

# **ANNEX 5**

**Subject: Decision on application for international protection**

[....]

**IV. Legal basis**

In accordance with article 54 Law 4375/2916, the Determining Authority rejects an application for international protection as inadmissible, in case, inter alia, that the applicant enjoys sufficient protection in a country which is not an EU Member State and is considered as a first country of asylum for him/her, as per article 55 of the aforementioned Law, or in case that the competent Authorities consider that a country is a safe third country for the applicant, as per article 56 of the aforementioned Law.

Taking into consideration the applicant's claims, as expressed and assessed, and the information currently obtained by the Asylum Service (legislation of Turkey regarding International Protection<sup>1</sup>, Report of the international non-Governmental organisation ECRE<sup>2</sup>, Report of the UN High Commissioner for Refugees, Turkey: Regional Refugee & Resilience Plan (3RP) 2018-2019 in Response to the Syrian Crisis<sup>3</sup> and the letters exchanged between the Turkish and Greek Authorities, as well as the European officials and the UN High Commissioner for Refugees, namely:

- a. letter addressed by Selim Yenel (Ambassador – Permanent Representation of Turkey at the European Union) to Matthias Ruete (European Commission), providing clarifications regarding the implementation of the Turkish legislation “REGULATION AMENDING THE TEMPORARY PROTECTION REGULATION No 2016/8722”, regarding the Syrians who are returned from Greece to Turkey within the frame of the EU-Turkey Statement of 18th March 2016, dated 12 April 2016,
- b. letter by Selim Yenel (Ambassador – Permanent Representation of Turkey at the European Union), dated 24 April 2016,
- c. letter addressed by Matthias Ruete (European Commission) to Vasilios Papadopoulos (Secretary General for Migration Policy), regarding the implementation of the Turkish legislation “REGULATION AMENDING THE TEMPORARY PROTECTION REGULATION” in the case of Syrians returned from Greece to Turkey in the context of the EU-Turkey Statement of 18th March 2016, dated 5 May 2016,
- d. letter by Avramopoulos D. (European Commission), regarding the implementation of the EU-Turkey Statement, dated 29 July 2016<sup>4</sup>,
- e. letters addressed by the UN High Commissioner for Refugees to the Greek Asylum Service, regarding the implementation of the Turkish legislation “REGULATION AMENDING THE TEMPORARY PROTECTION REGULATION” in the case of Syrians returned from Greece to Turkey in the context of the EU-Turkey Statement of 18th March 2016, following the recent developments in Turkey

it is concluded that:

- a. His life and liberty are not threatened in Turkey on account of race, religion, nationality, membership of a particular social group or political opinion
- b. In Turkey, the law provides that the principle of non-refoulement shall be respected, in accordance with the Geneva Convention<sup>5,6</sup>, while from information available to the Asylum Service<sup>7</sup>, it is held that the principle of non-refoulement is generally and in practice complied with. In addition, the Turkish Authorities confirm that the principle of non-refoulement is respected for those returned in the context of the EU-Turkey Statement<sup>8,4</sup>.
- c. there is no risk of serious harm for the applicant pursuant to article 15 PD 141/2013.
- d. Turkish law prohibits the removal of an applicant to a country where he or she faces risk of torture and cruel, inhuman or degrading treatment or punishment, as defined by international law<sup>9,10</sup>,
- e. in Turkey there is a possibility to apply for refugee status and, in this case, Syrian nationals are granted temporary protection status, which ensures their protection in accordance with the Geneva convention. More specifically, in Turkey there is a possibility for the applicant to apply for such protection, and, in case he/she is granted such protection, to benefit from rights equivalent to those foreseen in the Geneva Convention (namely regarding the right to employment, access to education, health care and social security<sup>3,6,12,13</sup>),
- f. Furthermore, the fact that the applicant has the possibility to apply for international protection<sup>12</sup> has national or cultural links to this country etc, leads to the conclusion that the applicant has a connection with said third country, on the basis of which it would be reasonable for him to go there.

Moreover, in the case in question, the mere fact that the applicant is a Syrian national, leads to the conclusion that he enjoys temporary effective protection in Turkey<sup>12,4</sup>, benefitting inter alia from the principle of non-refoulement<sup>5,6</sup>.

Furthermore, from the EU-Turkey Statement of 18.03.2016 (reference 4 and administrative file), it can be deduced that the applicant will be admitted to that country again.

**In conclusion, the application shall be rejected as inadmissible because Turkey may be considered as a “safe third country” for the applicant, according to article 56 Law 4375/2016.**

**For these reasons:**

**The application for international protection of [...] is rejected as inadmissible, according to article 54 Law 4375/2016.**

[In case of inadmissibility] [An appeal against this decision can be lodged before the Appeals Committee within five (5) days from its notification (art. 61 par. 1(d) L. 4375/2016). In case

that this time-limit is exceeded, the decision will become final and the applicant will be removed from the country.]

In case that the applicant, for any reason, will not be admitted to Turkey, his application for granting international protection will be examined by the Greek Authorities.

Leros, 04/07/2019

The caseworker

[...]

**References:**

1) Republic of Turkey, Ministry of Interior, Directorate General of Migration Management Publications, Law on Foreigners and International Protection, April 2014, [http://www.goc.gov.tr/files/files/eng\\_minikanun\\_5\\_son.pdf](http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf)

2) European Council on Refugees and Exiles (ECRE), Country report: Turkey - 2017 update, March 2018, [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_tr\\_2017update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_tr_2017update.pdf)

3) UNHCR - UN High Commissioner for Refugees, Turkey: Regional Refugee & Resilience Plan (3RP) 2018-2019 in Response to the Syrian Crisis, 19 April 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/63168.pdf>

4) Letters between the Turkish and Greek Authorities and European officials, available at <http://asylo.gov.gr/wp-content/uploads/2016/10/scan-file-mme.pdf>

5) Republic of Turkey, Ministry of Interior, Directorate General of Migration Management Publications, Law on Foreigners and International Protection, PART ONE Purpose, Scope, Definitions and Non-Refoulement, SECTION TWO Non-refoulement, Non-refoulement ARTICLE 4, April 2014, [http://www.goc.gov.tr/files/files/eng\\_minikanun\\_5\\_son.pdf](http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf)

6) Republic of Turkey, Ministry of Interior, Directorate General of Migration Management, Temporary Protection Regulation, undated, PART TWO General Principles, Non-refoulement ARTICLE 6 [http://www.goc.gov.tr/files/\\_dokuman28.pdf](http://www.goc.gov.tr/files/_dokuman28.pdf)

7) Despite isolated incidents that have been reported regarding the return of Syrians from Turkey to Syria, against their will, which have been contradicted by the Turkish authorities, there is no indication that the applicants who are returned from Greece to Turkey, will be returned to Syria against their will – (see Al Jazeera, Turkey official denies Syrian refugee expulsions, 01 Apr 2016, <http://www.aljazeera.com/news/2016/04/turkey-official-denies-syrian-refugee-expulsions-160401105949927.html> , St. Louis Post-Dispatch, The Latest: UN: 13 deported migrants wanted to seek asylum, April 6, 2016, [http://www.stltoday.com/news/world/the-latest-turkish-pm-denies-sending-syrians-back/article\\_72a39598-7c7d-5a89-bdb5-457785d7976b.html](http://www.stltoday.com/news/world/the-latest-turkish-pm-denies-sending-syrians-back/article_72a39598-7c7d-5a89-bdb5-457785d7976b.html) , The New Arab, Turkey denies accusations it is deporting back Syrian refugees, April 03, 2016,

<https://www.alaraby.co.uk/english/news/2016/4/3/turkey-denies-accusations-it-is-deporting-back-syrian-refugees> ,BBC News, Turkey 'illegally returning Syrian refugees' – Amnesty, 1 April 2016, <http://www.bbc.com/news/world-europe-35941947> , Reuters Canada, Amnesty says Turkey illegally sending Syrians back to war zone, Fri Apr 1, 2016, <http://ca.reuters.com/article/topNews/idCAKCNOWY33A> ,Sky News, 1 April 2016, Turkey illegally returns Syrians back, <http://www.skynews.com.au/news/world/europe/2016/04/01/turkey-illegally-returns-syrians-back.html>

8) op.cit.

9) Republic of Turkey, Ministry of Interior, Directorate General of Migration Management Publications, Law on Foreigners and International Protection, PART TWO Foreigners, SECTION FOUR Removal, Exemption from removal decision ARTICLE 55, April 2014, [http://www.goc.gov.tr/files/files/eng\\_minikanun\\_5\\_son.pdf](http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf)

10) Turkey approximately 3.5 million Syrian refugees and 365.000 non Syrians on its territory (see, for example, European Commission: Turkey 2018 Report [SWD(2018) 153 final], 17 April 2018 [https://www.ecoi.net/en/file/local/1437530/90\\_1530868636\\_20180417-turkey-report.pdf](https://www.ecoi.net/en/file/local/1437530/90_1530868636_20180417-turkey-report.pdf) και και European Commission, Humanitarian aid and Civil Protection, ECHO Factsheet Turkey: Refugee Crisis, July 2018 [http://ec.europa.eu/echo/where/europe/turkey\\_en](http://ec.europa.eu/echo/where/europe/turkey_en)

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12) Republic of Turkey, Ministry of Interior, Directorate General of Migration Management Publications, Law on Foreigners and International Protection, April 2014,PART THREE, [http://www.goc.gov.tr/files/files/eng\\_minikanun\\_5\\_son.pdf](http://www.goc.gov.tr/files/files/eng_minikanun_5_son.pdf)

13) European Council on Refugees and Exiles (ECRE), Country report: Turkey - 2017 update, March 2018, [https://www.asylumineurope.org/sites/default/files/report-download/aida\\_tr\\_2017update.pdf](https://www.asylumineurope.org/sites/default/files/report-download/aida_tr_2017update.pdf)

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<https://www.yazda.org/assets/uploads/report/y1152034125784.pdf>, και UN Human Rights Council (formerly UN Commission on Human Rights). 'Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey' [A/HRC/33/51/Add.1], dated 27 July 2016 (available at [ecoi.net](http://www.ecoi.net)) [http://www.ecoi.net/file\\_upload/1930\\_1472036690\\_g1616687.pdf](http://www.ecoi.net/file_upload/1930_1472036690_g1616687.pdf) .

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