



The Prohibition of Collective Expulsion Analyzed: **ECtHR v Greece**



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1. Introduction

In 2016, the Turkish government experienced a failed coup attempt, and in the aftermath, it held Fethullah Gülen and his followers responsible for orchestrating the coup, subsequently labelling them as a terrorist organization.¹ In contrast, Western countries, including the United States where Fethullah Gülen resided before his passing,² along with the European Union,³ and international bodies like the UN's OHCHR⁴ have expressed disagreement with the Turkish Government's accusations regarding his involvement or that of anyone associated with him in the failed coup. Furthermore, the Turkish government has pursued a harsh stance against even the most minimal connection to the Movement prior to the coup attempt, even when such associations could not be directly or indirectly linked to the events of the coup. The measures have been so severe that even a teacher, simply for using a publicly available application (available on the App Store and Google Play for a period of time),⁵ being a member of a legally established and publicly accessible trade union,⁶ and having a bank account at a public bank—just because the legal owners of these establishments had alleged connections to the Movement—has faced punitive actions.⁷ Such a hostile environment has led to Turkish nationals seeking

¹ European Commission, 'Key Findings of the 2016 Report on Turkey' (*European Commission*, 2016) <https://ec.europa.eu/commission/presscorner/detail/en/MEMO_16_3639> accessed 11 January 2025.

² CRS Reports, 'Turkey: Background and US Relations' (*CSR*, 10 April 2017) <<https://crsreports.congress.gov/product/pdf/IF/IF10444/4>> accessed 11 January 2025.

³ Tulay Karadeniz and Tuvan Gumrukcu, 'EU says needs concrete evidence from Turkey to deem Gulen Network as terrorist' (*Reuters*, 30 November 2017) <<https://www.reuters.com/article/idUSKBN1DU0DU/>> accessed 11 January 2025.

⁴ OHCHR, *Report on the Impact of the State of Emergency on Human Rights in Turkey, Including an Update on the South-East* (*UN Human Rights Office*, March 2018) <<https://www.refworld.org/reference/countryrep/ohchr/2018/en/120660>> accessed 11 January 2025.

⁵ *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 (ECtHR, 26 September 2023), para 27.

⁶ *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 (ECtHR, 26 September 2023), para 27 and para 53.

⁷ *Yüksel Yalçınkaya v. Türkiye* App. no 15669/20 (ECtHR, 26 September 2023), para 30, para 31 and 57.

asylum in Greece, with five thousand seven hundred eighty-six Turkish citizens applying for asylum in 2018.⁸

The *A.R.E. v. Greece* case, in which the European Court of Human Rights (“ECtHR”) issued a ruling, concerns an individual who attempted to seek asylum in Greece in 2019.⁹ A.R.E. crossed the Greek border with two other Turkish nationals in an attempt to seek international protection for being associated with the Gülen Movement.¹⁰ They were arrested by the police, who refused to let her lawyer enter the police vehicle but permitted him to follow in his private car.¹¹ Upon arriving at the police station, they all stated that they were seeking asylum for the first time.¹² Immediately afterward, the police escorted them to a guard post but denied her lawyer entry.¹³ Furthermore, the three Turkish nationals were not offered any guidance by the police officers during their transfer.¹⁴ A.R.E. reiterated her intention to apply for asylum while at the border guard post.¹⁵ These three Turkish nationals were unlawfully and unofficially detained at the guard post until the commencement of their illegal return.¹⁶ All of their belongings, including their bags, shoes, mobile phones, and money, were confiscated,¹⁷ and they were transported in a truck to a location close to the Turkish border.¹⁸

⁸ Stockholm Center for Freedom, ‘5,786 Turkish Nationals Seek Asylum in Greece Since Controversial Coup Attempt’ (2018) <<https://stockholmcf.org/5786-turkish-nationals-seek-asylum-in-greece-since-controversial-coup-attempt/>> accessed 11 January 2025.

⁹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 13.

¹⁰ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), paras 13 and 25.

¹¹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 26.

¹² *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 27.

¹³ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 28.

¹⁴ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 30.

¹⁵ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 30.

¹⁶ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 30.

¹⁷ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 31.

¹⁸ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 33.

In total, there were thirty-one individuals in the vehicle: the applicant, the two other Turkish nationals with whom she entered Greece, three other Turkish nationals of Kurdish origin, fifteen Syrians, and ten Afghan and Pakistani nationals.¹⁹ When they were ordered to leave the vehicle, A.R.E. asked the police officer where they were being taken and reiterated that she was seeking asylum.²⁰ When some individuals refused to leave the truck, they were subjected to violence and forcibly removed.²¹ Eventually, all thirty-one individuals were placed on a small inflatable boat in several groups and transported across multiple crossings to be returned to Turkish territory.²² A.R.E. and the two Turkish nationals were arrested there by Turkish authorities on the same day.²³

In the *A.R.E. v. Greece* case, the ECtHR ruled that A.R.E.'s return without a prior assessment of the risks she faced in Türkiye constituted a pushback, violating Art. 3 of the European Convention on Human Rights ("ECHR"), prohibiting inhuman or degrading treatment.²⁴ Among all the other breaches, A.R.E. did not invoke the right to protection against collective expulsion, as enshrined in Art. 4 of Protocol No. 4 to the ECHR, given that Greece is not bound by the Protocol.²⁵ This paper is dedicated to examining the prohibition on collective expulsion and argues that Greece would be in violation of Protocol 4 to the ECHR, should it be obligated to adhere to its provisions, with the case of *A.R.E. v Greece*²⁶ serving as a key example. Subsequently, the paper will highlight the importance of Greece ratifying the Protocol to strengthen the protection of human rights.

¹⁹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 33.

²⁰ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 35.

²¹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 35.

²² *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 36.

²³ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), paras 38 and 39.

²⁴ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 284.

²⁵ Council of Europe, 'Chart of signatures and ratifications of Treaty 046' [2021] Council of Europe <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=046>> accessed 11 January 2025.

²⁶ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025).

2. The Prohibition on Collective Expulsion

Irregular migration refers to the movement of individuals who seek to enter a country through unconventional or unauthorized channels.²⁷ This occurs when individuals enter a country's territory unofficially, undetected by authorities or individuals use official entry points but present counterfeit documents.²⁸ Irregular migrants remain eligible to apply for asylum, regardless of crossing a border illegally or where they are intercepted.²⁹ Upon approval of their application, any prior breaches of immigration law such as illegal entry or the use of false documentation, are deemed justified.³⁰ The decision to grant asylum depends on whether the applicants are in need of protection.³¹ Nevertheless, it is exceedingly challenging to ascertain eligibility for protection prior to a comprehensive evaluation of each case.

There is no explicit right to asylum under the ECHR.³² Nevertheless, there are "absolute barriers" of expelling migrants if their expulsion would lead to the breach of their rights under Art. 2 (right to life), or Art. 3 (prohibition of torture, inhuman or degrading treatment) of the ECHR.³³ As previously noted, the issue lies in the inability to pre-determine whether this applies to the applicants without a thorough hearing of their cases. States receiving a high volume of asylum applications or confronting substantial migration flows may be inclined to bypass a thorough examination of the "absolute barrier" in their removal procedures. Furthermore, they may circumvent the examination

²⁷ Catherine Barnard and Steve Peers (ed), *European Union Law* (3rd edn, OUP 2020), page 833.

²⁸ Catherine Barnard and Steve Peers (ed), *European Union Law* (3rd edn, OUP 2020), page 833.

²⁹ European Union Agency for Fundamental Rights, 'Fundamental rights of refugees, asylum applicants and migrants at the European Border' (*Council of Europe*, 2020)
<https://fra.europa.eu/sites/default/files/fra_uploads/fra-coe-2020-european-law-land-borders_en.pdf>
accessed 11 January 2025.

³⁰ Catherine Barnard and Steve Peers (ed), *European Union Law* (3rd edn, OUP 2020), page 833.

³¹ Catherine Barnard and Steve Peers (ed), *European Union Law* (3rd edn, OUP 2020), page 844.

³² Convention for the Protection of Human Rights and Fundamental Freedoms (1953), ETS 5, ("ECHR").

³³ ECHR, art. 2 and 3; *Saadi v Italy* App no 37201/06 (ECtHR, 28 February 2008).

process entirely by granting broad discretionary powers or tacitly permitting pushbacks by law enforcement officers against asylum seekers. Consequently, asylum seekers are not given the opportunity to be heard and are instead expelled *en masse*. To prevent this, prohibition of “collective expulsion” is enshrined in Art. 4 of Protocol No. 4 to the ECHR.³⁴

The Protocol was drafted in 1963 and Art. 4 aims to prevent collective removals of individuals in migrant flows while ensuring a comprehensive application process for asylum seekers.³⁵ Protocols are supplementary documents that attach several other rights to the ECHR,³⁶ introducing additional rights that are binding only on the parties who have signed and ratified them.³⁷ Protocol No. 4 is signed and ratified by the Members of the Council of Europe, except for Greece, Switzerland, the UK and Türkiye.³⁸ Art. 4 of the Protocol codifies that “Collective expulsion of aliens is prohibited.”³⁹ As this provision lacks sufficient clarity, the case law of the ECtHR serves as the authoritative source for further clarification and for establishing the standards of obligations and conditions arising from it.

³⁴ Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms (1963), ETS 46, art. 4.

³⁵ Council of Europe, ‘Chart of signatures and ratifications of Treaty 046’ [2021] Council of Europe <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=046>> accessed 11 January 2025.

³⁶ European Court of Human Rights, ‘The ECHR in 50 questions’ (*Council of Europe*, 2014) <https://www.echr.coe.int/Documents/50Questions_ENG.pdf> accessed 11 January 2025; These rights might also be added for the purposes of amending the pre-existing rights.

³⁷ European Court of Human Rights, ‘The ECHR in 50 questions’ (*Council of Europe*, 2014) <https://www.echr.coe.int/Documents/50Questions_ENG.pdf> accessed 11 January 2025.

³⁸ Council of Europe, ‘Chart of signatures and ratifications of Treaty 046’ [2021] Council of Europe <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=046>> accessed 11 January 2025.

³⁹ Protocol No 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms (1963), ETS 46, art. 4.

3. The Analysis

According to the principles established in the ECtHR case law, collective expulsion is defined as **“any measure compelling aliens as a group to leave a country except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group.”**⁴⁰ While this definition in the *Khlaifia and Others v Italy* case may appear abstract, subsequent rulings by the Court more precisely delineate the scope of the prohibition and provide further clarification on the correct application of Art. 4 of Protocol No. 4. Accordingly, the following subsections will examine how the ECtHR construes this prohibition, analyzing the implications of the terminology in the *Khlaifia and Others v Italy* judgement.

3.1. “Any measure compelling aliens...to leave a country”

States might employ a range of methods to prevent asylum seekers from entering their territory, ultimately resulting in collective expulsion. For instance, in the *N.D. and N.T. v Spain* case,⁴¹ the issue was whether Spain, by refusing entry to asylum seekers attempting to cross its land borders, committed collective expulsion. Spain argued that the act merely was “refusal of admission to Spanish territory.”⁴² The Court clarified that the Convention is not regarded as the exclusive framework for implementing rights and obligations arising under the Protocol.⁴³ Therefore, Art. 4 of Protocol No. 4 was first interpreted in light of Art. 2 of the International Law Commission’s Draft Articles on the

⁴⁰ *Khlaifia and Others v Italy* App no 16483/12 (ECtHR, 15 December 2016), para 237; See also *Georgia v Russia (I)* App no 13255/07 (ECtHR, 3 July 2014), para 167; *Čonka v Belgium* App no 51564/99 (ECtHR, 5 February 2002), para 59; *Sultani v France* App no 45223/05, (ECtHR, 20 September 2007), para 81.

⁴¹ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020).

⁴² *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 173.

⁴³ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 172.

Expulsion of Aliens.⁴⁴ According to the ECtHR's interpretation, the concept of "non-admission" implies that an alien is refused entry into the State where they want to seek asylum in, which can also be termed as "return" (*refoulement*), indicating that non-admission and return are sometimes used interchangeably.⁴⁵

Subsequently, the ECtHR interpreted Art. 2 of the International Law Commission's Draft Articles on the Expulsion of Aliens in light of Art. 6(b) of the Draft Articles,⁴⁶ which states that non-admission is "...without prejudice to the rules of international law relating to refugees as well as any more favorable rules or practice on refugee protection..."⁴⁷ This requires that protective international rules for refugees must be upheld even in matters of border security. For this reason, the ECtHR referred to Art. 33(1) of the Geneva Convention 1951, which obliges States not to return an individual to a place where their life and or freedom would be in jeopardy.⁴⁸

Consequently, the ECtHR recognized that States have the right to safeguard their territorial integrity by non-admission of aliens to their country. However, border security should not diminish the legal obligations of States towards asylum seekers, which is that their cases be heard. This implies that non-admission would be treated as a form of return, even in the context of border security, resulting in measures compelling aliens to leave the country.

⁴⁴ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 174; See also *Khlaifia and Others v Italy* App no 16483/12 (ECtHR, 15 December 2016), para 243 for a similar approach.

⁴⁵ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 175; Draft Articles on the Expulsion of Aliens, with Commentaries' (2014) UN Doc A/69/10, art. 2(a)-(b); UNGA, 'Report of the International Law Commission' (5 May–6 June and 7 July–8 August 2014) 96th Session, UN Doc A/69/10, Supp No 10, commentary (5).

⁴⁶ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 176.

⁴⁷ Draft Articles on the Expulsion of Aliens, with Commentaries' (2014) UN Doc A/69/10, art. 6(b).

⁴⁸ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 176; Convention Relating to the Status of Refugees (1951), UNTS 189, art. 33(1); See also, UNGA, 'Report of the International Law Commission' (5 May–6 June and 7 July–8 August 2014) 96th Session, UN Doc A/69/10, Supp No 10, commentary (7).

In the case of *A.R.E. v Greece*, Greek police officers not only denied entry to A.R.E. and two other compatriots but also returned them along with other asylum seekers in a truck to a location near the Turkish border.⁴⁹ There, they were placed on an inflatable boat and sent back to Türkiye.⁵⁰ This occurred despite A.R.E.’s repeated attempts to apply for asylum on several occasions.⁵¹ Therefore, it can be concluded that the Greek police officers, by returning A.R.E. to Türkiye among others, implemented a measure—namely, the act of expulsion—designed to compel her to leave Greek territory, thereby fulfilling this aspect of the prohibition against collective expulsion.

3.2. “Aliens as a group”

To compel “aliens as a group” means that cases of individual persons are not considered separately, but collectively. They are treated and perceived as a single entity, with some State authorities making decisions based not on individual cases but on a collective approach. The ECtHR determined that when identifying a collective expulsion, the number of individuals is irrelevant, and no distinction in treatment should be made based on the size of the group.⁵² Furthermore, the Court reiterated that there is no minimum number of individuals required in a group to constitute the collective nature of the expulsion.⁵³ Therefore, a declaration of a violation of Art. 4 of the Protocol No. 4 is

⁴⁹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 33.

⁵⁰ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 36.

⁵¹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), paras 27 and 35.

⁵² *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 194; See also *Georgia v Russia (I)* App no 13255/07 (ECtHR, 3 July 2014), para 167; *Sultani v France* App no 45223/05 (ECtHR, 20 December 2007), para 81; *Khlaifia and Others v Italy* App no 16483/12 (ECtHR, 15 December 2016), para 237; See also International Law Commission, Draft Articles on the Expulsion of Aliens (2014) UN Doc A/69/10, art. 9(1). It states that “collective expulsion means expulsion of aliens, as a group”.

⁵³ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 194

not dependent on the minimum or maximum number of people affected by a particular measure.⁵⁴

When A.R.E. entered Greek territory, she was accompanied by two other Turkish nationals who were fleeing with her due to their association with the Gülen Movement according to the Turkish officials.⁵⁵ They were taken to the police station together in Greece, where they simultaneously expressed their intention to apply for asylum.⁵⁶ They were in the same truck, which transported them to a location, where they were subsequently returned back to Türkiye⁵⁷ on an inflatable boat.⁵⁸ Considering that there is no minimum number required to form a group for the purposes of Art. 4 of Protocol 4 to the ECHR, it can be concluded that A.R.E. was deported as part of a group, which included her and two other compatriots who fled, expressed their intent to seek asylum, and were subsequently returned to Türkiye.

Additionally, under Art. 4 of Protocol No. 4, a compulsion remains collective in nature even if the group cannot be specifically identified by distinct characteristics, such as “origin, nationality, beliefs or any other factors.”⁵⁹ The decisive criterion to constitute an expulsion which is considered “collective” is the absence of “a reasonable and objective examination of the particular case of each individual alien of the group.”⁶⁰

As previously mentioned, A.R.E. fled with two other compatriots who were all Turkish nationals and who fled due to similar reasons, which is that they were accused of

⁵⁴ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 194.

⁵⁵ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), paras 13 and 25.

⁵⁶ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 27.

⁵⁷ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 33.

⁵⁸ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 36.

⁵⁹ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 195.

⁶⁰ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 195; *Khlaifia and Others v Italy* App no 16483/12 (ECtHR, 15 December 2016), para 237.

being associated with the Gülen Movement.⁶¹ They were returned to Türkiye together,⁶² without reasonably and objectively examining their cases individually,⁶³ which establishes the “collective” nature of the expulsion which A.R.E. was part of. Furthermore, since the defining characteristic of collective expulsion is the absence of “a reasonable and objective examination of the particular case of each individual alien of the group,”⁶⁴ it can be argued that A.R.E. was deported as part of a larger group, consisting of the thirty other individuals in the truck,⁶⁵ all of whom were collectively returned to Türkiye via inflatable boat.⁶⁶

3.3. “Reasonable and objective examination of the particular case of each individual alien”

While States may fail to provide a “reasonable and objective examination of the particular case of each individual,” justifying this by citing the high number of asylum seekers at their borders, the ECtHR unequivocally rejects such an approach. For instance, in the case of *Georgia v Russia*, four thousand six hundred Georgian nationals were subjected to expulsion orders, with approximately two thousand three hundred and eighty of them forcibly removed from Russian territory by the government.⁶⁷ The victims underwent certain proceedings; however, these primarily involved interviews lasting no more than five minutes, without a proper examination of the specific circumstances of

⁶¹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), paras 13 and 25.

⁶² *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 36.

⁶³ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), paras 27, 28, and 30.

⁶⁴ *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 195; *Khlaifia and Others v Italy* App no 16483/12 (ECtHR, 15 December 2016), para 237.

⁶⁵ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 33.

⁶⁶ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 36.

⁶⁷ *Georgia v Russia (I)* App no 13255/07 (ECtHR, 3 July 2014), para 135.

their individual cases.⁶⁸ This treatment of the Georgian asylum seekers by Russia was deemed a violation of Art. 4 of Protocol No. 4.⁶⁹

In the case of *A.R.E. v Greece*, it appears that the police officer encountered three asylum seekers, with a total of thirty-one asylum seekers involved, which is significantly lower in comparison.⁷⁰ Nevertheless, the Greek police officers did not initiate any proceedings for A.R.E. and her two compatriots regarding their asylum applications, and instead, forcibly returned them to Türkiye.⁷¹ To conclude, the Greek police did not conduct a reasonable and objective examination of the particular case of each individual, neither for the group of three Turkish nationals nor for the larger group of thirty-one asylum seekers who were returned to Türkiye.

Moreover, the ECtHR ruled in *N.D. and N.T. v Spain* case that the challenges States encounter in managing migration flows “cannot justify recourse to practices which are not compatible with either the Convention or the Protocols.”⁷² It was reported by the United Nations High Commissioner for Refugees (“UNHCR”) that Greece received a total of one hundred five thousand six hundred ninety-eight refugees in two thousand nineteen.⁷³ Although there were deficiencies in the reception of asylum seekers and overcrowding in the asylum system in Greece,⁷⁴ these cannot serve as justifications for failing to conduct a reasonable and objective examination of the particular case of each individual.

⁶⁸ *Georgia v Russia (I)* App no 13255/07 (ECtHR, 3 July 2014), para 48.

⁶⁹ *Georgia v Russia (I)* App no 13255/07 (ECtHR, 3 July 2014), para 178.

⁷⁰ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 33.

⁷¹ *A.R.E. v. Greece* App. no 15783/21 (ECtHR, 7 January 2025), para 36.

⁷² *N.D. and N.T. v Spain* App no 8675/15 and 8697/15 (ECtHR, 13 February 2020), para 170; See also *Hirsi Jamaa and Others* App no 27765/09 (ECtHR, 23 February 2012), para 179.

⁷³ United Nations High Commissioner for Refugees (UNHCR), *Global Report 2019: Greece* (UNHCR 2019) <<https://reporting.unhcr.org/sites/default/files/pdfsummaries/GR2019-Greece-eng.pdf>> accessed 11 January 2025.

⁷⁴ Human Rights Watch, ‘World Report 2019: Greece’ (*HRW*, 17 January 2019)

<<https://www.hrw.org/world-report/2019/country-chapters/greece>> accessed 11 January 2025.

4. Evaluation

If Greece were bound by Protocol 4 to the ECHR, it could be evaluated that the country would have been in breach of Art. 4 of the Protocol, which prohibits collective expulsion. A.R.E. has already sought justice before the ECtHR, but had Protocol 4 been in place, it would have strengthened her position by offering a clearer framework to address the injustices she faced. This additional safeguard could have provided a more robust legal basis to hold Greek authorities accountable.

The absence of Protocol 4 ratification by Greece means that while Greek authorities are still obligated to assess asylum seekers' cases, there is a lack of an explicit safeguard against collective expulsion. The protocol would help to increase accountability for Greek officials by clearly prohibiting collective expulsions, ensuring that each individual's case is evaluated on its own merits, and preventing a blanket approach that disregards the unique circumstances of each asylum seeker. This increased accountability would emphasize the importance of fair treatment and due process for all individuals seeking asylum. While there is an obligation under other legal provisions to assess each case fairly, Protocol 4 would offer a critical additional layer of protection against collective expulsions.

Therefore, it is essential to advocate for Greece to ratify Protocol 4 to the ECHR at both the European and international levels. Ratifying the Protocol would align Greece with the fundamental principles of individual freedom, asylum, and human rights. The formal adoption of this Protocol would reinforce Greece's commitment to international human rights law and provide a more consistent and comprehensive legal framework for the protection of vulnerable individuals. Key organizations such as the UNHCR and Amnesty International can play a pivotal role in advancing this agenda, helping to ensure that Greece strengthens its protections for asylum seekers and upholds its obligations under international law.

5. Conclusion

To conclude, many individuals have sought asylum due to the harsh policies and political hostility in Türkiye. The *A.R.E. v Greece* case serves as a key example, where A.R.E. crossed the Greek border to apply for asylum. Despite her clear intent to seek protection, she was illegally returned to Türkiye, violating her right to apply for asylum. Greece was found to be in breach of Art. 3 of the ECHR, specifically for the unlawful return of A.R.E. without a proper examination of the risks she faced.

Furthermore, this case highlights how, had Greece ratified Protocol 4 of the ECHR, it would have been in violation of Art. 4, which prohibits collective expulsion. The *A.R.E. v Greece* case exemplifies how the Protocol could strengthen accountability for Greek officials, ensuring that each asylum seeker is given due process, and their individual circumstances are considered.

Therefore, *A.R.E. v Greece* demonstrates the crucial need for Greece to ratify Protocol 4, as it would significantly enhance the protection of human rights and asylum seekers. There is a pressing need for a European and international agenda advocating for Greece to formalize its commitment to the Protocol. Ratifying Protocol 4 would ensure greater accountability, fairness, and protection for vulnerable individuals seeking refuge, aligning Greece more closely with international human rights standards and reinforcing the importance of individual freedoms in asylum procedures.

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