

**Mandates of the Special Rapporteur on the human rights of migrants; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA GRC 2/2016

17 June 2016

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 26/19 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the declaration of inadmissibility of the asylum application of two Syrian nationals belonging each to a minority group and facing impending deportation to Turkey, putting them at risk of attacks and persecution in Turkey and / or return to Syria.**

According to the information received:

Both Syrian nationals filed asylum applications with the Greek Asylum Service upon their arrival on the Greek island of Lesbos, after the signing of the EU-Turkey statement on 18 March 2016. Their applications were declared inadmissible at first instance and before the Appeals Committee on the grounds that Turkey is a "safe third country" for the applicants.

The two Syrian nationals, Mr. [REDACTED] and Mr. [REDACTED] have been informed by the Greek authorities that their asylum applications have been declared inadmissible. As of 17 June 2016, their appeal is still pending at the administrative Court of Piraeus. This appeal does not, however, have a suspensive effect and the two Syrian nationals are therefore at imminent risk of forced return to Turkey.

Mr. [REDACTED] is a Syrian of Armenian origin and of Christian faith. He left Syria on 6 April 2015 and fled to Lebanon. In 2015, he fled to Turkey. During his stay in Turkey he did not reveal his origins nor his faith, out of fear of persecution. He left Turkey for Greece on 6 May 2016 where he officially registered as an asylum seeker on 13 May 2016. On 24 May 2016 his application was dismissed as inadmissible in accordance with article 20, paragraph 2 of Presidential Decree 113/2013, which states that Turkey was a safe third country and that Turkey would respect the principle of non-refoulement. On 27 May 2016 he was notified

of this decision. On the same day, he expressed his will to appeal against the decision. Allegedly, on 31 May 2016, his appeal was dismissed on the same grounds by the Appeals Committee and he was informed accordingly on 3 June 2016. On 8 June 2016 he lodged an annulment and suspension application with an interim measure request. This appeal is allegedly pending and the applicant remains in custody in Mytilini police station. The appeal does not have any suspensive effect and the applicant is at risk of impending deportation to Turkey.

Mr. [REDACTED] is Syrian and left Syria for Turkey in December 2014, where he received temporary protection. He later left Turkey for Greece and arrived in Lesbos on 29 March 2016. He applied for asylum on 5 May 2016. His application was rejected as inadmissible on 10 May 2016 by the Asylum Service, he was notified of this decision on 13 May 2016. On the same day he lodged an appeal with the Appeals Committee. The Committee declined to examine the substance of his asylum application by decision of 26 May 2016. On 3 June 2016, Mr. [REDACTED] lodged an appeal with the Administrative Court of Piraeus. The appeal does not have a suspensive effect and the applicant is at impending risk of deportation to Turkey. Mr. [REDACTED] is homosexual and in the event of a return to Turkey, he fears persecution due to his sexual orientation.

Further to the fear of persecution in Turkey, it has been reported that, in some instances, refugees and asylum seekers, including Syrians, have been forcibly returned from Turkey to their home countries where they are at risk of serious human rights violations. In addition, the vast majority of asylum-seekers and refugees are not granted State support in Turkey or have no means to support themselves. As a result, many live in appalling conditions of poverty.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned that, by dismissing the asylum applications of the above-named Syrian nationals as inadmissible, their respective asylum claims could not be examined on the substance and they were not being granted the possibility to express their reasons against an expulsion to Turkey. We are concerned that the two Syrians have not benefitted from an adequate identification of their protection needs during the screening process. We wish to express our grave concern over the risk of a return to Turkey, where they might face attacks and other forms of persecution because of their belonging to a minority. Such a return could be in violation of the principle of non-refoulement as outlined in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, ratified and acceded to by Greece on 5 April 1960 and 7 August 1968 respectively. Furthermore, the prohibition of a return to a place where individuals are at risk of torture and other ill-treatment is enshrined in Article 3 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Your Excellency's Government on 6 October 1988. This absolute prohibition against refoulement is stronger than that found in refugee law, meaning that persons may not be returned even when they

may not otherwise qualify for refugee or asylum status under article 33 of the 1951 Refugee Convention or domestic law. Accordingly, non-refoulement under the CAT must be assessed independently of refugee or asylum status determinations, so as to ensure that the fundamental right to be free from torture or other ill-treatment is respected even in cases where non-refoulement under refugee law may be circumscribed.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide information to any measures taken to guarantee the psychological and physical integrity of the individuals named above.
3. Please inform us as to how in-depth individual assessments are carried out in each case, to accurately identify the vulnerability of the two persons mentioned.
4. Please provide information on what grounds the application of these two persons has been deemed non-admissible.
5. Please provide information on the grounds upon which Turkey is considered a safe third country for all members of minorities such as members of the LGBTI community and members belonging to a religious or ethnic minority?
6. Please provide information regarding how the proper identification of all potential protection needs and respect for international and human rights law – particularly with regard to the principle of non-refoulement – are taken into account when carrying out the terms of the EU-Turkey Statement.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the

investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

François Crépeau  
Special Rapporteur on the human rights of migrants

Juan Ernesto Mendez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment