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BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

WRITTEN SUBMISSIONS OF:

European Association of Lawyers for Democracy and World Human Rights (ELDH), European Democratic Lawyers (EDL), Association of Lawyers for Freedom (ÖHD), and Progressive Lawyers' Association (ÇHD)

ON THE APPLICATIONS:

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| 1) No. 1712/21 K.K. v. Greece | 17) No. 16802/21 S.R. v. Greece |
| 2) No. 2871/21 I.M. v. Greece | 18) No. 16807/21 A.R. v. Greece |
| 3) No. 3104/21 S.K. v. Greece | 19) No. 16811/21 M.H. v. Greece |
| 4) No. 3111/21 S.A. v. Greece | 20) No. 16813/21 M.M. v. Greece |
| 5) No. 3118/21 L.M. v. Greece | 21) No. 16815/21 M.H. v. Greece |
| 6) No. 4034/21 A.D. v. Greece | 22) No. 16817/21 A.M. v. Greece |
| 7) No. 4159/21 T.M. v. Greece | 23) No. 16818/21 A.A. v. Greece |
| 8) No. 4177/21 H.T. et al. v. Greece | 24) No. 16820/21 H.S. v. Greece |
| 9) No. 6923/21 S.G. v. Greece | 25) No. 16822/21 S.R. v. Greece |
| 10) No. 10258/21 F.C. v. Greece | 26) No. 16824/21 U.E. v. Greece |
| 11) No. 10692/21 O.M. v. Greece | 27) No. 16825/21 W.A. v. Greece |
| 12) No. 12807/21 M.A. v. Greece | 28) No. 16828/21 W.A. v. Greece |
| 13) No. 12926/21 M.E. v. Greece | 29) No. 16831/21 S.H. v. Greece |
| 14) No. 13134/21 M.S. v. Greece | 30) No. 22146/21 S.A.A. et al. v. Greece |
| 15) No. 15067/21 G.R.J. v. Greece | 31) No. 24982/21 A.A.J. and H.J. v. Greece |
| 16) No. 15783/21 A.E. v. Greece | 32) No. 42429/21 M.A. v. Greece |

I. INTRODUCTION

1. The following submissions are made by the European Association of Lawyers for Democracy and World Human Rights (ELDH), the European Democratic Lawyers (EDL), the Association of Lawyers for Freedom (ÖHD), and the Progressive Lawyers' Association (ÇHD) (the "Interveners") pursuant to the leave granted by of the European Court of Human Rights (the "Court" or the "ECtHR") on 4 July 2022, in accordance with Rule 44(3) of the Rules of the Court. The 32 above mentioned applications concern the alleged refoulement of the Applicants from Greek territory (land and sea) to Turkey, without prior procedure ("pushbacks").
2. In addition to the aspects listed in the request for leave to intervene dated 23 February 2022, after taking the annexes into consideration, and in order to assist the Court effectively, the interveners will also provide the Court with written comments on the risks faced by citizens of Turkey who were pushed back from Greece to Turkey.
3. Although the Respondent State in the aforementioned applications is Greece, the conditions a person will face upon being pushed back to Turkey are relevant in the present cases due to the expelling state's obligation to take the treatment into account a person will be subjected to in the receiving state.¹

II. THIRD COUNTRY NATIONALS

4. First and foremost, the Interveners want to highlight the fact that pushbacks are illegal actions carried out by state officials to prevent asylum seekers from getting access to the domestic asylum procedure. While a pushback is not based on a formal decision, the Respondent State is nevertheless bound to its legal obligations under domestic and international law. The Respondent State is bound to the principle of non-refoulement as soon as asylum seekers enter Greek territory, whether on land or at sea.²
5. If substantial grounds have been shown for believing that the removal or return to a third country would expose an asylum seeker³ to treatment contrary to Article 3 – directly in that third country or indirectly, for example, through chain-refoulement – the Court has confirmed the responsibility of the Contracting State not to deport.⁴ These duties also include the duty to consider the overall reception conditions for asylum seekers in the receiving state, and the duty to consider the respective person's situation.⁵
6. Article 86(1) of the Greek Law 4636/2019 ("International Protection Act [IPA]") defines the criteria for the application of the "Safe Third Country" ("STC") concept. Even though the criteria are in general consistent with Article 38 EU Directive 2013/32 ("Asylum Procedure Directive"), a serious divergence arises. With IPA, Article 86(1)(f) an additional set of criteria was introduced concerning the relation of an asylum seeker with a "STC" by which a mere transit state, in combination with specific circumstances, can be deemed as "safe".
7. While the Court so far has never questioned the "STC" concept as such, nor has it commented on whether a given third country was safe or not, the Court is sometimes – as given in the aforementioned applications – "obliged to scrutinise the use of the safe third-country concept against the benchmark of Article 3 and the prohibition of non-refoulement".⁶ In this context, the Court has stated in its case law that the deporting State "has a general procedural obligation to carry out a fair and thorough examination of the conditions in that third country",⁷ including "the accessibility and reliability of its asylum system".⁸ While it rests with the asylum seekers to substantiate their individual circumstances, the Contracting State's authorities, however,

¹ See *Saadi v. Italy* [GC], no. 37201/06, §§ 124-125, ECtHR 2008.

² See *Hirsi Jamaa and Others v. Italy* [GC], no. 27765/09, §§ 70-82, ECHR 2012.

³ In *Ilias and Ahemd v. Hungary* the Court stated: "it is the duty of the removing State to examine thoroughly the question whether or not there is a real risk of the asylum seeker being denied access, in the receiving third country, to an adequate asylum procedure, protecting him or her against refoulement. If it is established that the existing guarantees in this regard are insufficient, Article 3 implies a duty that the asylum seekers should not be removed to the third country concerned", *Ilias and Ahemd v. Hungary* [GC], no. 47287/15, § 134, Judgement of 21 November 2019.

⁴ See *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, §§ 342, 343 and 362-68, with the references therein, ECHR 2011.

⁵ See *Tarakhel v. Switzerland* [GC], no. 29217/12, § 105, ECHR 2014.

⁶ Council of Europe/ECtHR Research Division, 'Articles 2, 3, 8 and 13, The concept of a "Safe Third Country" in the case-law of the Court', § 2, 9 February 2018.

⁷ *Ibid.* § 4.

⁸ *Ilias and Ahemd v. Hungary* [GC], no. 47287/15, § 139, Judgement of 21 November 2019.

are obliged to conduct an assessment “of the accessibility and functioning of the receiving country’s asylum system and the safeguards it affords in practice”⁹ on their own motion. This obligation applies all the more if a general risk of a breach – for example, of Article 3 – in the receiving state is well known.¹⁰

8. Despite the fact that “Turkey has persistently raised concerns about alleged migrant arrival prevention measures (so-called ‘pushbacks’) enforced by the Greek authorities in the Aegean Sea”,¹¹ the survivors of these illegal actions from Greek state organs do not receive any protection in Turkey where they are deprived of their fundamental human rights and face a real and genuine fear of refoulement. As will be set out below, Turkey – with regards to its asylum system and its reception conditions – fails to meet the recognized requirements leading to a systematic violation of the rights of asylum seekers as set out in the Convention.

A. Insufficient Access to Protection in Turkey

9. According to the European Commission, the asylum legislation in Turkey is only partially aligned with the EU *acquis*. “The Law on Foreigners and International Protection maintains the reservation (geographical limitation) expressed in the New York Protocol of the 1951 Geneva Convention, according to which the vast majority of persons seeking international protection in Turkey cannot apply for fully-fledged refugee status but for ‘conditional refugee’ status and subsidiary protection only”.¹² In other words, anyone not originally from a European country is excluded from full refugee recognition. In effect, this legislation bars any citizen of a West Asian or African country from the protection as a refugee under the Geneva Convention.¹³
10. However, based on Article 38(1)(c) and (e) of the Asylum Procedures Directive, Member States of the European Union may apply the “STC” concept only if the third country concerned respects the principle of non-refoulement in accordance with the Geneva Convention, and if the possibility exists to request refugee status in that third country and, if found to be a refugee, to receive protection there in accordance with the Geneva Convention. Already under these requirements alone, Turkey fails to meet the conditions necessary to be considered a “STC”.
11. Despite the fact that there is no protection under the Geneva Convention for non-Europeans available in Turkey, Turkey particularly offers to asylum seekers the following permits based on the Law on Foreigners and International Protection No. 6458 (LFIP)¹⁴: conditional refugee status (Şartlı Mülteci Statüsü), subsidiary protection status (İkincil Koruma Statüsü) and temporary protection status for Syrian nationals (Geçici Koruma Statüsü). However, based on the experience of the Interveners’ members working in the field, one of the main obstacles for asylum seekers in Turkey to obtain a residence permit is insufficient access to the migration system.¹⁵
12. Temporary protection for Syrian nationals: Since October 2014¹⁶ Syrians can officially obtain Temporary Protection Status (TPS)¹⁷ in Turkey under the Temporary Protection Regulation (TPR).¹⁸ TPS is designed for situations of high numbers of refugees entering Turkey, and therefore, “is not defined as a form of international protection but a complementary measure used in situations where individual international protection eligibility processing is deemed impractical”.¹⁹ Although the flow of people from Syria seeking

⁹ Ibid. § 141.

¹⁰ See *F.G. v. Sweden* [GC], no. 43611/11, § 126, ECHR 2016.

¹¹ European Commission, Turkey Report 2021, Doc. Nr. SWD(2021) 290 final/2, 19 October 2021, p. 48, available at: https://ec.europa.eu/neighbourhood-enlargement/turkey-report-2021_en (in the Annex).

¹² Ibid., p. 49.

¹³ See ECRE, ‘Country Report: Türkiye’, published in the Asylum Information Database (AIDA), 2021 Update, p. 20, available at: https://asylumineurope.org/wp-content/uploads/2022/07/AIDA-TR_2021update.pdf (in the Annex).

¹⁴ In addition to the permits listed, Turkey offers a Short Term Residence Permit (Articles 31-33 LFIP, and Articles 28 and 29 of the Regulation for Implementation of the LFIP [Implementation Regulations]), a Family Residence Permit (Articles 34-37 LFIP, and Articles 30-34 Implementation Regulations), a Student Residence Permit (Articles 38-41 LFIP, and Articles 35-39 Implementation Regulations), a Long Term Residence Permit (Articles 42-45 LFIP, and Articles 40-43 Implementation Regulations), a Humanitarian Residence Permit (Articles 46 and 47 LFIP, and, Article 44 Implementation Regulations), and a Residence Permit For Victims of Human Trafficking (Articles 48 and 49 LFIP, and Articles 45 and 46 Implementation Regulations). However, these types of residence permits are not of practical relevance in the context discussed here.

¹⁵ Information provided by Asylum Lawyers who are members of the Interveners, see also ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 45.

¹⁶ The legal basis of the 2014 Temporary Protection Regulation (TPR) is Article 91 LFIP. As a piece of secondary legislation, the TPR must be compliant and consistent with the general normative framework laid down by the LFIP itself. See ECRE, ‘Country Report: Turkey’, published in the Asylum Information Database (AIDA), 2019 Update, p. 120, available at: https://asylumineurope.org/wp-content/uploads/2020/04/report-download_aida_tr_2019update.pdf (in the Annex).

¹⁷ Temporary Article 1 TPR indicates that Syrian nationals, stateless persons and refugees who came to or crossed Turkey’s borders from Syria due to the events that took place in Syria since April 2011 are taken under “temporary protection”.

¹⁸ Information provided by Asylum Lawyers who are members of the Interveners; see also ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 78.

¹⁹ See ECRE, ‘Country Report: Turkey’ (2019), fn. 16, p. 120.

refuge has not ended yet, in practice, it has become extremely difficult to obtain TPS in Turkey due to the fact that cities and neighbourhoods are closing their means of registration (see § 18).²⁰ According to the European Commission, “NGOs reported considerable challenges with access to registration in the first place, where individuals wishing to lodge an application in PDMMs²¹ are referred to other PDMMs, without a formal documentation and referral system. Such de-facto barriers to registration hinder access to all other essential services and put asylum seekers in an irregular situation if apprehended. Effective access to international protection at borders, airports and removal centres remain limited as reported by NGOs and lawyers”.²²

13. While TPS entitles a person to get health care and education, to apply for a work permit six months after the application for TPS, and to seek social assistance, TPS is tied to the place of registration. If a person moves to another province – e.g. to Istanbul in order to find work – then this person loses all rights attached to this status. Following TPR, Article 33(2)(a), a person under temporary protection is – if not exceptionally permitted otherwise – obligated to stay in the registration province and is not allowed to move to another province. An official transfer is close to impossible.²³ If a person fails to stay in the province of registration and is apprehended elsewhere, this person may face detention in order to be transferred back to the assigned province,²⁴ but there is also a risk of deportation due to violation of the TPR.²⁵ Furthermore, if a person fails to stay in the province of residence, they also lose all access to social rights, i.e. education and health care in their new place of residence.²⁶
14. Most importantly in the context of pushbacks – based on TPR, Article 12(1) – TPS shall cease where a person leaves Turkey voluntarily, e.g. to try to reach Greece. In other words: If a TPS holder is pushed back from Greece to Turkey, this person’s temporary protection status and ID Card (“kimlik”), if even possessed, will be terminated. In addition, in practice there is no possibility to reobtain a new “kimlik”.²⁷ Taken the above mentioned together, the protection offered by TPS does not equal the protection provided by the Geneva Convention.
15. International Protection for non-Syrian and non-European citizens: A person who is not eligible for TPS can submit an application for international protection. Conditional refugee status is granted to a non-European citizen²⁸ who matches the criteria to be recognized as a refugee as set out in the Geneva Convention. However, people with conditional refugee status can not access the social rights guaranteed in the Geneva Convention. Therefore, the protection offered, again, does not equal the protection according to the Geneva Convention. Subsidiary protection, in theory, is provided to people who do not meet the criteria of the refugee definition, but would face, for example, degrading treatment upon return or would be deported to a situation of general violence.²⁹
16. Analogous to TPS for Syrian nationals, citizens from other non-European countries first of all need to approach the Provincial Presidency of Migration Management (PPMM) in order to lodge an application for international protection.³⁰ If an application for international protection is registered, the applicant receives a “kimlik” stating that the person is an international protection applicant, which gives the holder of it the right to access education, health care (temporarily for a year), and, after six months, the right to apply for a work permit. In addition, the PPMM decides the “satellite city”³¹ for the applicant and sets a date for an interview. Based on the LFIP, Article 77, international protection applicants are, for example, required to personally prove their presence in the assigned city by signature. If an applicant fails to fulfil this obligation multiple

²⁰ See Human Rights Watch, ‘Turkey Stops Registering Syrian Asylum Seekers’, 16 July 2018, available at:

<https://www.hrw.org/news/2018/07/16/turkey-stops-registering-syrian-asylum-seekers>.

²¹ Provincial Directorate of Migration Management (“PDMM”), today Provincial Presidency of Migration Management (“PPMM”).

²² European Commission, Turkey Report 2021, fn. 11, p. 50.

²³ Information provided by Asylum Lawyers who are members of the Interveners.

²⁴ See ECRE, ‘Country Report: Turkey’ (2019), fn. 16, p. 89.

²⁵ See Human Rights Watch, ‘Turkey Stops Registering Syrian Asylum Seekers’, fn. 20.

²⁶ Information provided by Asylum Lawyers who are members of the Interveners, see also ECRE, ‘Country Report: Turkey’ (2019), fn. 16, p. 70-71, and also ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 91-92.

²⁷ In the file of a person who loses their “kimlik” based on attempting to leave, or leaving Turkey illegally, the code V78 will be registered. This code indicates that no new “kimlik” can be issued. Information provided by Asylum Lawyers who are members of the Interveners.

²⁸ For specific information regarding citizens of Iraq and Afghanistan, Chechens, Daghestanis and Tajiks, Somali people and Iranians see ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 79-81; for specific information on citizens of Afghanistan also see Expert Opinion issued by Stiftung ProAsyl, ‘The Situation of Afghan Refugees in Turkey’, March 2021, available at:

https://www.proasyl.de/wp-content/uploads/PA_Expert-Opinion_The-Situation-of-Afghan-Refugees-in-Turkey.pdf (in the Annex).

²⁹ Information provided by Asylum Lawyers who are members of the Interveners.

³⁰ See ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 90.

³¹ See *ibid.*, p. 89.

times, their application for international protection will be considered withdrawn.³² However, the main obstacle, again, is not a theoretical non-availability of a protection status as such, but the practical non-accessibility to registration (see § 18).

17. In addition, the procedure for international protection can take up to several years,³³ and in effect, mostly ends with a negative decision, respectively with a deportation order. Asylum lawyers in Turkey have reported to the Interveners that they know of no examples of clients who, in the end, received conditional refugee status or subsidiary protection.³⁴ In parallel, a migration rights NGO stated to the Interveners that there are approximately 500,000 Afghans³⁵ in Turkey, of which 2,700 have received a “humanitarian permit” in 2019, after around five NGOs had lobbied on their behalf. Consistent with the lawyers’ reports cited before, the NGO staff is otherwise unaware of any positive decisions in international protection cases of non-Syrians. In practice, this leads to a situation where most citizens from West Asian or African countries in Turkey do not apply for international protection because they are afraid of deportation.³⁶ In any case, no protection equivalent to the protection under the Geneva Convention is offered to non-European third country nationals.
18. The Interveners conclude that Turkey offers insufficient protection for asylum seekers. First, the residence permits available do not equal the protection provided by the Geneva Convention. Second, the main obstacle in obtaining actual protection in Turkey is non-accessibility: It has become increasingly challenging for third country nationals to register for a “kimlik” in Turkey. In 2018, the PDMM (now “PPMM”),³⁷ *de facto* stopped registering newly arriving Syrians, with the exception of vulnerable cases, in large provinces – such as Istanbul – and provinces with a relatively high refugee population – such as Hatay and Mardin. Since then, there has been an increase in the number of cities ‘closed’ to new applications. As of early 2020, the following cities were closed to all except vulnerable cases: Istanbul, Edirne, Tekirdag, Kirklareli, Kocaeli, Canakkale, Bursa, Balikesir, Izmir, Aydin, Mugla, Antalya, Hatay and Yalova.³⁸ This situation has remained unchanged, as an estimated 16 provinces were closed to international protection applications in 2021³⁹ – as to the Intervener’s knowledge, the situation remains unchanged up until today. Due to the prohibition of travelling within Turkey for unregistered third country nationals,⁴⁰ individuals affected are, in addition, unable to travel to a place where it might be possible to register.⁴¹ Finally, in the context of the aforementioned applications, it is of most relevance, that – based on FLIP, Article 54(1)(h), and TPR, Article 12(1)(a) and (c) – a “kimlik”, if possessed, is terminated because a person has left Turkey voluntarily, namely to try to reach Greece – and will not be able to re-obtain it. For all these reasons, the Respondent State cannot declare Turkey as generally “safe” for people who have left Turkey voluntarily, seeking international protection in Greece.

B. Systematic Arrests upon Return & Insufficient Conditions of Detention

19. According to the European Commission, “Turkey needs to further align its practice with European standards in removal centres, in particular with regard to protection of human rights, including access to legal counselling and interpreters and protection of vulnerable groups, in particular children staying with their families”.⁴²
20. Drawing from the experience of the Interveners’ members working in the field, it has been observed that people seeking international protection who were pushed back from Greece to Turkey usually face detention in Turkey.⁴³ However, the duration varies between a few days and several months. Based on LFIP, Article 57(2), detention for the purpose of removal (“removal detention”) may be ordered to those who, among other reasons, have breached the rules of exit from Turkey. Even during a procedure for international protection, a person may be detained – or kept in detention if removal detention was previously ordered – under LFIP,

³² See *ibid.*, p. 91.

³³ Information provided by Asylum Lawyers who are members of the Interveners, see also ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 49.

³⁴ Information provided by Asylum Lawyers who are members of the Interveners.

³⁵ For specific information on citizens of Afghanistan see Expert Opinion issued by Stiftung ProAsyl, fn. 28.

³⁶ Information provided by Asylum Lawyers who are members of the Interveners.

³⁷ See fn. 21.

³⁸ See AIDA & ECRE, ‘Registration under Temporary Protection - Turkey’, 30 November 2020, available at: <https://www.asylumineurope.org/reports/country/turkey/registration-under-temporary-protection>.

³⁹ See ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 45-46.

⁴⁰ Information provided by Asylum Lawyers who are members of the Interveners.

⁴¹ See AIDA & ECRE, fn. 38.

⁴² European Commission, Turkey Report 2021, fn. 11, p. 17-18.

⁴³ Information provided by Asylum Lawyers who are members of the Interveners, see also ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 115.

Article 68. In general, non-European migrants are routinely subject to arbitrary detention in Turkey without legal basis. Namely, persons who are apprehended outside their designated province (see §§ 13 and 16) are at risk of being detained.⁴⁴ Based on LFIP, Article 57(3), the maximum duration of the removal detention is six months, yet it may be extended for a maximum of six more months.⁴⁵ However, there were cases reported to the Interveners, wherein detainees were released after the maximum duration had been exceeded but were arrested again afterwards.⁴⁶

21. Furthermore, the Interveners' members, on several occasions, have received reports of substandard detention conditions in Turkey⁴⁷ for pushback survivors, which have even amounted to inhuman and degrading treatment. Although improvements have been made compared to conditions around 2015,⁴⁸ inhuman and degrading conditions still persist today, in particular overcrowding,⁴⁹ short periods of daily access to the outdoors,⁵⁰ lack of privacy due to detention in mass cells, insufficient food supply with, at times, only two meals a day, insufficient access to clean drinking water, and insufficient medical care.⁵¹
22. In addition, accessing legal counsel or representation for people in detention is particularly difficult, even though a Legal Aid System has been implemented step by step in different cities, after the Istanbul Bar Association started these activities in 2014. First, the PPMM is not obliged to inform any legal representative about asylum seekers detained. In addition, detainees usually cannot contact a lawyer, a legal NGO, or the regional bar association from inside the detention centre. Therefore, they have to rely on family, friends, or UNHCR to initiate the contact. Second, the contact between asylum seekers in detention and their legal representation is complicated for practical reasons: While the file has to be consulted at the PPMM, the asylum seeker is held in a remote detention centre where a lawyer has to go and visit their clients. However, before the file can be accessed, a lawyer needs to get a notarized Power of Attorney (POA). Therefore, for one, an employee of a notary needs to accompany a lawyer to a detention centre to get the POA certified. This notarization comes with additional fees. For two, in order for a notary to certify a signature, the asylum seeker in question is required to have a valid "kimlik" or a passport. As survivors of pushbacks get their "kimlik" cancelled and often are deprived of all their belongings during a pushback, in these cases, it is close to impossible to sign a notarized POA. While courts in Turkey have started to accept more informal POAs, the PPMM insists on the certification through a notary. In effect, a lawyer can file an appeal against a deportation order with an informal POA, but will not be granted access to the PPMM file of the client. Third, translation inside detention centres is only allowed through formal interpreters. Therefore, a lawyer cannot be accompanied by friends or family members to facilitate communication with an existing or prospective client. Phone translation is also not possible. Certified interpreters, however, request a fee for their service, for which the detainee or a support network outside detention have to provide. Finally, despite "the increase in the number of lawyers handling cases in removal centres (from 4,187 in 2019 to 7,168 in 2020), access to legal counselling remained low, considering hundreds of thousands of migrants apprehended and placed in removal centres".⁵² Moreover, the Interveners' members are aware of the systematic and unlawful practice of pressuring detainees to sign forms with which they agree to their "voluntary return" (see §§ 24-26). Apart from this, there have been further reports of ill-treatment, including torture, against detainees by staff. For example, in June 2018, in Antalya, a Syrian national was tortured by officers, transferred to Gaziantep, and continued to suffer physical violence throughout the transfer.⁵³ Upon an investigation of a suicide case in Gaziantep Oğuzeli Removal Centre in 2019, Gaziantep Governorate's Commission for Investigation and

⁴⁴ See ECRE, 'Country Report: Turkey' (2019), fn. 16, p. 87-89, see also ECRE, 'Country Report: Turkey' (2021), fn. 13, p. 117-118.

⁴⁵ Information provided by Asylum Lawyers who are members of the Interveners; see also ECRE, 'Country Report: Turkey' (2019), fn. 16, p. 87.

⁴⁶ Information provided by Asylum Lawyers who are members of the Interveners.

⁴⁷ Information provided by Asylum Lawyers who are members of the Interveners; see also Global Detention Project, 'Country Report, Immigration Detention in Turkey', October 2021, available at: <https://www.globaldetentionproject.org/immigration-detention-in-turkey>
[-trapped-at-the-crossroad-between-asia-and-europe#:~:text=Numerous%20observers%20have%20reported%20poor,detainees%20access%20to%20legal%20assistance](https://www.globaldetentionproject.org/immigration-detention-in-turkey#:~:text=Numerous%20observers%20have%20reported%20poor,detainees%20access%20to%20legal%20assistance) (in the Annex).

⁴⁸ See Council of Europe's Committee for the Prevention of Torture (CPT), 'Report to the Turkish Government on the visit to Turkey carried out by the CPT from 16 to 23 June 2015, CPT/Inf (2017) 32, available at: <https://rm.coe.int/pdf/168075ec0a>; this Report was summarised by the Stockholm Centre for Freedom, 'CPT report highlights problems in Turkey's immigration detention centers', 18 October 2017, available at: <https://stockholmcf.org/cpt-report-highlights-problems-in-turkeys-immigration-detention-centers/>; furthermore, as mentioned in the ECRE, 'Country Report: Turkey' (2019), fn. 16, p. 97, a series of judgments from the Constitutional Court have highlighted the need to provide adequate detention conditions in Turkey.

⁴⁹ Information provided by Asylum Lawyers who are members of the Interveners.

⁵⁰ For example, clients have reported that access to an outdoor yard was granted in groups, leaving them individually with 10 minutes yard time in the morning and 10 minutes in the evening.

⁵¹ Information provided by Asylum Lawyers who are members of the Interveners.

⁵² European Commission, Turkey Report 2021, fn. 11 p. 49.

⁵³ See ECRE, 'Country Report: Turkey' (2019), fn. 16, p. 101; see also Global Detention Project, 'Country Report, Immigration Detention in Turkey', fn. 47, p. 50.

Evaluation of Human Rights Violations stated that there have been several suicide attempts in the removal centre.⁵⁴ Furthermore, on 23 June 2021, a Syrian national – based on a statement of the responsible Governor – set himself on fire and died at Izmir Harmandalı Removal Centre.⁵⁵

C. Insufficient Protection from Refoulement in Turkey

23. In practice, non-European migrants are routinely removed from Turkey or pressured to sign the consent form for a “voluntary return”. Of most relevance for survivors of pushbacks is the regulation under LFIP, Article 54(1)(h), which states that any person who has left Turkey irregularly shall be subject to deportation. Therefore, refugees who have fled Turkey and experienced pushback operations are potentially at risk of deportation upon return because of leaving Turkey irregularly.⁵⁶
24. In recent years, and particularly as of July and August 2019, after the regional elections in Turkey, the scale of illegal expulsions from Turkey to Syria – which constitute refoulement – have increased dramatically.⁵⁷ In this regard, it can be observed that Syrian nationals are increasingly pushed, respectively forced to sign declarations for “voluntary return”⁵⁸ – a practice that recently has been acknowledged also by the ECtHR.⁵⁹ In *Akkad v. Turkey*, the Court had to decide on the case of a young Syrian national, who was initially granted TPS in Turkey. He was apprehended near the Turkish-Greek land border when travelling with a group of people allegedly trying to enter into Greek territory in June 2018. Subsequently, the Applicant was detained, transferred to the Turkish-Syrian border, and – after he was coerced to sign a preprinted “voluntary return” form – deported to Syria. Here the Court came to the conclusion that Turkey, by its actions, knowingly had exposed the Applicant to a “real risk” of being subjected to treatment in violation of Article 3 of the ECHR.⁶⁰ In this regard, it should be noted that there are reports of Syrian deportees and returnees – from Turkey and from other neighbouring countries – who were arrested or forcibly disappeared after their return to Syria.⁶¹ In October 2019, Human Rights Watch reported that Turkish authorities in Istanbul and Antakya had arbitrarily detained and deported Syrians to northern Syria, despite active hostilities in the region.⁶² These deportations should be read in conjunction with the Turkish authorities’ publicly-stated objective, reported by the European Asylum Support Office: to create “safe zones” in Syria in which to return refugees.⁶³
25. The practice of forced “voluntary return” was still widespread during the time period relevant for the aforementioned applications. For example, the İzmir Bar reported that people detained in removal centres have been systematically forced to sign “voluntary repatriation papers”. The people affected are not informed⁶⁴ about their legal rights and not allowed to access legal aid.⁶⁵ In Hatay, there have been allegations of violence, handcuffing, and pressure to apply for “voluntary return” by guards.⁶⁶ Lawyers have also

⁵⁴ See Türkiye İnsan Hakları ve Eşitlik Kurumu, Gaziantep Geri Gönderme Merkezi Ziyareti Raporu (Rapor No: 2019/ 05), February 2019, p. 5, available at: https://www.tihek.gov.tr/upload/file_editor/2019/07/1562585466.pdf; see also sendika.org, ‘HDP’li Toğrul, Antep Geri Gönderme Merkezi’ndeki intihar iddialarını Meclis’e taşıdı’, 3 August 2019, available at:

<https://sendika.org/2019/08/hdpli-togrul-antep-geri-gonderme-merkezindeki-intihar-iddialarini-meclise-tasidi-556817/>.

⁵⁵ Human Rights Foundation of Turkey, ‘24 June 2021, Daily Report on Human Rights Violations’, available at:

<https://en.tihv.org.tr/documentation/24-june-2021-hrft-documentation-center-daily-human-rights-report/>; critical about the detailed statement of the Governor see Statement of the İzmir Bar Association, issued on 6 August 2021, available at: <https://www.izmirbarosu.org.tr/HaberDetay/2370/harmandali-geri-gonderme-merkezi-nde-yasamini-yitiren-suriveli-multeci-ahmed-maslem-anilidi>.

⁵⁶ Information provided by Asylum Lawyers who are members of the Interveners.

⁵⁷ See Norwegian Refugee Council, ‘Dangerous Ground: Syrian refugees face an uncertain future’, 2018, available at:

<https://www.nrc.no/globalassets/pdf/reports/dangerous-ground---syrian-refugees-face-an-uncertain-future/dangerous-ground---syrian-refugees-face-an-uncertain-future.pdf>; Amnesty International, ‘Sent to a War Zone: Turkey’s illegal deportations of Syrian Refugees’, 2019, available at:

<https://www.amnesty.org/download/Documents/EUR4411022019ENGLISH.pdf>; Jesse Marks, ‘Pushing Syrian Refugees to Return’, Carnegie Endowment for International Peace, 1 March 2018, available at: <https://carnegieendowment.org/sada/75684>; Refugees International, ‘Insecure future: Deportations and Lack of Legal Work for Refugees in Turkey’, 19 September 2019, available at:

<https://www.refugeesinternational.org/reports/2019/9/18/insecure-future-deportations-and-lack-of-legal-work-for-refugees-in-turkey>.

⁵⁸ Information provided by Asylum Lawyers who are members of the Interveners; see also Stockholm Centre for Freedom, ‘Syrian journalist in Turkey forced to sign repatriation document for ‘banana’ video protesting discrimination’, 4 November 2021, available at:

<https://stockholmcf.org/syrian-journalist-in-turkey-forced-to-sign-repatriation-document-for-banana-video-protesting-discrimination/>.

⁵⁹ See *Akkad v. Turkey*, no. 1557/19, Judgement of 21 July 2022.

⁶⁰ See *ibid.*, § 75.

⁶¹ See *ibid.*, § 11; see also Syrian Network for Human Rights, ‘The Syrian Regime Continues to Pose a Violent Barbaric Threat and Syrian Refugees Should Never Return to Syria’, 15 August 2019, available at: https://snhr.org/wp-content/pdf/english/The_Syrian_regime_continues_to_pose_a_severe_barbaric_threat_and_syrian_refugees_should_never_return_to_syria_en.pdf.

⁶² See Human Rights Watch, ‘Turkey: Syrians Being Deported to Danger’, 24 October 2019, available at:

<https://www.hrw.org/news/2019/10/24/turkey-syrians-being-deported-danger>.

⁶³ See EASO (today EUAA) Country Guidance: Syria, September 2020, p. 44, available at:

https://euaa.europa.eu/sites/default/files/Country_Guidance_Syria_2020.pdf.

⁶⁴ In connection with insufficient information, the Court, in the case *Akkad v. Turkey* (fn. 59), identified a violation of Article 13 ECHR.

⁶⁵ See İzmir Bar, ‘Final Report of Removal Centres and Administrative Detention from Lawyers’ Sights Workshop’, June 2019, available at:

https://www.izmirbarosu.org.tr/Upload/files/geri_gonderme_raporu.pdf.

⁶⁶ See Dev Haber, ‘Antep Geri Gönderme Merkezin’de mülteciler ters kelepçeleniyor’, 25 December 2017, available at: <http://bit.ly/2ETCOWC>.

suggested that poor detention conditions in Removal Centres are likely used as a tool to pressure migrants into “voluntary return”.⁶⁷ To the knowledge of the Interveners, this practice is still happening today.⁶⁸

26. Furthermore, the practice of forced “voluntary return” is also directed towards non-Syrian nationals, e.g. Afghans.⁶⁹ The Human Rights Association has announced that the Afghan refugees are subjected to torture and pressure in the Harmandalı (İzmir) Removal Centre.⁷⁰ The Interveners received reports about mass deportations of Afghan citizens to Iran and were told that, in autumn 2021, approximately 30,000 Afghan nationals were being held in removal detention in Turkey.⁷¹
27. In practice, most non-Syrian nationals never register for a residence permit in Turkey due to the several legislative shortcomings and practical obstacles set out above. Whoever does register – Syrians and non-Syrians alike – are often forced by the socioeconomic reality to move from their allocated city to economic centres – most often Istanbul.⁷² Those unable to register for any kind of status are, *de facto* if not *de jure*, potentially subject to refoulement.

D. Inadequate Reception Conditions in Turkey

28. While those who manage to obtain a “kimlik” have the right to education and health care and the right to request a work permit⁷³ in Turkey, in practice, it is extremely difficult to actually exercise these rights. For example, according to the European Commission, “768,839 children with some kind of protection status were enrolled in formal education in Turkey by December 2020. However, more than 400,000 schooled refugee children were still out-of-school and did not have any access to education opportunities”.⁷⁴ Furthermore, although there are around 3.5 million Syrians registered in Turkey, only 60,000 Syrians have a work permit.⁷⁵ Conversely, the vast majority of migrants in Turkey work in the informal labour market,⁷⁶ and, thus, are subjected to exploitative labour conditions. Notably, the Interveners have received reports about migrants under the age of 18 being subjected to child labour.⁷⁷
29. There is a broad consensus – both in the ECtHR and at international and European level – that asylum seekers are a particularly underprivileged and vulnerable population in need of special protection and that states have a positive obligation to provide material support and accommodation to asylum seekers.⁷⁸ However, minors, women, survivors of torture and violence, and LGBTIQ+ people have special reception needs because of their specific additional vulnerabilities which ought to be addressed. Nevertheless, in Turkey, there is a clear lack of such special reception conditions. Gender-based violence against refugee women, for example, persists as a risk.⁷⁹ At the same time, survivors of gender-based violence in Turkey face serious challenges, in particular discrimination and language barriers when they approach protection services.⁸⁰ Moreover, the capacity of women’s shelters in Turkey is quite low,⁸¹ and receiving access is

⁶⁷ See ECRE, ‘Country Report: Turkey’ (2019), fn. 16, p. 101.

⁶⁸ For an incident of possible summary return, including physical attacks on lawyers, see: gazeteduvar.com.tr, ‘İzmir Harmandalı GGM’de neler oluyor? Çok sayıda itfaiye ve sağlık ekibi sevk edildi, avukatlar içeri alınmadı’, 24 June 2022, available at: <https://www.gazeteduvar.com.tr/izmir-harmandali-ggmde-neler-oluyor-cok-sayida-itfaiye-ve-saglik-ekibi-sevk-edildi-avukatlar-iceri-alinmadi-haber-1570795>.

⁶⁹ Information provided by Asylum Lawyers who are members of the Interveners; see also a statement of the İzmir Bar Association reported on by bianet.org: ‘Refugees from Afghanistan handed over to Taliban by force’, 19 April 2022, available at: <https://m.bianet.org/english/migration/260665-turkey-refugees-from-afghanistan-handed-over-to-taliban-by-force>.

⁷⁰ Announcement of the Human Rights Association reported on by bianet.org: ‘Afghans in İzmir forced to sign “voluntary return papers”’, 22 April 2022, available at: <https://m.bianet.org/english/migration/260844-afghans-in-izmir-forced-to-sign-voluntary-return-papers>.

⁷¹ Information provided by Asylum Lawyers who are members of the Interveners.

⁷² Ibid.

⁷³ Applying for a work permit is a burdensome, costly procedure, and the responsibility of the employer, and it must be shown that the job cannot be done by a Turkish citizen in order for a permit to be granted. Information provided by Asylum Lawyers who are members of the Interveners.

⁷⁴ European Commission, Turkey Report 2021, fn. 11, p. 17.

⁷⁵ Information provided by Asylum Lawyers who are members of the Interveners; see also Centre for Global Development, ‘A new policy to better integrate refugees into host-country labor markets’, 22 November 2019, available at: <https://reliefweb.int/report/turkey/new-policy-better-integrate-refugees-host-country-labor-markets>.

⁷⁶ Information provided by Asylum Lawyers who are members of the Interveners; see also Refugees International, “‘I am only looking for my rights’ Legal employment still inaccessible for refugees in Turkey’, December 2017, available at: https://www.asylumineurope.org/sites/default/files/resources/ri_report_employmentturkey.pdf.

⁷⁷ Information provided by Asylum Lawyers who are members of the Interveners.

⁷⁸ See *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 250, ECHR 2011.

⁷⁹ See ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 109.

⁸⁰ See [diken.com.tr](https://www.diken.com.tr/alo-183ten-siddet-magduru-icin-yanit-ama-o-kadin-degil-ki-multeci-bayan/), ‘Alo 183’ten şiddet mağduru için yanıt: Ama o kadın değil ki mülteci bayan’, 2 April 2016, available at: <https://www.diken.com.tr/alo-183ten-siddet-magduru-icin-yanit-ama-o-kadin-degil-ki-multeci-bayan/>.

⁸¹ Mültecilerle Dayanışma Derneği, ‘Mülteci Kadınların Durumuna İlişkin Bir Değerlendirme: “Hem Mülteci Hem Kadın: Mülteci Kadınlar Ne Yaşıyor? Ne Yapmalı?”’, 9 March 2018, available at: <https://multeci.org.tr/2018/03/09/multeci-kadinlarin-durumuna-iliskin-bir-degerlendirmehem-multeci-hem-kadin-multeci-kadinlar-ne-yasiyor-ne-yapmalı/>.

particularly difficult for refugee women.⁸² At the same time, there are no shelters for LGBTIQ+ people, who – according to the domestic law in Turkey – are not even recognised as a vulnerable group.⁸³ Not least from such systematic shortcomings towards specific groups of refugees stems the Respondents State's obligation to carefully examine the individual situation of every applicant before returning them to Turkey.

30. Finally, enforced destitution *itself* constitutes inhuman and degrading treatment or punishment contrary to Article 3 of the Convention. Those denied access to a residence permit – including through means of international protection – are denied shelter, food, and access to education, and are simultaneously excluded from the right to work and state support. In addition, based on the many reports on how pushbacks are executed the people affected are, in most cases, deprived of all their material belongings, including money, phones, and identification documents.⁸⁴ This deprivation further exacerbates the destitution pushback survivors face upon return to Turkey. While in detention, the people affected are provided with shelter and minimal food, and after being released from the detention centre, there is no State assistance offered by the Turkish government.⁸⁵ Read in conjunction with the Court's most recent case law, it needs to be taken into account that the people affected – before being exposed to complete destitution – had already had been in an extremely vulnerable situation: they had been subjected to a violent pushback, and some may even have lost relatives or friends during the pushback. Therefore, they had undoubtedly been in a situation of extreme stress and most likely had already experienced feelings of intense pain and grief.⁸⁶
31. Taken together, survivors of pushbacks face a situation of complete disregard of their human dignity upon return to Turkey. As a result, there are reasons for believing that the removal or return from Greece to Turkey will expose a person to treatment contrary to Article 3 of the Convention.

E. Racist Violence, Hate Speech & Increasing Risk of Physical Attacks

32. Over the last years, violent attacks targeting migrants have been increasing in Turkey.⁸⁷ This violence can also be observed by following the increasing hate speech on social media platforms which remain unsanctioned.⁸⁸ Moreover, in Annex 1, the Interveners submit a nonexhaustive list of attacks and statements of politicians since the end of 2016. The general escalation of racist sentiments should be read in conjunction with this inflammatory political rhetoric targeting refugees and migrants and the severe deterioration of the economic situation in Turkey.⁸⁹
33. Under the scope of Article 2 of the ECHR, the Contracting States have a positive obligation to protect human life.⁹⁰ Given the extent of hate speech and physical attacks against migrants in Turkey, the Respondent State needs to take into account that a person fleeing from Turkey might be fleeing from racist violence and also assume that any person returned to Turkey may become an (arbitrary) target of a physical attack. Also from these circumstances, it follows that the Greek authorities are obliged to examine all applications individually.
34. Related to the preceding § 18, it is worth mentioning the violent attacks in Altındağ (Ankara) in 2021. A fight between Syrian and local youngsters triggered the attack of shops and homes belonging to Syrian refugees.⁹¹ Following these events, the Turkish government started a so-called “dilution project”⁹² to limit

⁸² See GOAL Global, ‘Protection Monitoring Report on Syrian Nomadic and Semi-Nomadic Communities in Gaziantep, Şanlıurfa, Adana and Mersin’, 31 August 2021, available at: <https://reliefweb.int/report/turkey/protection-monitoring-report-syrian-nomadic-and-semi-nomadic-communities-gaziantep-0>.

⁸³ See ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 111; see also Hayriye KARA & Damla ÇALIK, ‘Waiting to be “Safe and Sound”: Turkey as a LGBTI Refugees’ Way Station’, July 2016, available at: <https://kaosgilderneji.org/images/library/2016multeci-raporu2016.pdf>.

⁸⁴ See Border Violence Monitoring Network, ‘The Black Book of Pushbacks - Volumes I & II’, December 2020, available at: <https://left.eu/issues/publications/black-book-of-pushbacks-volumes-i-ii/>; see also platform on mapping ‘Drift-backs’ in the Aegean Sea, launched by Forensic Architecture in July 2022, available at: <https://aegean.forensic-architecture.org/>.

⁸⁵ İzmir Bar, 2019, ‘Avukatların Gözünden Geri Gönderme Merkezleri ve İdari Gözetim Alanları Çalıştırı Raporu’ available at: https://www.izmirbarosu.org.tr/Upload/files/geri_gonderme_raporu.pdf.

⁸⁶ See *Safi and Others v. Greece*, no. 5418/15, § 196, Judgement of 7 July 2022.

⁸⁷ See Amnesty International, ‘Country Report Turkey’. 2021, available at: <https://www.amnesty.org/en/location/europe-and-central-asia/turkey/report-turkey/>, see also ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 83.

⁸⁸ See ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 83.

⁸⁹ Information provided by Asylum Lawyers who are members of the Interveners.

⁹⁰ See *Osman v. the United Kingdom* [GC], no. 23452/94, § 115, Reports 1998-VIII; and *Branko Tomašić and Others v. Croatia*, no. 46598/06, § 50, Judgement of 15 January 2009.

⁹¹ See, for example, swissinfo.ch, Syrian properties in Ankara attacked after youth killed, 12 August 2021, available at: <https://www.swissinfo.ch/eng/syrian-properties-in-ankara-attacked-after-youth-killed/46862556>; and observers.france24.com, ‘A nightmarish night’: Syrian neighbourhood in Ankara attacked after deadly fight’, 13 August 2021, available at: <https://observers.france24.com/en/middle-east/20210818-syrian-neighbourhood-ankara-turkey-attacked>.

⁹² See BirGün, ‘Seyreltme’ projesinin detayları: 16 il Suriyelilere kapatıldı’, 22. February 2022, available at: <https://www.birgun.net/haber/seylertme-projesinin-detaylari-16-il-suriyelilere-kapatildi-378070>

the refugee population to 25% of the total population in every neighbourhood: “Since May 2022, it is against the law for any region or area in Turkey to have a population of foreign nationals that is more than one-quarter of the total population”.⁹³ Refugees are “encouraged” to relocate to other neighbourhoods which have refugee populations lower than 25%, and it is reported that some refugees could not register their addresses due to this population limitation.⁹⁴

III. CITIZENS OF TURKEY

35. It is well known that since the attempted coup on 15 July 2016, political criticism in Turkey has been heavily persecuted. However, the limited independence of the judiciary and widespread politically motivated criminal charges have always been problems in Turkey. Nevertheless, together with the State of Emergency (“SoE”), the situation has further deteriorated.⁹⁵ Due to the recent developments, international legal organisations felt the urge to establish the International Fair Trial Day, and within their initial statement, they underlined the systematic violations of the fair trial principles in Turkey.⁹⁶
36. There is also the risk of severe torture in Turkey. For instance, the People's Law Office (HHB) reported on Ayten Öztürk who was arrested in Beirut on 9 March 2018, extradited to Turkey on 13 March 2018, and was subsequently held in unofficial detention for 6 months until 28 August 2018. She was subjected to severe torture in Turkey.⁹⁷ In recent years, there are several judgments from different countries where the local courts decided in favor of non-extradition due to the severe risk of torture in Turkey.⁹⁸
37. A joint report of Turkey-based human rights organizations, which covers 2019 and the first half of 2020, emphasizes that torture is not limited to police headquarters or demonstrations, but is a common practice in prisons.⁹⁹ There are a significant number of reports from other NGOs and rights organisations that support these findings.¹⁰⁰ In addition, it was reported that 45 pushback survivors were severely tortured by the Turkish soldiers upon their return. ÖHD, one of the interveners, lodged a criminal complaint; however, the case file was closed by the prosecutor's office.¹⁰¹
38. Citizens of Turkey with criminal charges who are pushed back to Turkey face serious risk of immediate arrest, detention, and torture

⁹³ ECRE, ‘Country Report: Turkey’ (2021), fn. 13, p. 83.

⁹⁴ See al-monitor.com, ‘Turkey’s quota plan for refugees alarms rights activists’, 23 February 2022, available at: <https://www.al-monitor.com/originals/2022/02/turkeys-quota-plan-refugees-alarms-rights-activists>.

⁹⁵ See Şerife Ceren Uysal, ‘Power Politics versus the Rule of Law in Turkey: A Case Study’, in: *The Rule of Law in Retreat: Challenges to Justice in the United Nations World*, ed. Slawomir Redo, London, Lexington Books, 2022, p. 128.

⁹⁶ See the statement of the International Fair Trial Day and the Ebru Timtik Award, ELDH, AED and others, 23 February 2021, available at: <https://eldh.eu/2021/02/international-fair-trial-day-and-the-eburu-timtik-award-hold-the-date-14-june-2021/>; and the joint statement of the initial International Fair Trial Day and the Ebru Timtik Award, ELDH, AED and others, 14 June 2021, available at: <https://eldh.eu/2021/06/joint-statement-international-fair-trial-day-14-june-2021/>.

⁹⁷ See İşkence Raporu, ‘Lübnan’dan Türkiye’ye iade edilen Ayten Öztürk’e gözetiminde ağır işkence’, 30 August 2018, available at: <https://iskenceraporu.com/ayten-ozturke-gozaltinda-agir-iskence/>.

⁹⁸ See Kronos 35, ‘İsveç’te Yüksek Mahkeme öğretmenin Türkiye’ye iade talebini reddetti’, 16 July 2022, available at: <https://kronos35.news/tr/isvecte-yuksek-mahkeme-ogretmenin-turkiye-iyadesini-durdurdu/>; Uluslararası Af Örgütü (Amnesty Turkey), ‘Malezya: Türkiye’ye iade, gönderilen üç kişi için işkence riski taşıyor’, 12 May 2017, available at: <https://www.amnesty.org.tr/icerik/malezya-turkiye-iyade-gonderilen-uc-kisi-icin-iskence-riski-tasiyor>.

⁹⁹ See Human Rights Association & others, ‘Türkiye’de Değişik Boyutlarıyla İşkence Gerçeği’, p. 83, available at: <https://hakinisivatif.org/wp-content/uploads/2020/06/26-Haziran-2020-Ortak-Bas%C4%B1n-Ac%C7%A7%C4%B1klamas%C4%B1-Eki-Veriler.pdf>.

¹⁰⁰ See, for example, Freedom From Torture, ‘Torture in Turkey: past, present and future?’, April 2017, available at: <https://www.freedomfromtorture.org/sites/default/files/2019-04/Turkey%20briefing%20FINAL%20170410.pdf>; Human Rights Association, ‘İHD 2019 Report On Human Rights Violations In Turkey’, May 2020, available at: https://www.fidh.org/IMG/pdf/i_hd_2019_violations_report_and_summary_table-2.pdf; Stockholm Centre For Freedom, ‘Council of Europe’s CPT confirms continued ill-treatment and torture in Turkey’, 5 August 2020, available at: <https://stockholmcf.org/council-of-europes-cpt-confirms-continued-ill-treatment-and-torture-in-turkey/>.

¹⁰¹ See evrensel.net, ‘İHD ve Meriç nehrine atılan mültecilerin yakınlarından yetkililere çağrı: Kayıplar bulunsun’, 21 September 2021, available at: <https://www.evrensel.net/haber/443210/ihd-ve-meric-nehrine-atilan-multecilerin-yakinlarindan-yetkililere-cagiri-kayıplar-bulunsun>; gazeteduvar.com.tr, ‘Meriç Nehri’ne atılan mülteciler: Dosyada iki aydır ilerleme yok’, 28 October 2021, available at: <https://www.gazeteduvar.com.tr/meric-nehrine-atilan-multeciler-dosyada-iki-aydir-ilerleme-yok-haber-1539868>; evrensel.net, ‘Meriç’e atılan sığınmacıların dosyası kapatıldı’, 16 February 2022, available at: <https://www.evrensel.net/haber/455202/merice-atilan-siginmacilarin-dosyasi-kapatildi>.

IV. LACK OF INFORMATION

39. The Interveners come to the conclusion that, given the overall circumstances in Turkey, an individual examination of each claim is required to comply with the Respondent State's obligations under the Convention, namely Article 3. Conversely, if a person – either a citizen of Turkey or a third country national – tries to obtain asylum in Greece, but is prevented from entering or staying in the country, and is therefore stopped from lodging claims for asylum, this denial would expose this person to a risk of ill-treatment and – if a third country national is concerned – even chain-refoulement to their country of origin. If, at the same time, the Greek authorities fail to provide the person who tries to obtain asylum in Greece with any relevant information about the Greek asylum procedures – and access to domestic remedies in Greece is not made available – this constitutes a violation of Article 13 in conjunction with Article 3 of the Convention.¹⁰²

V. CONCLUSION

40. Considering the overall reception conditions in Turkey, the Interveners come to the conclusion that the Respondent State – from the moment a person enters Greek territory, both by land and sea – is obliged to conduct an in-depth analysis of the individual risks an asylum seeker faces in Turkey. There is reason to believe that the removal or return of an asylum seeker to Turkey would expose this person to treatment contrary to Article 3 due to restricted access to the asylum system in Turkey, which offers only, if at all, insufficient protection; the catastrophic social economic conditions to which migrants are subjected; and the widespread risk of racist violence. Where the Respondent State fails to conduct such an investigation, and even deprives the asylum seeker of the chance to present their claims, by pushing them back illegally, therefore violates its obligations under Article 3 of the Convention.

Finally, the Interveners are grateful for getting the opportunity to intervene in the aforementioned applications and hope to have assisted the Court with the explanations submitted.

Yours sincerely,

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¹⁰² See *Kebe and Others v. Ukraine*, no. 12552/12, Judgement of 12 January 2017.

Annex:
(not submitted by fax)

- 1) List of attacks and statements of politicians since the end of 2016
- 2) European Commission, Turkey Report 2021 (see fn. 11)
- 3) ECRE, 'Country Report: Turkey' 2021 (see fn. 13)
- 4) ECRE, 'Country Report: Turkey' 2019 (fn. 16)
- 5) Expert Opinion issued by Stiftung ProAsyl (fn. 28)
- 6) Global Detention Project, Immigration Detention in Turkey (fn. 47)
- 7) Domestic Law of Turkey: Law on Foreigners and International Protection
- 8) Domestic Law of Turkey: Implementation Regulation for the Law on Foreigners and International Protection
- 9) Domestic Law of Turkey: Temporary Protection Regulation