

AΔ198/2026

1st application – Admissibility – Application for annulment – Administrative Court of First Instance of Thessaloniki – Pakistan – Single man – Persecution due to religion – Türkiye as a safe third country – Türkiye not accepting readmissions from Greece – (Non) Legitimate justification – Application accepted

Administrative Court of First Instance of Thessaloniki
2nd (Three-Member) Chamber /Annulment Proceedings
Decision No: AΔ198/2026
Publication date: 27/05/2026
Judge Rapporteur: Vasiliki Dinoka
(...)

5. Whereas, in particular on the basis of Article 78(2)(d) of the Treaty on the Functioning of the European Union (TFEU), Directive 2013/32/EU [...] was adopted, laying down further [...] requirements for the procedures for granting and withdrawing international protection within the meaning of Directive 2011/95/EU [...]. Article 33 of that Directive provides: "1. In addition to cases in which an application is not examined in accordance with Regulation (EU) No 604/2013, Member States shall not be required to examine whether the applicant qualifies for international protection under 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 where: (a) ... (b) ... (c) a country which is not a Member State is considered to be a safe third country for the applicant pursuant to Article 38; (d) ... (e) ..." Article 38 of the Directive provides: "1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in the third country concerned in accordance with the following principles: (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; (b) there is no risk of serious harm as defined in Directive 2011/95/EU; (c) the principle of non-refoulement in accordance with the Geneva Convention is respected; (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention. 2. The application of the safe third country concept shall be subject to rules laid down in national law, including: (a) rules requiring a connection between the applicant and the third country concerned, on the basis of which it would be reasonable for the applicant 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; [...] and (c) rules, in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant, which shall, at least, permit the applicant to challenge the application of the safe third country concept on the ground 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 pursuant to point (a). [...] 4. Where the third country does not permit the applicant to enter its territory, Member States shall ensure that access is given to a procedure in accordance with the basic principles and guarantees described in Chapter II. [...]"

6. Whereas, Law 4636/2019 [...] provides in Article 84(1) that: "The Decision-Making Authorities shall, by decision, reject an application for international protection as inadmissible where: (a) ... (b) ... (c) ... (d) a country which is not a Member State is considered to be a safe third country for the applicant, in accordance with Article 86 of this Law; [...]" Article 86, as applicable at the material time, provided as follows: "1. A country shall be considered a safe third country for a particular applicant where all of the following criteria are cumulatively fulfilled: (a) the applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group, or political opinion; (b) the country respects the principle of non-refoulement in accordance with the Geneva Convention; (c) there is no risk of serious harm to the applicant within the meaning of Article 15 of this Law; (d) the country prohibits the removal of a person to another country where he or she would face a risk of torture or cruel, inhuman or degrading treatment or punishment, as defined in international law; (e) there is a possibility to apply for refugee status and, where the applicant is recognised as a refugee, to receive protection in accordance with the Geneva Convention; and (f) the applicant has a connection with the third country concerned on the basis of which it would be reasonable for him or her to go to that country. The applicant's transit through a third country may, in conjunction with specific circumstances relating to the applicant, in particular: (a) the duration of his or her stay in that country; (b) any contact, or the objective or subjective possibility of contact, with the authorities for the purpose of gaining access to employment or obtaining a residence permit; (c) any residence in that country prior to the transit, such as long-term visits or studies; (d) the existence of any family ties, however remote; (e) the existence of social, professional or cultural links; (f) ownership of property; (g) links with a wider community; (h) knowledge of the language of that country; and (i) the geographical proximity of the country to the applicant's country of origin, be regarded as constituting a connection between the applicant and the third country on the basis of which it would be reasonable for him or her to go to that country. 2. Compliance with the above criteria shall be examined on a case-by-case basis and separately for each applicant, unless the third country has been designated as generally safe and included in the national list of safe third countries. In the latter case, the applicant for international protection may rebut the application of the safe third country concept by invoking the fact that the third country is not safe in his or her particular circumstances. [...] 4. Where a decision is adopted exclusively on the basis of this Article, the Competent Receiving Authorities shall inform the applicant accordingly and shall provide him or her with a document informing the authorities of the third country concerned that the application has not been examined on its merits. 5. Where the above-mentioned third country does not permit the applicant to enter its territory, the application shall be examined on the merits by the Competent Decision-Making Authorities. 6. ..."

7. Whereas, pursuant to the aforementioned Article 86 of Law 4636/2019, Joint Ministerial Decision No. 42799/3-6-2021 of the Ministers of Foreign Affairs and Migration and Asylum [...] was issued. By that Joint Ministerial Decision, it was decided to establish a national list of safe third countries, including, inter alia, Turkey as a safe third country, in accordance with Article 86 of Law 4636/2019, for applicants for international protection whose country of origin is Syria, Afghanistan, Pakistan, Bangladesh, or Somalia.

8. Whereas, following the submission of requests for a preliminary ruling by the Council of State, the Court of Justice of the European Union (CJEU) delivered its judgment of 4 October 2024 (Case C-134/23, *Greek Council for Refugees and Others*, judgment of 4 October 2024). In that judgment, the Court held that the wording of the aforementioned Article 38 of Directive 2013/32/EU shows that the provision allows a Member State to designate, by an act of general application, a country as a generally safe third country for specific categories of applicants for international protection (paragraph 43), without the validity of such an act being conditional upon proof that the applicants concerned are in fact admitted or readmitted to the territory of that third country (paragraph 46). However, where it is established that the third country which has been designated by a Member State as a generally safe

third country does not, in practice, accept the admission or readmission of the applicants for international protection concerned, that Member State may not reject their applications for international protection as inadmissible on the basis of Article 33(2)(c) of Directive 2013/32/EU. [...]

9. Whereas, by Article 1 of Law 2926/2001 (Government Gazette A' 139), the Agreement between the Hellenic Republic and the Republic of Turkey on Cooperation between the Ministry of Public Order of the Hellenic Republic and the Ministry of the Interior of the Republic of Turkey in Combating Crime, in particular Terrorism, Organised Crime, Illicit Drug Trafficking and Illegal Migration, signed on 20 January 2000, was ratified. Article 8 of that Agreement provides as follows: "The Parties shall cooperate in combating illegal migration. Pending the conclusion of a Readmission Agreement, the Parties shall permit the readmission of persons, namely their own nationals as well as nationals of third countries, who have crossed or intend to cross illegally the border of one of the Parties and who have come from the territory of the other Party. [...]" Furthermore, on 10 December 2013, the Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation was concluded. That Agreement was concluded on behalf of the Union by the Council Decision of 7 May 2014 (OJ L 134). [...]

10. Whereas, subsequently, on 15 October 2015, Turkey and the European Union agreed on a Joint Action Plan, with the aim of strengthening their cooperation in supporting Syrian nationals benefiting from temporary international protection and in the field of migration management, in order to address the crisis resulting from the situation in Syria. [...] Thereafter, on 18 March 2016, a statement on the outcome of the third meeting, "devoted to deepening EU–Turkey relations as well as addressing the migration crisis," between the members of the European Council and their Turkish counterpart, was published on the website of the Council of the European Union in the form of Press Release No. 144/16. The above EU–Turkey Statement provided, inter alia, as follows: "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 decided today to end the irregular migration from Turkey to the EU. To achieve this goal, they agreed on the following additional action points: 1. All new irregular migrants crossing from Turkey into the Greek islands as from 20 March 2016 will be returned to Turkey. [...] 2. For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled from Turkey to the EU, taking into account the UN Vulnerability Criteria. [...]"

11. Whereas, as held in Judgment No. 177/2023 of the Plenary of the Council of State (and confirmed by Judgments Nos. 1049–1052/2025 of the Plenary of the same Court), it follows from the international instruments referred to in the immediately preceding paragraphs that, in principle, Turkey assumed the legal obligation to accept, subject to certain conditions, the readmission from Greece of third-country nationals applying for international protection. However, the evidence submitted before the Council of State demonstrated that Turkey has not, in practice, complied with those legal obligations, since applicants for international protection whose applications have been rejected as inadmissible on the ground that Turkey constitutes a "safe third country" are not readmitted to Turkey. On the contrary, since March 2020, returns from Greece to Turkey have been suspended, and it cannot be accepted that this merely constitutes a temporary suspension of the implementation by Turkey of the EU–Turkey Statement of 18 March 2016.

12. Whereas, in the present case, the documents contained in the case file, and in particular the contested decision, show the following: On 1 (...) 2017, the applicant, born in 1971 and found to be a national of Pakistan, appeared before the Regional Asylum Office of Thessaloniki and lodged an application for international protection. In support of his application, the applicant claimed, in essence, that he had left his country of origin because he was at risk from religious organisations, owing to his active participation in a movement opposing a Muslim preacher who had sexually abused one of his students. He further submitted (producing the relevant document) that a decision had been issued

against him by an Islamic religious school declaring him to be an "infidel" and stating that the prescribed punishment for that offence was death, under Islamic law and Islamic jurisprudence. That application was examined under the accelerated procedure and was rejected as inadmissible by Decision (...) of the Regional Asylum Office of Thessaloniki, on the ground that another State had assumed responsibility for examining the application pursuant to Regulation (EU) No 604/2013 of the European Parliament and of the Council, as evidenced by document (...) issued by the competent Bulgarian authorities. The applicant lodged an administrative appeal against that first-instance decision on (...) 2018. The appeal was dismissed by Decision (...) of the 11th Appeals Committee, on the same grounds. That decision was subsequently annulled by Judgment (...) of the Administrative Court of Appeal of Thessaloniki. [...] Thereafter, by Decision (...), the above-mentioned 11th Appeals Committee proceeded to re-examine the applicant's application for international protection in accordance with the legislative framework applicable at the time of the examination of the administrative appeal. The Committee took into account the applicant's statements made during the registration of his application for international protection and during his personal interview. [...] The applicant stated that he had left his country of origin in November (or October) 2016 and, with the assistance of a smuggler, arrived in Greece seven months later, travelling through Iran, Turkey and Bulgaria. More specifically, he remained in Turkey for six days, hidden in the smuggler's house. [...] In the written observations submitted in support of his administrative appeal, the applicant argued that Turkey could not be regarded as a safe third country because, first, it did not provide adequate protection to persons originating from non-European countries; second, it discriminated between Syrian and non-Syrian asylum seekers with regard to access to asylum and protection; and, third, it failed to comply with the principle of non-refoulement. In the same context, he maintained that he had no meaningful connection with Turkey. Finally, he relied on Turkey's refusal, since March 2020, to accept the return of asylum applicants from Greece. [...] In the light of those circumstances, it was concluded that it would be reasonable for the applicant to return to that country (Turkey). [...]

13. Whereas, by the present application, the applicant seeks the annulment of the contested decision, arguing, *inter alia*, that it lacks adequate reasoning as regards the finding that Turkey constitutes a safe third country in his case, since, from March 2020 onwards, Turkey has generally refused to readmit asylum applicants from Greece.

14. Whereas, [...] it follows that, at the material time when the contested decision was adopted (namely 11 October 2021), Turkey was no longer accepting the return of third-country nationals (whether applicants for international protection or not) to its territory. In those circumstances, the Administration, which bears the burden of demonstrating that the applicant could be readmitted to Turkey, produced no evidence from which it could be inferred either that readmissions to Turkey were in fact taking place during the relevant period, or that it could reasonably have been expected at that time (or even at present) that the implementation of the EU–Turkey Readmission Agreement or the corresponding Greek–Turkish readmission mechanism would resume. In those circumstances, and in accordance with the findings of the Court of Justice of the European Union, referred to in paragraph 9 of the present judgment, the competent Greek authorities may not reject an application for international protection as inadmissible by relying on the ground of inadmissibility laid down in Article 84(1)(d) of Law 4636/2019 (Article 33(2)(c) of Directive 2013/32/EU), on the basis that Turkey constitutes a safe third country for the applicant. Rather, they are required to examine the application on an individual basis, that is, to examine it on its merits, provided that no other ground of inadmissibility applies. Accordingly, the applicant's application for international protection was unlawfully rejected at second instance by Decision (...) of the 11th Appeals Committee of the Ministry of Migration and Asylum, through the application of the safe third country concept. For that reason, the contested decision must be annulled, and the case remitted to the Administration for a fresh determination in accordance with the law. [...]

15. Whereas, in the light of the foregoing, the application for annulment must be upheld, the contested decision must be annulled, and the case must be remitted to the Administration for a fresh lawful determination, in accordance with the specific directions set out in the preceding paragraph. [...]

FOR THESE REASONS

The Court upholds the application for annulment.

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