



Examination of asylum claim by Greek authorities in 2016 in context of agreement between EU and Türkiye aimed at stopping flow of irregular migration met Convention standards; conditions of detention at police station in Greece breached Article 3

The case of [J.B. v. Greece](#) (application no. 54796/16) concerned the potential return of a Syrian national from Greece to Türkiye under the EU-Türkiye Statement of 18 March 2016, which aimed at stopping the flow of irregular migration via Türkiye to Europe.

In today's **Chamber** judgment¹ the European Court of Human Rights held, unanimously, that there had been **no violation of Article 13 (right to an effective remedy) in conjunction with Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights.

The Court found that the authorities had conducted a thorough examination of J.B.'s asylum claim. They had considered the conditions he would face in Türkiye and the specific risks he had alleged, had consulted a wide range of reports and statistics and had examined the coherent set of assurances and monitoring mechanisms forming part of the EU-Türkiye Statement. At the judicial stage, J.B. had benefited from legal assistance and had been able to challenge the finding that Türkiye was a safe third country for him. He had received a detailed reply to his arguments, including to the reports that he had produced before the national courts.

The Court also held, unanimously, that there had been a **violation of Article 3 (conditions of detention)** of the European Convention on Human Rights as concerned his detention in Mytilene police station.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, J.B., is a Syrian national who was born in 1965 and lives in Caen (France).

According to J.B., he had left Syria in April 2015 as he was in danger from the Islamic State due to his Armenian origin and Christian faith, and also because the country was at war. He travelled through Lebanon to reach Türkiye, where he stayed for approximately a year, having been given temporary protection status. He entered Lesvos and was arrested, on 7 May 2016, by the Greek authorities of the Central Port Authority of Mytilene, having entered the country unlawfully. On 9 May 2016 J.B. expressed his wish to seek asylum in Greece. During his interview, he argued that he had been forced to conceal his Armenian ethnicity and Christian religion while in Türkiye. He had left the country as he had felt it was not safe for him there as Armenia and Azerbaijan were at war and Türkiye supported Azerbaijan.

On 27 May 2016 J.B. was notified, in the presence of an interpreter, that the Regional Asylum Office of Lesvos had rejected his claim for international protection as inadmissible on the grounds that Türkiye had been his "first country of asylum" or would be "a safe third country" for him and taking into

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

account the EU-Türkiye Statement of 18 March 2016. The appeal and the subsequent judicial proceedings brought by J.B. against that decision were unsuccessful.

On 9 May 2016 the Director of the Lesvos Police Directorate issued a decision directing the expulsion of J.B. to Türkiye and ordering his detention pending his readmission to Türkiye. Following judicial proceedings initiated by the applicant, a new decision of expulsion, without an order for detention, was issued on 22 July 2016. The applications for annulment lodged by J.B. against that decision was unsuccessful.

On 3 June 2016 J.B. was transferred from Moria camp to Mytilene police station, where he was detained until 22 July 2016.

Complaints, procedure and composition of the Court

Relying on Article 13 (right to an effective remedy) in conjunction with Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, the applicant complained of deficiencies in the removal process and in the examination of his asylum claim by the Greek authorities. He also complained under Article 3 of the Convention about the risk he might face if returned to Türkiye, including the risk of chain *refoulement*, as well as about the conditions of his detention in Mytilene police station.

The application was lodged with the European Court of Human Rights on 9 September 2016.

Judgment was given by a Chamber of seven judges, composed as follows:

Peeter Roosma (Estonia), *President*,
Ioannis Ktistakis (Greece),
Darian Pavli (Albania),
Diana Kovatcheva (Bulgaria),
Úna Ní Raifeartaigh (Ireland),
Canòlic Mingorance Cairat (Andorra),
Vasilka Sancin (Slovenia),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

[Article 3 \(concerning the applicant's removal\)](#)

Firstly, the Court noted that J.B. had since moved to France and had been granted refugee status. It thus considered that it was no longer justified to continue the examination of his complaint under Article 3 about the risks he would entail if he were to be removed to Türkiye and decided to strike the application out of its lists in so far as this complaint was concerned.

[Article 13 in conjunction with Article 3 \(concerning the alleged deficiencies in the examination of the applicant's asylum claim and in the removal process\)](#)

The Court noted that although the French authorities' decision to grant the applicant asylum had removed the risk of his being deported to Türkiye, his claim under Article 13 in conjunction with Article 3 of the Convention in respect of Greece was still to be examined.

The Court found that J.B. had an arguable complaint about his intended readmission to Türkiye and had therefore engaged the State's obligation to provide an effective remedy for the examination of that complaint through a procedure meeting the standards required under the Convention.

The Court noted that J.B.'s asylum claim had gone through a multi-layer examination by the Asylum Service, the Appeals Committee and subsequently, the judicial authorities. The reasoning of the administrative and judicial decisions demonstrated that J.B.'s personal circumstances, the relevant country information about certain alleged risks and the specific risks alleged had been considered.

In the Court's view, where the return of asylum seekers was governed by a structured framework of cooperation between two States which were parties to the Convention, accompanied by clear and objectively verifiable conditions, the assessment of risk had to take account of that context. The national authorities had not relied on assurances of the Turkish authorities in isolation and had 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 the United Nations High Commissioner for Refugees (UNHCR) and the European Council on Refugees and Exiles. The reports had been assessed in relation to the applicant's arguments concerning both the risk of *refoulement* and the treatment received by Syrians in Türkiye.

The Court examined the assurances relied upon the authorities in order to assess what weight they could have given to them. It thus took note of a 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. Furthermore, a 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 assurances had been duly transmitted to the Greek authorities, and that Türkiye had undertaken to allow regular monitoring by the European Union and the UNHCR, including access to removal centres. Finally, the Court noted a letter of 4 May 2016 from the UNHCR to the Greek authorities that 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 Türkiye 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 domestic authorities thus could reasonably regard the above-mentioned material as sufficient to disprove J.B.'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.

Overall, the Court found that J.B. had benefited from effective safeguards in the examination of his asylum claim which had 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. He had been given opportunity to rebut the presumption that Türkiye was a safe third country for him. The Greek authorities had assessed his situation individually, not only relying on the evidence brought by him, but also taking into account the general information available for Türkiye and assurances they had been given.

There had therefore been no violation of Article 13 in conjunction with Article 3 of the Convention.

[Article 3 \(concerning the conditions of the applicant's detention\)](#)

As regards J.B.'s complaint about the conditions of his detention in Mytilene police station in 2016, the Court recalled that it had examined the conditions of detention in police stations in Greece of persons remanded or detained pending expulsion there on many occasions and had found them to be in breach of Article 3.

J.B. had been detained for a period of one month and nineteen days in Mytilene police station, a facility that lacked the amenities required for prolonged periods of detention.

There had therefore been a violation of Article 3.

[Just satisfaction \(Article 41\)](#)

The Court held that Greece was to pay the applicant 5,000 euros in respect of non-pecuniary damage.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.