



Media relations
P.O. Box, 9023 St. Gallen

St. Gallen, 15 November 2024

Press Release

regarding judgment E-4103/2024 of 8 November 2024

Refugee status of Turkish asylum seekers

The fact that investigations by the public prosecutor’s office for “insulting the President” or “making propaganda for a terrorist organisation” are pending in Turkey against Turkish asylum seekers in Switzerland does not mean that they will be recognised as refugees as a matter of course.

The Swiss asylum authorities have for some time been being confronted with Turkish asylum seekers who claim that they are under investigation by the public prosecution in Turkey for expressing political criticism. This generally relates to the offence of “insulting the President” (Art. 299 of the Turkish Penal Code) or of “making propaganda for a terrorist organisation” (Art. 7, paragraph 2, of the Turkish Anti-Terror Law), or both of them. The criticism in question is often first published on social media after the asylum seekers have left their home country.

In a recent coordination judgment,¹ the Federal Administrative Court (FAC) resolved the question about the relevance under asylum law of such investigation proceedings under Turkish law. The Court found that such proceedings fall short of constituting a well-founded fear of persecution in the home country. Accordingly, Turkish asylum seekers cannot be recognised as refugees in Switzerland purely on the basis that investigations by the public prosecutor’s office for “insulting the President” or “making propaganda for a terrorist organisation” are pending against them in Turkey.

Security situation in the Hakkâri and Şırnak Provinces

In the case at hand, the asylum seeker comes from the eastern province of Şırnak on the Turkish-Iraqi border. Swiss asylum practice has hitherto followed the presumption that enforcing removals to this Turkish province and the neighbouring Hakkâri Province is generally unreasonable in view of the situation of generalised violence there (see judgment [BVGE 2013/2](#); repeatedly upheld since). After an in-depth assessment of the current security situation in the Hakkâri and Şırnak Provinces, the FAC decided to discontinue this removals practice. Consequently, the enforcement of removals to these two provinces is no longer generally excluded. Whether such removals are individually reasonable for the persons concerned must be assessed – as for all the other Turkish provinces – on a case-by-case basis.

¹ This judgment was coordinated by all judges from divisions IV and V. It analyses the conditions of the existing situation in a given country and provides a legal assessment which goes beyond this individual case and applies generally to a large number of cases.

In the case before it, the Court rejects the asylum seeker's appeal and upholds the decision of the State Secretariat for Migration denying the application for asylum and determining the removal admissible, reasonable and possible. This judgment is final and may not be appealed to the Federal Supreme Court.

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About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 375 employees (314.7 FTE) and its 73 judges (65 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 6,500 judgments every year.