## Report on human rights violations at international borders: trends, prevention and accountability

Dear Sir/Madam,

On behalf of ARSIS Association for the Social Support of Youth, a Greek NGO focused on human rights and child protection, we have attached our responses to the questionnaire posed on your website, in line with the "Report on human rights violations at international borders: trends, prevention and accountability".

1. ***Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021. Grateful if you could kindly submit the original text of the relevant provisions of the legislation or policy(ies), accompanied by an English translation if it is in a language other than English, French or Spanish.***

Since May 2021 two joint ministerial decisions have been published and amended the legal framework related to border entry, asylum and other international protection procedures. These ministerial decisions designated specific third countries as safe and compiled the already existing national list of safe third countries.

First, on 7 June 2021 (Monday), the Greek Ministry of Migration and Asylum presented the new Joint Ministerial Decision No 42799/2021[[1]](#footnote-0), which recognizes Turkey as a safe third country for nationals of Syria, Afghanistan, Pakistan, Bangladesh and Somalia. With this decision, applications for asylum submitted by citizens from one of the specified countries who enter Greece via Turkey are considered inadmissible based on the assumption that Turkey could offer protection and that the applicant should be returned. Meanwhile, Turkey has [declined](https://euobserver.com/migration/152092) to take back asylum seekers from Greece since March 2020, justifying the refusal with the Covid-19 pandemic.

In September 2021 Law No 4825/21[[2]](#footnote-1) entitled "Reform of deportation and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions of the Ministry and the Ministry of Civil Protection and other urgent provisions" was published, which amended the procedures on deportation and enacted a residence permit for compassionate or humanitarian reasons.

On 16 February 2022[[3]](#footnote-2) The National List of the safe countries of origin was compiled by the Joint Ministerial Decision No. 78391. More countries of origin were added to the already existing National List of the safe third countries, among them Ukraine.

Those who are able to reach Greece and submit asylum applications are negatively affected by the above amendments.

1. **Please provide information on recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency), with the view to control, reduce or prevent migrant arrivals in your country.**

“New pushback cases are recorded and the UN Special Rapporteur on The Human Rights of Migrants has published a condemning report on pushbacks with reference to cases in Greece. In the report, Greek prosecutors are ordered to investigate 147 pushbacks”[[4]](#footnote-3). Meanwhile, Northern EU member states call for the prevention of ‘secondary movements’ from Greece. According to the UN High Commissioner for Refugees (UNHCR) “at their worst, the reports suggest that some Greek sailors have left migrants in unsafe, overcrowded boats and in some cases even throwing people into the sea off the coast of the island of Samos, near the Greek-Turkish border.”[[5]](#footnote-4) The UNHCR had recorded nearly 540 reported incidents of informal returns by Greece since the start of 2020. In his statement, Grandi said he feared that these "deplorable" acts were becoming "normalized."

1. **Please provide information on how the "safe third country" concept is applied and if there is any "safe third country" list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.**

The recent ministerial guidelines[[6]](#footnote-5) which added Egypt, Albania, Algeria, Armenia, Georgia, Gambia, Ghana, India, Morocco, Bangladesh, Benin, Nepal, Ukraine, Pakistan, Senegal, Togo, Tunisia to the registry of safe third countries proves the difficulties that most applicants have already been facing in the asylum proceedings in Greece. Furthermore, the Joint Ministerial Decision by the Ministry for Foreign Affairs and the Ministry for Migration and Asylum that designated Turkey as a safe country for asylum seekers from Syria, Afghanistan, Pakistan, Bangladesh and Somalia has already resulted in mass, rapid rejection of asylum seekers from the above five countries, who are the majority of asylum applicants in Greece. The government is considering making asylum claims [inadmissible](https://www.infomigrants.net/en/post/28372/mitarakis-we-are-protecting-our-borders-in-line-with-international-law) if applicants have reached Greece by traveling through or from ["safe" third countries](https://www.asylumineurope.org/reports/country/greece/asylum-procedure/safe-country-concepts/safe-third-country#_ftnref2).

Personal interviews in cases examined under the “safe third country” concepts focus on the circumstances that the applicants with country of origin Syria, Afghanistan, Pakistan, Bangladesh and Somalia faced in Turkey. More specifically focus is laid on whether they have asked for international protection in Turkey and, if not, which reasons have prevented them from doing so, whether they have family and friends in Turkey, how long they remained in Turkey; if they had access to work, housing, education and health care; and in general if Turkey is a safe country for them.

In practice, the examination under the safe third country concept takes place as fast track border procedures. This is done exclusively for Syrians who fall under the EU Turkey Statement, that is, those who have entered Greece via the Greek Aegean islands. These applicants are also given a geographical restriction.

“Negative first instance decisions, qualifying Turkey as a safe third country for the above nationalities, are made identical and repetitive and thereby fail to provide an individualized assessment. In addition, the decisions are outdated, as they do not consider the developments after 2016, especially the announcement of the Turkish government in February 2020 that Turkey would no longer prevent asylum seekers and migrants from leaving Turkey. The decisions thereby fail to meet the obligation to investigate ex officio the material originating from reliable and objective sources as regards the situation in Turkey, and the actual regime in the country, given the absolute nature of the protection afforded by Article 3 ECHR.”

“As the same template decision is used since 2016, the finding of the United Nations Special Rapporteur on the human rights of migrants in 2017, that `admissibility decisions issued are consistently short, qualify Turkey as a safe third country and reject the application as inadmissible: this makes them practically unreviewable remains valid. Respectively, second instance decisions issued by the Independent Appeals Committees for the above applicants systematically uphold the first instance inadmissibility decisions, if no vulnerability is identified”.[[7]](#footnote-6)

We remain at your disposal for any further inquiries and look forward to reading the Special Rapporteur's report during the 50th session of the General Assembly, allowing our views to be expressed.

If you wish to learn more about our interventions, you may consult our website: <https://arsis.gr/> or contact us at arsis.advocacy@gmail.com and/or infothes@arsis.gr.

Sincerely,

Kyrmanidis Kostas

Child Protection Lawyer

Arsis - Association for the Social Support of Youth

1. Article only “The compilation of a national list of safe third countries, with the inclusion in it of Turkey as a safe third country, in accordance with the provisions of article 86 of law 4636/2019, for the following categories of applicants for international protection: a. Applicants with country of origin Syria b. Applicants originating in Afghanistan c. Applicants originating in Pakistan d. Applicants with country of origin Bangladesh e. Applicants with country of origin Somalia” Άρθρο μόνο “Την κατάρτιση εθνικού καταλόγου ασφαλών τρίτων χωρών, με την περίληψη σε αυτόν της Τουρκίας ως ασφαλούς τρίτης χώρας, σύμφωνα με τα οριζόμενα στο άρθρο 86 του ν. 4636/2019, για τις κάτωθι κατηγορίες αιτούντων διεθνούς προστασίας: α. Αιτούντες με χώρα καταγωγής τη Συρία β. Αιτούντες με χώρα καταγωγής το Αφγανιστάν γ. Αιτούντες με χώρα καταγωγής το Πακιστάν δ. Αιτούντες με χώρα καταγωγής το Μπαγκλαντές ε. Αιτούντες με χώρα καταγωγής τη Σομαλία” [↑](#footnote-ref-0)
2. **Article 2** Issues of return decisions - Replacement of par. 1 and amendment of par. 4 of article 21 of law 3907/2011 “4. The competent authorities on a case by case basis can at any time grant an independent residence permit for reasons of compassion, humanitarian or other reasons, to a third country citizen, who resides illegally in the Greek Territory, according to article 19A of law 4251/2014. In case of issuance of the above residence permit, no return decision is issued. If the return decision has already been issued, then it is revoked or suspended for a period equal to the period of validity of the above permit."

**Article 12** Exceptional issuance of a residence permit - Amendment of par. 1 of article 19 of law 4251/2014 The second paragraph of par. 1 of article 19 of law 4251/2014 (A` 80) is amended regarding the one-time issuance residence permit and par. 1 is worded as follows: “1. The Decentralized Administration Coordinator may exceptionally grant a residence permit for a period of three (3) years to third-country nationals residing in Greece. The residence permit is issued once and can be renewed for one of the other reasons of this Code. A citizen of a third country has the right to apply for a residence permit, provided that he / she proves with documents of a certain date the fact of his / her residence in the country for at least seven (7) consecutive years, before submitting an application or is a parent of a minor and provides documentary evidence. the parental relationship with the child (ren). "

**Article 23** Fee for submission of a later application - Addition of par. 10 to article 89 of law 4636/2019 In article 89 of law 4636/2019 (A` 169) par. 10 is added as follows: “10. For the submission of each subsequent application after the first, the applicant submits a fee, the amount of which is set at the amount of one hundred (100) euros per application. The fees of the first paragraph are revenues of the state budget that are collected according to the Code of Public Revenue Collection (Κ.Ε.Δ.Ε., n.d. 354/1974 - Α` 90). "By joint decision of the Ministers of Immigration and Asylum and Finance, the amount of the fee may be adjusted, the procedure for recording the respective appropriations in the budget of the Ministry, the manner of their allocation, as well as any specific issues related to the implementation of this."

**Άρθρο 2** Θέματα αποφάσεων επιστροφής - Αντικατάσταση της παρ. 1 και τροποποίηση της παρ. 4 του άρθρου 21 του ν. 3907/2011 «4. Οι αρμόδιες αρχές κατά περίπτωση μπορούν ανά πάσα στιγμή να χορηγήσουν ανεξάρτητη άδεια διαμονής για λόγους φιλευσπλαχνίας, ανθρωπιστικούς ή άλλους λόγους σε πολίτη τρίτης χώρας, ο οποίος διαμένει παράνομα στην Ελληνική Επικράτεια, σύμφωνα με το άρθρο 19Α του ν. 4251/ 2014. Σε περίπτωση έκδοσης της ανωτέρω άδειας διαμονής δεν εκδίδεται απόφαση επιστροφής. Εάν η απόφαση επιστροφής έχει ήδη εκδοθεί, τότε αυτή ανακαλείται ή αναστέλλεται για χρονικό διάστημα ίσο με το χρόνο ισχύος της ανωτέρω άδειας.»

**Άρθρο 12** Κατ' εξαίρεση χορήγηση άδειας διαμονής - Τροποποίηση της παρ. 1 του άρθρου 19 του ν. 4251/2014 Τροποποιείται το δεύτερο εδάφιο της παρ. 1 του άρθρου 19 του ν. 4251/2014 (Α` 80) ως προς την εφάπαξ. έκδοσης άδειας διαμονής και η παρ. 1 διατυπώνεται ως εξής: «1. Ο Συντονιστής της Αποκεντρωμένης Διοίκησης δύναται κατ' εξαίρεση να χορηγεί άδεια διαμονής για περίοδο τριών (3) ετών σε υπηκόους τρίτων χωρών που διαμένουν στην Ελλάδα.Η άδεια διαμονής εκδίδεται εφάπαξ και μπορεί να ανανεωθεί για έναν από τους άλλους λόγους του Κώδικα.Πολίτης τρίτης χώρας έχει δικαίωμα να ζητήσει άδεια διαμονής, εφόσον αποδείξει με έγγραφα ορισμένης ημερομηνίας το γεγονός της διαμονής του στην χώρα για τουλάχιστον επτά (7) συναπτά έτη, πριν από την υποβολή αίτησης ή είναι γονέας ανηλίκου και προσκομίζει αποδεικτικά στοιχεία. τη γονική σχέση με το τέκνο (τα παιδιά).

**Άρθρο 23** Παράβολο υποβολής μεταγενέστερης αίτησης - Προσθήκη παρ. 10 έως το άρθρο 89 του ν. 4636/2019 Στο άρθρο 89 του ν. 4636/2019 (Α` 169) παρ. 10 προστίθεται ως εξής: «10. Για την υποβολή κάθε επόμενης αίτησης μετά την πρώτη, ο αιτών υποβάλλει παράβολο, το ύψος του οποίου ορίζεται στο ποσό των εκατό (100) ευρώ ανά αίτηση. Τα τέλη του πρώτου εδαφίου είναι έσοδα του κρατικού προϋπολογισμού που εισπράττονται σύμφωνα με τον Κώδικα Είσπραξης Δημοσίων Εσόδων (Κ.Ε.Δ.Ε., ν.δ. 354/1974 - Α` 90). «Με κοινή απόφαση των Υπουργών Μετανάστευσης και Ασύλου και Οικονομικών μπορεί να αναπροσαρμόζεται το ύψος του τέλους, η διαδικασία εγγραφής των αντίστοιχων πιστώσεων στον προϋπολογισμό του Υπουργείου, ο τρόπος κατανομής τους, καθώς και κάθε ειδικό θέμα που αφορά για την εφαρμογή αυτού». [↑](#footnote-ref-1)
3. **Article 1** “The compilation of a National List of countries of origin, which charare held as safe. The designation of the countries included in the following list, as Safe Countries of Origin, according to the provisions of article 87 of law 4636/2019: a. Egypt, b. Albania, c. Algeria, d. Armenia, e. Georgia, f. Gambia, g. Ghana, h. India, i. Morocco, j. Bangladesh, k. Benin l. Nepal, m. Ukraine, n. Pakistan, o. Senegal, p. Togo, q. Tunisia.”

**Article 2** The no. 778 / 20.01.2021 (Β '317) joint ministerial decision is repealed.

**Άρθρο 1** ”Την κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής, που χαρακτηρίζονται ως ασφαλείς. Τον χαρακτηρισμό των περιλαμβανομένων στον κάτωθι κατάλογο χωρών, ως Ασφαλών Χωρών Καταγωγής, σύμφωνα με τα οριζόμενα στο άρθρο 87 του ν. 4636/2019: α. Αίγυπτος, β. Αλβανία, γ. Αλγερία, δ. Αρμενία, ε. Γεωργία, στ. Γκάμπια, ζ. Γκάνα, η. Ινδία, θ. Μαρόκο, ι. Μπαγκλαντές, ια. Μπενίν ιβ. Νεπάλ, ιγ. Ουκρανία, ιδ. Πακιστάν, ιε. Σενεγάλη, ιστ. Τόγκο, ιζ. Τυνησία.

 **Άρθρο 2** Η υπ' αρ. 778/20.01.2021 (Β' 317) κοινή υπουργική απόφαση καταργείται”. [↑](#footnote-ref-2)
4. https://ecre.org/greece-while-the-designation-of-turkey-as-safe-country-and-pushbacks-undermine-protection-in-greece-the-country-is-criticised-for-not-preventing-secondary-movement/ [↑](#footnote-ref-3)
5. <https://www.infomigrants.net/en/post/38691/greece-un-calls-for-end-to-deplorable-migrant-pushbacks> [↑](#footnote-ref-4)
6. See above footnote No 3 [↑](#footnote-ref-5)
7. <https://asylumineurope.org/reports/country/greece/asylum-procedure/the-safe-country-concepts/safe-third-country/> [↑](#footnote-ref-6)