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PERMANENT MISSION OF GREECE  
GENEVA

Ref. No. 6171.2D/25/1333

**NOTE VERBALE**

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the "Joint urgent appeal from Special Procedures" transmitted by the latter on 17 June 2016 (Ref: UA, GRC 2/2016), has the honour to attach herewith the reply of the Ministry of Interior and Administrative Reconstruction/Asylum Service.

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 6 July 2016



*[Handwritten signature]*

To: The Office of the High Commissioner for Human Rights  
Mr. Karim Ghezraoui  
Chief a.i.  
Special Procedures Branch

Fax: 022 917 9008

Att.: 3 pages



**ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ**  
**Υπουργείο Εσωτερικών και**  
**Διοικητικής Ανασυγκρότησης**

Υπηρεσία Ασύλου

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Αθήνα, 30/6/2016

Αρ. Πρωτ.: 9790

**ΠΡΟΣ:**  
**ΥΠΟΥΡΓΕΙΟ ΕΣΩΤΕΡΙΚΩΝ**  
 -Δ4 - Δ/ση Ανθρωπίνων Δικαιωμάτων

**ΚΟΙΝ:**  
**ΥΠΟΥΡΓΕΙΟ ΕΣΩΤΕΡΙΚΩΝ & ΔΙΟΙΚΗΤΙΚΗΣ ΑΝΑΣΥΓΚΡΟΤΗΣΗΣ**  
 -Γραφείο Αναπλ. Υπουργού Εσωτερικών & Διοικητικής Ανασυγκρότησης  
 -Γραφείο Αν. Υπουργού Μεταναστευτικής Πολιτικής  
 (υπόψιν Διπλ. Συμβούλου)  
 -Γενική Γραμματεία Μεταναστευτικής Πολιτικής/Δ/ση Μεταναστευτικής Πολιτικής  
 -Γραφείο κ. Γεν. Γραμματέα Υποδοχής Προσφύγων  
 -Υπηρεσία Υποδοχής & Ταυτοποίησης  
 -Γραφείο Αναπλ. Υπουργού Προστασίας του Πολίτη (υπόψιν Διπλ. Συμβούλου)  
 -ΑΕΑ/Επιτελικό Γραφείο Αρχηγού  
 -ΑΕΑ/Γραφείο Προισταμένης Επιτελείου/ΑΕΑ  
 -ΑΕΑ/Κλάδος Αλλοδαπών & Προστασίας Συνόρων  
 -ΑΕΑ/Διεύθυνση Δίωξης Παράνομης Μετανάστευσης  
 -Γραφείο κ. Συντονιστή Επιτροπών Προσφυγών

**ΘΕΜΑ:** «Επείγουσα έκκληση Ειδικών Εισηγητών ΟΗΕ: α) για τα Ανθρώπινα Δικαιώματα των Μεταναστών & β) για τα Βασανιστήρια, για υπόθεση απάρριψης αιτήσεων για χορήγηση ασύλου σε Σύρους υπηκόους [REDACTED]»  
 Σχετ: το με αρ. πρωτ. 29249 από 22-6-2016 έγγραφό σας.

Αναφορικά με το ανωτέρω έγγραφό σας, ακολουθεί έγγραφο απάντησης και παρακαλούμε για τη διαβίβασή του στους Ειδικούς Εισηγητές:

- 1 The common EU-Turkey statement of 18.3.2016, provides that "[a]ll 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. [...] 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.[...]"

In order to implement the above commitments, the Greek authorities, with the assistance of EASO, are registering and examining applications for international protection within the tight time frames provided for procedures in the border by Law 4375/2016 (art. 6 par. 4). Applications are examined first concerning admissibility according to art. 54 of the Law,

transposing art. 33 of the APD (including the application of the Safe Third Country and First Country of Asylum concepts).

Against the decisions of the Asylum Service on first instance the applicants have the right to submit an appeal before the Appeals Committees (as provided in Presidential Decree 114/2010), a collective independent body. Furthermore, against the decisions of the Appeals Committees the applicant has the right to submit a further appeal (application for annulment) before the Administrative Courts of Appeal and, as a last resort, the applicant has the right to submit an application for cassation before the Council of State. The application for annulment against the second instance administrative decisions of the Appeals Committees and the application for cassation before the Council of State, do not have automatic suspensive effect. In both these procedures, the applicant has the right to submit a separate application asking for the suspension of the execution of the negative decision. It is our position that the above procedure and available possibilities to appeal guarantee the full respect of the rights provided by the human right instruments mentioned in your letter.

2. Under the procedure applied in the islands and according to article 60 par. 4 L. 4375/2016 EASO experts operate under the Greek Asylum Service, assisting the Greek authorities. Under these procedures all applicants undergo a vulnerability assessment by a specialized EASO expert. If the person is found to be vulnerable according to the provisions of art. 14 par. 8 of the Law, that person is exempted from the speedy procedures of art. 60 par. 4, in order to better guarantee the respect of his rights, taking into account his vulnerable situation.



3. In the two particular cases mentioned in your letter, the applications for international protection were deemed inadmissible under art. 54 of L. 4375/2016, as Turkey was considered to be a "safe third country" for the applicants, according to art. 56 L. 4375/2016 (transposing art. 38 of Directive 2013/32/EU). An individual assessment of these cases was carried out, both in the first and in the second instance, after an individual assessment of each individual case, including a thorough individual interview and a detailed decision.

4.

- a. In case No. 32316 the Committee judged that there is a connection of the appellant with Turkey as he lived there for one year and worked there for 6 months and had not faced any problems related to his religion and/or ethnic origin. Equally, the Committee concluded, that all the other criteria required by the Greek law, in order to apply the Safe Third Country concept are met in the case. Concerning criterion (a) "life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion" the Committee noted that during the interview no evidence arose that there is such a threat. Regarding the rest criteria (b), (c), (d) and (e) the Committee noted that these are met concerning Turkey for persons having the characteristics of the applicant. Based on the above the Committee concluded that Turkey is considered as a safe third country for the applicant and rejected his appeal against the first instance decision which had equally considered his application for international protection as inadmissible.
- b. In case No. 31488 the Committee rejected the appeal unanimously and concluded that Turkey is a safe third country for the appellant. The Committee rejected the claims of the appellant concerning his homosexuality and his relevant fear as not credible. It also concluded that there is a link of the appellant with Turkey. The Committee mentioned that the rest of the criteria are also fulfilled since it concluded that there is no fear of persecution for the individual case, while for all

the other criteria it concluded that they are fulfilled "for people who live and work legally and peacefully in Turkey since 2014, have a residence permit, have no fear of persecution and do not belong to a vulnerable group".

- 5.
- a. Concerning members of the LGBTI Community the Committees in the above cases have not dealt with the issue as the relevant allegations of the applicant were found non-credible.
  - b. Concerning members of ethnic and religious minorities, the Committee in case 32316 has judged that the applicant, a Christian of Armenian origin had not faced any problems in the past in Turkey.
6. The examination of all applications for international protection submitted in the Islands is made in full respect of the provisions of Directive 2013/32/EU, according to the EU Turkey Statement of 18.3.2016. Accordingly, all applications are examined in the merits except if there are elements suggesting that they can be judged as inadmissible according to art. 52 L. 4375/2016 (art. 34 of the APD Directive). If this is the case, as it is in cases where Turkey may be considered as a safe third country and when the applicant can actually be returned to Turkey (as it is the case when the applicant is covered by the EU - Turkey Statement as having arrived in Greece after the 20.3.2016) an admissibility interview is realized, which is limited to the determination of reasons of inadmissibility of the case. If the case is found admissible, there is an examination on the merits of the case, while if the case is found inadmissible the application for international protection is rejected. Furthermore, a rejected applicant for international protection can appeal subsequently his deportation/return order to Turkey if he considers that it is in breach of the principle of non-refoulement, art. 3 ECHR or any other reason, before the Administrative Courts.

Η ΔΙΕΥΘΥΝΤΡΙΑ ΤΗΣ ΥΠΗΡΕΣΙΑΣ ΑΣΥΛΟΥ

ΜΑΡΙΑ ΣΤΑΥΡΟΠΟΥΛΟΥ

Αθήνα, 30/6/2016  
 Μ. Σταυρού  
 ΔΕ - Διοικητική - Λογιστική