necessarily have to be a judicial authority; but if it is not, its powers and the guarantees which it affords are relevant in determining whether the remedy before it is effective. Also, even if a single remedy does not by itself entirely satisfy the requirements of Article 13, the aggregate of remedies provided for under domestic law may do so (see *Gebremedhin [Gaberamadhien] v. France*, no. 25389/05, § 53, ECHR 2007-II).

108. In order to be effective, the remedy required by Article 13 must be available in practice as well as in law, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the respondent State (see *Çakıcı v. Turkey* [GC], no. 23657/94, § 112, ECHR 1999-IV).

109. Article 13 requires the provision of a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they conform to their obligations under this provision (see *Jabari v. Turkey*, no. 40035/98, § 48, ECHR 2000-VIII).

110. In view of the importance which the Court attaches to Article 3 of the Convention and the irreversible nature of the damage which may result if the risk of torture or ill-treatment materialises, the effectiveness of a remedy within the meaning of Article 13 imperatively requires close scrutiny by a national authority (see *Shamayev and Others v. Georgia and Russia*, no. 36378/02, § 448, ECHR 2005-III), independent and rigorous scrutiny of any claim that there exist substantial grounds for fearing a real risk of treatment contrary to Article 3 (see *Jabari*, cited above, § 50), as well as a particularly prompt response (see *Batı and Others v. Turkey*, nos. 33097/96 and 57834/00, § 136, ECHR 2004-IV) It also requires that the person concerned should have access to a remedy with automatic suspensive effect (see *Čonka v. Belgium*, no. 51564/99, §§ 81-83, ECHR 2002-I, and *Gebremedhin [Gaberamadhien]*, cited above, § 66).

111. Lastly, in any examination of whether an applicant faces a real risk of ill-treatment in the country to which he is to be removed, the Court will consider both the general human rights situation in that country and the particular characteristics of the applicant. In a case where assurances have been provided by the receiving State, those assurances constitute a further relevant factor which the Court will consider. However, assurances are not in themselves sufficient to ensure adequate protection against the risk of ill-treatment. There is an obligation to examine whether assurances provide, in their practical application, a sufficient guarantee that the applicant will be protected against the risk of ill-treatment. The weight to be given to assurances from the receiving State depends, in each case, on the circumstances prevailing at the material time (see *Saadi*, cited above, § 148). In assessing the practical application of assurances and determining what weight is to be given to them, the Court has enunciated several factors which it takes into account in order to determine whether a State can rely on those assurances (see for the factors and relevant case-law *Othman (Abu Qatada)*, cited above, § 189).

(b) Application of those principles in the present case

(i) The applicant's victim status and whether he had an arguable claim for the purposes of Article 13 of the Convention

112. The Court firstly notes that the applicant's complaint under Article 3 of the Convention has been struck out of the list since the applicant no longer faces a risk of deportation from Greece to Türkiye or elsewhere. The Court has held in the past that when a substantive claim is declared inadmissible it does not necessarily exclude the operation of Article 13 (see *M.A. v. Cyprus*, no. 41872/10, § 118, ECHR 2013 (extracts) with further references). More specifically, and of relevance to the present case, in deportation cases the Court has taken the view that loss of victim status in respect of alleged violations of Article 2 and 3 of the Convention because an applicant was no longer exposed to the threat of deportation did not necessarily render that complaint non-arguable or deprive an applicant of his victim status for the purposes of Article 13. For example, in cases of *I.M. v. France* (no. 9152/09, §§ 94-95, 2 February 2012), *Gebremedhin* and *M.A. v. Cyprus* both cited above, § 56 and § 120 respectively), although the Court ruled that the applicants could no longer be considered as victims in respect of the alleged violation of Article 3, it found that the main complaint raised an issue of substance and that, in the particular circumstances, the applicants were still victims of the alleged violation of Article 13 taken together with Article 3. The same approach was taken by the Court in the case of *De Souza Ribeiro* in relation to a deportation complaint under Articles 8 and 13 (*De Souza Ribeiro v. France* [GC], no. 22689/07, §§ 84-100, 13 December 2012, read together with *De Souza Ribeiro v. France*, no. 22689/07, §§ 22-26, 30 June 2011).

113. The Court is of the view that a similar approach should be adopted in the present case, in which the substantive claim has been struck-out (and not declared inadmissible, as in the cases mentioned above). As in *I.M. v. France*, *Gebremedhin* and *M.A. v. Cyprus* (all cited above), the facts constituting the alleged violation of Article 13 of the Convention had already materialised by the time the risk of the applicant's removal had ceased to exist. The applicant's complaint is that when he was under threat of removal there was no effective domestic remedy in respect of his complaint under Article 3 of the Convention. Although the French authorities' decision to grant the applicant asylum has removed the risk that he will be deported to Türkiye, that decision does not and cannot acknowledge and redress his claim under Article 13 in conjunction with Article 3 of the Convention in respect of Greece. The Court reiterates that a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a victim unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the alleged breach of the Convention. It is quite clear in the instant case that those conditions have not

been met in relation to the complaint under Articles 13 and 3 taken together. In the circumstances, it cannot therefore be said that the applicant can no longer claim to be a victim of the alleged violation of Article 13 taken in conjunction with Article 3 of the Convention.

114. The Court must further examine whether the applicant had an arguable claim that he would be subjected to treatment contrary to Article 3 if returned to Türkiye and, if so, whether he had a real opportunity to access the asylum procedure or another domestic procedure meeting the requirements of Article 13 of the Convention. To do so, it is necessary to consider the period when the applicant was in Greece and exposed to the risk of being returned to Türkiye, when he had an interest in having an effective remedy as required by Article 13 (see *Sharifi and Others v. Italy and Greece*, no. 16643/09, § 170, 21 October 2014). The period in question was between 2016 and 2017.

115. In the present case, having examined the case file, the Court finds that the applicant's complaint under Article 3 of the Convention regarding his intended readmission to Türkiye can be considered arguable. In particular, the applicant told the interview officer that he was Armenian and Christian and referred to his fears of living in Türkiye. He repeated those fears when he appeared before the judicial authorities, by adducing some reports illustrating his arguments (see paragraph 21 above). These arguments coupled with the reports filed with the domestic authorities are sufficient to conclude that the applicant had an arguable claim under Article 3 of the Convention and to engage the State's obligations under Article 13 of the Convention to provide an effective remedy for the examination in substance of his fears through a procedure meeting the requirements of that provision.

(ii) The alleged deficiencies in the examination of the applicant's claim

116. The Court firstly notes that, as mentioned in the first-instance asylum decision, the applicant had entered Greece from Türkiye after 20 March 2016, so he might be liable to be removed to a "safe third country" (see paragraph 10 above). It is not clear whether there was specific legislation designating Türkiye as safe third country, or in any event what the decision-making process was that led to that presumption in 2016. It is not clear whether that process involved a thorough assessment of the risk of lack of effective access to asylum proceedings in Türkiye, including the risk of *refoulement*. The Court notes that subsequent legislation designated Türkiye as "safe third country" in 2021 (see paragraph 50 above and compare *Ilias and Ahmed*, cited above, § 154).

117. The parties, including the third-party interveners, have devoted part of their submissions to an analysis of the legal effects of the EU-Türkiye Statement. The Court does not consider it necessary to embark on an analysis of the status of the EU-Türkiye Statement (see, in this regard, the relevant orders of the General Court in paragraph 49 above). In the present case, its

task is to determine, in light of the facts of the case and the applicant's complaints whether the Greek authorities took the general information available on Türkiye appropriately into account and whether the applicant was given a sufficient opportunity to seek international protection in Greece and to explain his personal situation (see *D v. Bulgaria*, no. 29447/17, § 129, 20 July 2021). The Court also has to address the applicant's complaint that the Greek authorities failed to take into consideration the allegation that the reception conditions for asylum seekers in Türkiye were inadequate (see, for example, *Tarakhel v. Switzerland* [GC], no. 29217/12, § 105, ECHR 2014 (extracts)).

118. In this regard, the Court observes that the applicant's complaint before the Court is twofold. Firstly, he contested the authorities' conclusions that Türkiye was a safe third country for Syrians and especially for him, because of his ethnicity and religion; he relied on both the general situation in Türkiye and on the individual risk he claimed he ran in that country, arguing that his fears were not sufficiently examined. The applicant focused on the standard text used in the refusal of his asylum request, arguing that his arguments and the reports he had filed were ignored and that the assurances provided were not sufficient. Secondly, he complained that there had been several specific procedural deficiencies in the consideration of his asylum claim, which rendered the remedies available to him ineffective. He focused, in particular, on the use of interpreters who did not speak Greek to serve the decisions on him, the failure to provide him with legal assistance, the conduct of his interview by an EASO officer instead of a Greek State employee, the failure to ask pertinent questions during his interview and the failure of the authorities, except the Asylum Committee, to hear him in person. He also complained about the remedies available to prevent his removal, arguing that his access to them was purely theoretical because of the lack of information and of legal assistance for lodging an appeal against the removal decision, which had only been notified to him in Greek.

119. The Court will first assess how the applicant's claims were considered by the Greek administrative and judicial authorities. In this regard, the fact that Türkiye is a Contracting Party to the Convention did not exempt the Greek authorities from conducting a thorough examination of the applicant's situation (see *Sherov and Others v. Poland*, nos. 54029/17 and 3 others, §§ 47-48, 4 April 2024). Such an assessment had to be conducted by the Greek authorities of their own motion, and on the basis of all relevant and up-to-date information available (see *O.M. and D.S. v. Ukraine*, no. 18603/12, § 96, 15 September 2022).

120. Turning to the proceedings regarding the applicant's asylum claim, the Court observes that the applicant benefited from a series of proceedings which ended with decision no. A460/2017 of the Piraeus Administrative Court of Appeal. In particular, the following facts were not contested by either of the parties: the applicant first applied for asylum by lodging a claim

with the Asylum Service. A week later, he had an interview conducted with the assistance of an interpreter who spoke Arabic, a language that the applicant stated that he understood (see paragraph 9 above). During his interview, the applicant was informed about the procedure that would be followed and was asked questions about his passage to Türkiye from Syria and from Türkiye to Greece, the problems he encountered while living in Türkiye, his working conditions, whether he had encountered any problems because of his Armenian ethnicity and his religion, whether he was personally affected by the war between Armenia and Azerbaijan, whether he feared anything specific in Türkiye and whether he wanted to make any further comments. The applicant narrated his personal circumstances, saying that he had been in Türkiye for approximately a year and had not applied for asylum there because he had been forced to conceal his ethnicity and religion while living there (ibid.).

121. On the basis of the considerations mentioned above, the Asylum Committee refused the applicant's claim for asylum, finding that he could be removed to a safe third country. It took into account, *inter alia*, that the applicant's life and freedom were not threatened in Türkiye for reasons of race, religion, ethnicity, membership of a particular social group or political opinion; that the applicant would be able to ask for international protection in Türkiye, which would accept him under the EU-Türkiye Statement of 18 March 2016; and that the applicant as a Syrian would be given temporary protection in Türkiye, including from *non-refoulement*. The Asylum Committee referred to various documents from the Turkish Ministry of Interior, to the Temporary Protection Regulation, to the fact that Türkiye was then hosting more than 2.5 million Syrian citizens, to the EU-Türkiye Statement on the basis of which the applicant would be readmitted to Türkiye and to reports by ECRE and the UNHCR. The applicant was notified of the decision, which was written in Greek, with the assistance of an interpreter who informed him of his right to appeal, which the applicant then did (see paragraphs 10-12 above).

122. On 2 June 2016, the Appeals Committee dismissed the applicant's appeal as unfounded. Relying on the applicant's interview, the Committee decided that the applicant had a sufficient link with Türkiye, as proved by his having lived and worked there for a year, and by his not having experienced any problem because of his ethnicity or religion. It therefore concluded that Türkiye was a safe country for the applicant, taking into account, among other documents, the assurances given by the Turkish Ambassador, the letter from the European Commission and the UNHCR report (see paragraph 13 above).

123. The applicant then filed an application for annulment together with an application for suspension against that decision, in which he put forward all the arguments on which he relied also before the Court. The Piraeus Court of Appeal dismissed the application for suspension in decision no. N56/2016; from the information provided, and the applicant's replies during his asylum

interview, it did not appear that he ran a real and individualised risk of persecution or of maltreatment or expulsion to Syria if he returned to Türkiye (see paragraph 15 above).

124. The application for annulment of the decision was also dismissed, in decision no. A460/2017. The domestic court concluded that the applicant's procedural rights had not been violated, given that he was accompanied by an interpreter both during his interview and when he was informed about the hearing of his appeal. Despite the lack of legal assistance, he had exercised his rights within the prescribed time-limits. The Appeals Committee had taken into account the general situation in Türkiye and had given full reasons in its decision. As regards the applicant's fears that he would be subject to chain refoulement once returned to Türkiye, he had not referred to any specific actions or omissions of the Turkish authorities which would justify such fears; his concerns regarding his ethnicity and religion were not sufficient to justify the danger he claimed he would be in in Türkiye. His allegations were vague and, given that he had lived in Türkiye for over a year without experiencing any problems attributable to his ethnicity or religion, the applicant did not face a real and individual risk of persecution or ill-treatment by the Turkish authorities. In any event, the applicant's asylum claim had been assessed on an individual basis, so his allegations about mass expulsions were unfounded. The conclusions were not called into question by the reports filed by the applicant, which did not confirm any forced returns of Syrian citizens (see paragraph 16 above). The asylum proceedings were concluded with the above-mentioned decision.

125. The decisions of the administrative and judicial authorities show that the domestic authorities took into account:

a) the applicant's replies during his interview;

b) the letter from the Ambassador of Türkiye's Permanent Delegation to the EU dated 12 April 2016 to the Director-General of the European Commission's Directorate-General for Migration and Home Affairs;

c) the letter from the Director-General of the European Commission's Directorate-General for Migration and Home Affairs dated 5 May 2016 and addressed to the Greek Secretary General for Population and Social Cohesion;

d) the letter from the UNHCR to the Alternate Minister for Migration dated 4 May 2016 about the conditions of Syrian nationals in Türkiye;

e) Turkish legislation, including the Temporary Protection Regulation and the Law on Foreigners and International Protection;

f) the ECRE Report on Türkiye published in December 2015;

g) a report by the UNHCR entitled "Regional Refugee & Migrant Response Plan for Europe; Eastern Mediterranean and Western Balkans Route – (January-December 2016) – 19 January 2016";

h) press articles concerning allegations on forced returns from Türkiye to Syria;

i) the fact that Türkiye was then hosting more than 2.5 million Syrian citizens;

j) the EU-Türkiye Statement on the basis of which the applicant would be readmitted to Türkiye; and

k) the assurances given by the Turkish ambassador to the European Commission.

126. As noted above (see paragraph 110), the Court's task is not to review the decisions of the domestic authorities on the merits of the applicant's claim for asylum but rather to examine whether the domestic courts engaged in an independent and rigorous scrutiny of his claim that there existed substantial grounds for fearing a real risk of treatment contrary to Article 3. The Court notes that the applicant's asylum claim was the subject of a multi-layered examination by the Asylum Service, the Appeals Committee and, subsequently, the judicial authorities (see paragraphs 120-24 above). The interview record shows that the applicant was given a genuine opportunity to set out his account and arguments, the questions asked were suitable for the purpose of identifying whether Türkiye was a safe third country for the applicant, and the authorities engaged with the substance of his submissions, notwithstanding that there were inconsistencies and a lack of coherence in parts of his narrative. The fact that the initial decision to reject the claim contained standardised wording does not, in itself, indicate a failure to conduct an individualised assessment. The reasoning of the subsequent administrative and judicial decisions demonstrates that the applicant's personal circumstances, the relevant country information about certain alleged risks and the specific risks he alleged, were duly considered on the basis of his replies, namely that he had lived over a year in Türkiye without experiencing any problems. The authorities also acted of their own motion to examine the conditions the applicant would face in Türkiye, consulting a wide range of reports, statistics and other objective material. At the judicial stage, the applicant benefited from legal assistance and was able to challenge the finding that Türkiye was a safe third country for him. He received a detailed reply to his arguments, including to the reports that he produced before the domestic courts.

127. Turning to the assurances relied upon by the authorities, the Court takes note of the applicant's and the third-party interveners' arguments that they were general and were therefore not binding on the Turkish authorities in the applicant's case. In this regard, the Court reiterates that it has to assess whether the Greek authorities could rely upon to these assurances (and what weight they could have given to them), taking into account, *inter alia*, whether the assurances are specific or are general and vague (see *Othman (Abu Qatada)*, cited above, § 189 for detailed reference of all the criteria which the Court takes into account when assessing the quality and reliability of assurances).

128. The Government brought to the attention of the Court several documents as assurances for the implementation of the EU-Turkey Statement (see paragraph 53 above). Nevertheless, the Asylum Committee, the Appeals Committee and the judicial authorities only referred to three of those documents in their decisions, that is to say, the letter of 12 April 2016 from the Ambassador of Türkiye's Permanent Delegation to the EU, the letter of the Director-General of the European Commission's Directorate- General for Migration and Home Affairs dated 5 May 2016 and the UNHCR's letter of 4 May 2016. The Court will therefore examine the way the authorities assessed the applicant's claims and applications with reference to those documents.

129. The Court has considered in the past the acceptability of guarantees of a more general nature in removal cases (see, for example, *J.A. and Others v. the Netherlands* (*dec.*), no. 21459/14, §§ 30-31, 3 November 2015) and has not excluded that an arrangement between two States on removal of persons seeking protection containing such general assurances might be acceptable under certain conditions (see *H.T. v. Germany and Greece*, no. 13337/19, § 146, 15 October 2024). In the Court's view, where the return of asylum seekers is governed not by *ad hoc* diplomatic undertakings but by a structured framework of cooperation between two States which are parties to the Convention, accompanied by clear and objectively verifiable conditions, the assessment of risk must take account of that broader context. While the Court has held that diplomatic assurances must be specific, it considers that this principle cannot be applied mechanically in situations where the receiving State participates in an established, mutually agreed mechanism for the treatment of returnees. In such circumstances, general assurances embedded in the relevant agreement, and implemented through ongoing institutional cooperation, may suffice to dispel a real risk of treatment contrary to Article 3. The decisive question remains whether the assurances, viewed in light of the overall scheme and the material before the Court, offer a sufficiently reliable guarantee of protection against prohibited ill-treatment. Where the evidence demonstrates that the agreed safeguards operate effectively in practice and are not undermined by systemic deficiencies, the Court considers that such general assurances may, in principle, be regarded as adequate. In any event, assurances are not in themselves sufficient to ensure adequate protection against the risk of ill-treatment. There is an obligation to examine whether assurances provide, in their practical application, a sufficient guarantee that the applicant would be protected against the risk of ill-treatment (see *Saadi*, cited above, § 148). The Court's only task is to examine whether the assurances obtained in a particular case are sufficient to remove any real risk of ill-treatment (see *Othman (Abu Qatada)*, cited above, § 186).

130. In the present case the domestic authorities did not rely on the assurances of the Turkish authorities in isolation but assessed them within the

broader framework of the EU-Türkiye Statement and in conjunction with further objective material, including statistical data and reports and letters from UNHCR and ECRE. The reports were assessed in relation to the applicant's arguments concerning both the risk of *refoulement* and the treatment received by Syrians in Türkiye, including references to statistics and to the number of Syrians then living in Türkiye, as well as their reception conditions and the guarantees provided under the Temporary Protection Regulation (contrast *Ilias and Ahmed*, cited above, §§ 158-60 and *M.D. and Others v. Russia*, cited above, § 100).

131. The Court takes note of the letter of 12 April 2016 from the Ambassador of Türkiye's Permanent Delegation to the European Union, confirming that all Syrian nationals returned under the Statement would be granted temporary protection in accordance with the amended Temporary Protection Regulation, subject only to the exclusion clauses provided for in domestic and international law. Furthermore, the letter of 5 May 2016 from the Director-General of the European Commission's Directorate-General for Migration and Home Affairs confirmed that Türkiye had adopted the regulatory amendments required under the Statement, that the assurances of 12 and 24 April 2016 had been duly transmitted to the Greek authorities, and that Türkiye had undertaken to allow regular monitoring by the European Union and UNHCR, including access to removal centres. Finally, the Court notes the letter of 4 May 2016 from UNHCR to the Greek authorities, which confirmed that Syrian nationals returned from the Greek islands would, in principle, be eligible for temporary protection in Turkey irrespective of prior registration, and acknowledged the assurances provided by Turkey to the European Union concerning the enjoyment of temporary protection by such returnees. Taken together, and viewed in light of the additional material examined by the domestic authorities, these elements provided a coherent and mutually reinforcing set of guarantees that the authorities could reasonably rely on. The Court finds that this distinguishes the present case from *H.T. v. Germany and Greece* (cited above, § 146), in which the German authorities had removed the applicant from Germany to Greece based on an administrative arrangement that did not contain any provisions guaranteeing that asylum-seekers removed under that arrangement would, following their removal, have access to an effective asylum procedure in Greece in which the merits of their asylum claim would be assessed. In the circumstances of the present case, the Court considers that the domestic authorities could reasonably regard the above assurances and supporting information as sufficient to disprove the applicant's allegations regarding a systematic practice of *refoulement* from Türkiye to Syria and dispel the risk of treatment contrary to Article 3 of the Convention.

132. As regards the rest of the applicant's arguments, the Court notes that he was interviewed by competent and trained staff; the fact that they did not speak Greek and were not employees of the Greek State but of EASO does

not appear to have affected the applicant in any way, as he was given the information in the documents with the assistance of the interpreter who served the documents on him. The Court underlines the importance of interpreting to ensure proper access to the asylum procedure (see *M.S.S. v. Belgium and Greece*, cited above, § 301). It also refers to the requirement under the Asylum Procedures Directive for the authorities to make arrangements for interpreting (see paragraph 48 above). While it appears that the applicant had no legal assistance during the first steps of his asylum claim or the procedure for his removal, that is to say, when his applications were before the administrative authorities, the Court notes that in the subsequent proceedings the applicant did benefit from legal assistance and was able to fully exercise his rights by lodging applications for annulment and applications for suspension with the administrative courts.

133. In light of the above, and in particular in view of the thoroughness of the domestic examination, the range of sources consulted, the reasoned responses provided to the applicant's submissions, and the coherent set of assurances and monitoring mechanisms forming part of the EU-Türkiye Statement, the Court considers that the examination of applicant's asylum claim by the domestic authorities was sufficient to comply with the Convention standards. It follows from the examination of all the elements above that the applicant had a wide range of remedies at his disposal which were available not only in theory, but also in practice. The applicant was given opportunity to rebut the presumption that Türkiye was a safe third country for him. The Greek authorities made an individual assessment of his situation, not only relying on the evidence brought by the applicant, but also taking into account the general information available for Türkiye, the assurances made in the context of the EU-Türkiye Statement and reports and letters of UNHCR and by Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees. In these circumstances, the applicant cannot validly maintain that his asylum request was not properly examined.

134. It follows that the applicant benefited from effective safeguards in the examination of his asylum claim which enabled him to assert his fears of treatment contrary to Article 3 of the Convention and which were capable of protecting him from being arbitrarily returned to Türkiye and, through chain *refoulement*, to his country of origin. That conclusion dispenses the Court from examining the applicant's allegations regarding the procedure on his removal (see paragraph 84 above).

135. It follows that there has been no violation of Article 13 in conjunction with Article 3 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE CONDITIONS OF THE APPLICANT'S DETENTION

136. Lastly, the applicant complained that he had been detained in Mytilene police station in conditions that were in violation of Article 3 of the Convention.

A. Admissibility

137. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

138. The applicant submitted that he was detained in Mytilene police station from 3 June to 22 July 2016 and had objected to being detained to the Administrative Court of Mytilene twice, once on 7 July 2016 and once on 21 July 2016. He had also complained to the police authorities about the conditions in which he was being detained on 18 July 2016. However, the authorities had failed to consider the applicant's objections.

139. Relying on the CPT report on Greece of 2016 (see paragraph 46 above), the applicant maintained that there was no opportunity for outdoor exercise and that the premises were only cleaned once a month. The applicant also raised several issues that had arisen during his detention, such as the lack of hot water, the lack of bed sheets or pillows, and the lack of tables or chairs for mealtimes. These conditions further aggravated the applicant's mental health condition.

140. The Government replied that the infrastructure of the detention facilities of the Police Department of Mytilene, which had a capacity of 28 persons, complied with the requirements of domestic legislation. During the applicant's detention, approximately 25 people were detained there, a number that changed every day but did not exceed the capacity of the detention facilities. The police station had external windows, air-conditioning (for both cooling and heating) and adequate lighting. There were toilets with hot water and the premises were disinfected at least once a month and were cleaned daily. Each detainee received personal bed linen and a blanket. Detainees were allowed visits and phone calls and international organisations had unhindered access to the facilities.

141. Taking into account the extremely high number of third-country nationals who had arrived on the island of Lesvos and the need to adapt to the new situation created by the EU-Türkiye Statement, it was the view of the

Government that any shortcomings or malfunctions in the applicant's reception conditions had been unavoidable; that they had not attained the minimum threshold of severity and had not been in breach of Article 3 of the Convention.

2. The Court's assessment

142. The Court has on many occasions examined the conditions of detention in police stations in Greece of persons remanded or detained pending expulsion, and has found them to be in breach of Article 3 of the Convention (see *Siasios and Others v. Greece*, no. 30303/07, 4 June 2009; *Vafiadis v. Greece*, no. 24981/07, 2 July 2009; *Shuvaev v. Greece*, no. 8249/07, 29 October 2009; *Tabesh v. Greece*, cited above; *Efremidi v. Greece*, no. 33225/08, 21 June 2011; *Aslanis v. Greece*, no. 36401/10, 17 October 2013; *Adamantidis v. Greece*, no. 10587/10, 17 April 2014; *Kavouris and Others v. Greece*, no. 73237/12, 17 April 2014; *S.Z. v. Greece*, no. 66702/13, 21 June 2018 and *H.T. v. Germany and Greece*, cited above, §§ 82-85). There were specific deficiencies in the conditions of the applicants' detention in each of the above cases, particularly overcrowding, a lack of outdoor space for exercise, poor sanitary conditions and poor-quality food. In addition to those specific deficiencies, the Court based its findings of a violation of Article 3 on the nature of police stations *per se*, which are places designed to accommodate people for a short time only. Detention in a police station for one to three months was therefore held to be contrary to Article 3 (see *Siasios and Others*, § 32; *Vafiadis*, §§ 35-36; *Shuvaev*, § 39; *Tabesh*, § 43; *Efremidi*, § 41; *Aslanis* § 39; *Adamantidis* § 33; and *Kavouris and Others*, § 38, *H.T. v. Germany and Greece*, § 83, all cited above).

143. Turning to the present case, the Court notes that the applicant was detained for a period of one month and nineteen days in Mytilene police station, a facility which lacked the amenities required for prolonged periods of detention.

144. Having regard to its case-law on the subject and the material submitted by the parties, the Court notes that the Government did not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case from the one it reached in the above-cited cases.

145. There has accordingly been a violation of Article 3 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

146. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only

partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

147. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage, arguing that the sum was commensurate with the conditions he had suffered, namely his being in conditions of uncertainty for a prolonged period of time, especially given his vulnerability as person suffering from PTSD.

148. The Government replied that the claim was excessive and unjustified, especially taking into account the unprecedented situation faced by Greece when a large number of irregular migrants had entered the territory.

149. The Court, having regard to the violation of Article 3 of the Convention found in respect of the conditions of the applicant's detention, awards the applicant EUR 5,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

150. The applicant also claimed EUR 2,986.80 for the costs and expenses incurred before the domestic courts, which comprised EUR 369.52 for the proceedings concerning his detention, EUR 1,055.01 for the proceedings concerning his removal and EUR 1,562.27 for the proceedings concerning his claim for asylum. The amounts were paid exceptionally by ProAsyl to the three representatives of the applicant under the condition that they would be paid back in case legal aid was granted by the courts.

151. The Government argued that these amounts had been paid by the NGO ProAsyl and not the applicant and that in any event, they were not causally linked to the alleged violations of the Convention.

152. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. Lawyers' fees have been actually incurred only if the applicants have either paid them or are liable to pay them (see *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, § 499, 11 December 2025, with further references). In the present case, the Court notes that the applicant did not pay any fees to his representatives whose costs were reimbursed by ProAsyl, nor is there any evidence that the applicant is under an obligation to pay any sum of money to them.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to strike out of the list the complaint under Article 3 of the Convention concerning the applicant's removal from Greece;

2. *Joins* to the merits the issue of the applicant's victim status as regards the complaint under Article 13 in conjunction with Article 3 of the Convention related to examination of his asylum claim and the removal procedure and *holds* that the applicant has retained victim status in relation to that complaint;

3. *Declares* the complaint under Article 13 in conjunction with Article 3 of the Convention as regards the examination of the applicant's asylum claim and the removal procedure as well as the complaint under Article 3 of the Convention concerning the conditions of the applicant's detention admissible;

4. *Holds* that there has been no violation of Article 13 in conjunction with Article 3 of the Convention as regards the examination of the applicant's asylum claim and the removal procedure;

5. *Holds* that there has been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention;

6. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Peeter Roosma President