



St. Gallen, 27 April 2022

## **Press Release**

**on Judgments E-3427/2021 and E-3431/2021 of 28 March 2022**

### **Stricter criteria for transfers to Greece**

**The Federal Court of Administration clarified its case law on the acceptability of enforcing the removal of recognised beneficiaries of protection to Greece. Henceforth, stricter criteria will apply in the case of vulnerable persons.**

On 1 March 2020, Law 4636/2019 on International Protection and Other Provisions came into force in Greece. This had far-reaching consequences on the situation of recognised beneficiaries of protection.

The benefits granted to asylum seekers cease 30 days after a positive asylum decision or a decision granting subsidiary protection status. Lack of access to accommodation is the main problem faced by recognised beneficiaries of protection in Greece. Recognised beneficiaries of protection also face difficulties in accessing health care, the public social security system, the regular labour market and education.

#### **Enforcement of removal is still admissible**

Notwithstanding the aforementioned new law, the Federal Administrative Court (FAC) stands by its existing case law, which provides that the execution of removal to Greece is admissible in principle, in the case of persons who have been granted protection status there. Despite the evidenced shortcomings, the reception system cannot be deemed dysfunctional. There is no reason to assume that the situation is such that every person risks being treated in a manner contrary to international law.

#### **Stricter criteria for vulnerable persons**

The FAC also maintains that the execution of removal to Greece for recognised beneficiaries of protection remains reasonable as a basic principle. However, the Court provides for restrictions in the case of families with children, unaccompanied minors and persons who are seriously ill. For families with children, transfers are only reasonable if there are favourable premises or circumstances. In the case of unaccompanied minors and the seriously ill, the Court considers that execution of removal is unreasonable in principle unless there are exceptionally favourable circumstances. In such cases, the State Secretariat for Migration is required to conduct thorough investigations.

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 365 employees (305.6 FTE) and its 72 judges (64.5 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.