

## CM-Public

MINISTERS' DEPUTIES

Decisions

CM/Del/Dec(2022)1443/H46-11

22 September 2022

**1443<sup>rd</sup> meeting, 20-22 September 2022 (DH)****H46-11 Ilias and Ahmed group v. Hungary (Application No. 47287/15)**

Supervision of the execution of the European Court's judgments

Reference document

CM/Notes/1443/H46-11

*Decisions*

## The Deputies

1. recalled that the case of *Ilias and Ahmed* concerns a violation of the procedural obligation under Article 3 to assess the risks of ill-treatment before removing the asylum-seeking applicants to Serbia by relying on a general presumption of "safe third country"; and the case of *Shahzad* concerns a violation of prohibition of collective expulsion of aliens under Article 4 of Protocol No. 4 to the Convention following the application of the "apprehension and escort" measure introduced by the State Borders Act, authorising the police to remove the asylum-seeking applicant staying illegally in Hungarian territory to the external side of the border fence (on the border with Serbia) without a decision;
2. expressed their profound concern that, almost three years after the European Court's judgment in *Ilias and Ahmed* and despite the Committee of Ministers' repeated requests, the authorities have not carried out a reassessment of the legislative presumption of "safe third country" in respect of Serbia; strongly urged the authorities to do so without further delay in line with the requirements of the Court's case-law and to present the grounds and the outcome thereof;
3. invited the authorities to provide information as to whether the legislative presumption of "safe third country" for Serbia has been applied by the asylum authority and the national courts since the introduction of the transitional asylum procedure as of 26 May 2020 ("Embassy procedure"); recalling the serious concerns expressed notably by UNHCR, called on the authorities to demonstrate, without further delay, that the risks of denial of access to an

effective asylum procedure in Serbia and the risk of arbitrary removal from that country are now thoroughly examined by the asylum authority and the national courts in line with the Court's case-law and the authoritative findings of the UNHCR;

4. expressed their grave concern that despite the authorities' repeated indications that the reform of the asylum system is underway, no concrete information has been communicated; called on the authorities to intensify their efforts in reforming the asylum system in order to afford effective access to means of legal entry, in particular border procedures, in line with Hungary's international obligations as arising from the relevant judgments of the European Court and the CJEU;

5. reiterated their grave concern that, despite the concerns expressed in their previous decisions and notwithstanding the recent adoption of the *Shahzad* judgment by the European Court, collective expulsions reportedly continue and have even intensified; strongly reiterated their urgent call on the authorities to terminate the practice of removing asylum-seekers to Serbia pursuant to section 5 of the State Borders Act without their identification or examination of their individual situation;

6. called on the authorities to envisage the introduction of an effective remedy providing a person alleging that their expulsion procedure is "collective" in nature with an effective possibility of challenging the expulsion decision by having a sufficiently thorough examination of their complaints carried out by an independent and impartial domestic forum, in line with the Court's case-law;

7. invited the authorities to provide information on all the above issues in an updated action plan by 31 March 2023 and decided to resume the examination of this group at their DH meeting in September 2023; instructed the Secretariat to prepare a draft interim resolution for the Committee's consideration at that meeting, should no tangible progress be achieved by then.

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