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

St. Gallen, 27 June 2025

## Media Release

regarding judgment F-5298/2024 of 12 June 2025

### Duty of investigation prior to a Dublin transfer to Greece

**The State Secretariat for Migration is required to investigate the situation of asylum seekers in Greece and to take a position on whether or not there are systemic deficiencies in the country before ordering a transfer there. This is the decision handed down by the Federal Administrative Court.**

In August 2024, the State Secretariat for Migration (SEM) dismissed an asylum application by a Turkish national and ordered the transfer of the asylum seeker to Greece under the Dublin III Regulation. In doing so, the SEM relied upon the assurance of the Greek authorities that the person concerned would be guaranteed access to the asylum procedure and to appropriate accommodation in accordance with European Commission Recommendation (EU) 2016/2256 of 8 December 2016. The asylum seeker appealed this decision before the Federal Administrative Court (FAC).

#### Status of current case-law concerning transfers to Greece

In its reference judgment,<sup>1</sup> the FAC states that the case-law deriving from ECHR's decision *M.S.S. v. Belgium and Greece* of 21 January 2011, and the FAC's own precedents in judgments [ATAF 2011/35](#) and [ATAF 2011/36](#) have not been overturned and are still valid. This case-law shows that systemic deficiencies were identified in the Greek asylum system. According to these judgments, the presumption that all Member States of the Dublin area are safe countries and respect the principle of non-refoulement has become inoperative in the case of Greece; a transfer to this country may, however, be considered lawful by way of exception after due examination of the individual circumstances.

#### Violation of the inquisitorial principle

In the case at hand, the SEM violated its duty to investigate. Merely referring to the assurance of the Greek authorities and Commission Recommendation (EU) 2016/2256 without explicitly establishing whether or not systemic deficiencies exist in Greece at the present time is not sufficient for ordering the transfer of the asylum seeker to that country. All the more since the recommendation in question dates back to 2016 and that SEM's practice in recent years has been not (or hardly) to order any transfers to Greece. Furthermore, the SEM must establish

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<sup>1</sup>This Judgment analyses the conditions of the existing situation in a given country and provides a legal assessment which holds not only for this case but for many other proceedings as well.

the present and decisive circumstances relating to the situation of asylum-seekers in Greece before explicitly indicating whether systemic deficiencies still exist and explaining whether the appellant can be transferred to that state.

The FAC therefore admits the appeal, cancels the SEM's ruling, and refers the case back to the latter for additional investigation and a new decision. 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 395 employees (334 FTE) and its 78 judges (70 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.