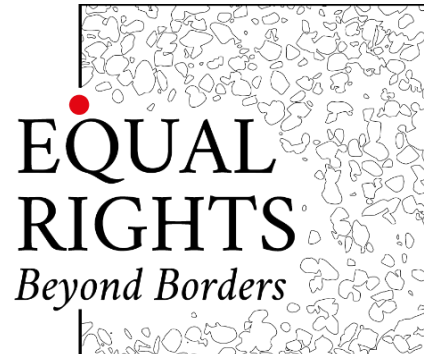




**Welcome the stranger.
Protect the refugee.**



Athens, 23 July 2021

THE GREEK ASYLUM SERVICE FINALLY SHARES THE “OPINION” ON THE BASIS OF WHICH TURKEY WAS DESIGNATED AS A SAFE THIRD COUNTRY AND IT ONLY SEEMS TO BE SAYING THE CONTRARY

Greece declared Turkey to be a “safe third country” for five nationalities without providing any legal reasoning – after legal interventions by HIAS Greece and Equal Rights Beyond Borders, the Greek Asylum Service was obliged to share the “Opinion” which led to the designation of Turkey as a “safe third country”. Surprisingly, however, the “Opinion” seems to support the opposite conclusion.

On 7 June 2021, the Greek government published a new Joint Ministerial Decision (“JMD”) designating Turkey a safe third country for asylum seekers from Syria, Afghanistan, Somalia, Pakistan, and Bangladesh.¹

Thus, asylum seekers from these countries can be returned to Turkey without an examination on the merits of their asylum application. Practically speaking, this means that the Greek Asylum Service and the European Asylum Support Office EASO only ask them questions about whether Turkey can be considered a safe country for them to seek asylum there instead. They are not asked any questions about why they fled their country of origin and whether they can be returned there.²

¹ Cf. already the last policy note: HIAS/Equal Rights Beyond Borders, Refugees in Legal Limbo, June 2021, available at: <https://bit.ly/35CgxIQ>.

² Ibid.

A Designation of a Country as “Safe Third Country” Must Contain Legal Reasoning and Draw on Updated and Objective Information

Article 86(3) of the Greek Asylum Law 4636/2019 provides that a JMD designating a country as a “safe third country” must take into account “information (domestic legislative status quo of the third country, bilateral or multilateral inter-governmental agreements or agreements of the third country with the European Union, as well as internal practice)” and that this information must be “up to date and come from credible sources of information, in particular from official domestic and foreign diplomatic sources, EASO, the legislation of the other Member States in relation to the concept of safe third countries, the Council of Europe, and UNHCR”. Nevertheless, the JMD provides no reasoning as to why and on the basis of which information Turkey was designated as a safe third country for the five nationalities. Instead, it refers to an “Opinion” issued by the Head of the Asylum Service, which is, however, not public.

Systematic Unlawful Rejection of Applications to Access the “Opinion” Recommending Turkey to be Designated as a “Safe Third Country”

Mid-June, both HIAS Greece and Equal Rights Beyond Borders submitted “access to documents applications”, asking for a copy of the “Opinion” of the Head of the Asylum Service on behalf of their clients, a family from Syria and a man from Somalia respectively. All applicants had received an appointment to attend an interview about whether Turkey was a “safe third country” in their particular circumstances. Therefore, access to the “Opinion” was indispensable for them to be able to challenge the application of the “safe third country” concept in their cases, a right foreseen in both the national and the European legislation.

Paradoxically, both applications for access to the “Opinion” were rejected by the Head of the Asylum Service, on the basis that our clients had no legitimate interest to know why Turkey was designated as a safe third country for applicants of their nationality.

Subsequently, HIAS Greece filed another application for access to documents, this time on behalf of a family from Afghanistan whose asylum application had been rejected on the basis that Turkey was a safe third country for them. Again, the Head of the Asylum Service refused to provide the applicants with a copy of the “Opinion”, arguing that they had no legitimate interest to know its content.

Prosecutorial Order Corrects Unlawful Rejection by Greek Asylum Service

On 15 July 2021, HIAS Greece obtained an Order by the Public Prosecutor of Athens, recognizing our clients’ legitimate interest to access the “Opinion” and enjoining the Asylum Service to provide them with a copy of the document. On 17 July 2021, HIAS received a copy of the “Opinion”.

[The Opinion can be found here.](#)

The “Opinion” Does not Meet Legal Requirements and Indicates that Turkey is not safe

Contrary to Art. 86(3) of the Greek Asylum Law 4636/2019, the “Opinion” is simply a compilation of sources of information about Turkey and contains absolutely no legal reasoning as to why these sources lead to the

conclusion that Turkey is a safe third country for asylum seekers from the five countries. In fact, the sources mentioned in the “Opinion” seem to rather substantiate the opposite conclusion.

For instance, in relation to the **Syrian applicants**, one of the sources cited reads that “there were many allegations of Syrians forcibly returned to Syria, as well as migrants of other nationalities in removal centres being coerced to sign voluntary return forms. Authorities denied that this was a systematic policy”. Likewise, another source mentioned in the Opinion states that “[a]uthorities required Syrian asylum seekers to register with the Turkish Directorate General of Migration Management to legalize their temporary stay in the country. In September 2019 the governate of Bursa announced that the provinces of Antalya, Aydin, Bursa, Canakkale, Duzce, Edirne, Hatay, Istanbul, Izmir, Kirklareli, Kocaeli, Mugla, Sakarya, Tekirdag, and Yalova would limit registration processing to exceptional cases and newborns”.

Similarly, regarding **Afghan nationals**, the “Opinion” refers to a source according to which “the main public policy seemed to be to leave people unregistered and thus push them to leave Turkey, especially Afghans, except in vulnerable cases. Afghans are thus kept as ‘unregistered irregular migrants’ in the migration system or they are treated under the accelerated procedure when their application for international protection is received.” Another source reads “[s]ingle Afghan men are reportedly finding it especially difficult to register as international protection applicants and obtain identity cards because, according to a key informant, many single Afghan men are considered as economic migrants and not as people who are in need of protection. Not possessing official documentation brings the risk of arrest, detention and deportation. Additionally, without legal documentation, asylum applicants may not be able to access essential services. This has reportedly led to the “irregularization” of Afghans in Turkey because they may leave their satellite cities without approval from the authorities in search for access to basic needs, informal employment, family reunification or opportunities to cross the border and seek protection in Europe.”

While **Somalis** are asking for protection in Europe and flee their country in fear of persecution or serious harm, the “Opinion” underlines the excellent diplomatic channels established between the Turkish and the Somalian government and the “historical visit of Turkish Prime Minister Mr. R. Tayyip Erdoğan to Somalia in 2011”.

The “Opinion” also concedes that “[i]nformation on the principle of non-refoulement, asylum applications and irregular immigration of **Pakistani and Bangladeshi** nationals is generally very limited.”

What is even more surprising is that the “Opinion” makes no reference to EASO’s latest Report on Turkey, which was also not accessible to the public, and which seems to indicate that Turkey cannot be considered a “safe third country”.³

JMD Must be Revoked Immediately

In light of the above, it cannot but be concluded that the designation of Turkey as a safe third country for asylum seekers from Syria, Afghanistan, Somalia, Pakistan, and Bangladesh is seriously flawed, manifestly contravenes the domestic, European and international law, and should be immediately revoked.

³ Cf. EASO, Turkey – Content of Protection – Country Information, last updated August 2019, published by Refugee Support Aegean, available at: <https://bit.ly/3hX5hl0>.