**QUESTIONNAIRE OF THE SPECIAL RAPPORTEUR ON HUMAN RIGHTS VIOLATIONS AT INTERNATIONAL BORDERS: TRENDS, PREVENTION AND ACCOUNTABILITY.**

**Submission by Save the Children on child rights violations at international borders in Greece.**

Save the Children is hereby submitting input regarding child rights violations at international borders. Contributions have been collected in Italy, Greece[[1]](#footnote-1), Spain, Bosnia and Herzegovina and Serbia by Save the Children representatives. The submission is not intended to be exhaustive.

In the case of this specific submission, the answers are based on analysis and information provided by Save the Children’s partner, the Greek Council for Refugees (GCR), who is submitting separate and more detailed answers to the Rapporteurs questions. The submission is not intended to be exhaustive.

**1. Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021.**

In September 2021, Greece adopted L. 4825/2021.[[2]](#endnote-1) The legislation negatively impacts access to asylum and safeguards in the context of returns, and further shrinks the space within which independent civil society actors can operate, particularly with regards to maritime search and rescue operations.

Unaffordable fees for subsequent asylum applications

Article 23 introduced a € 100 fee as a requirement for submitting a second or further subsequent asylum applications. This fee applies separately to each family member[[3]](#endnote-2). The provision risks further hindering effective access to asylum, while exacerbating the legal limbo in which many applicants find themselves, on account of the increasing application of the “safe third country” concept by the Greek asylum system (see answer below). Applicants usually lack both the resources to re-access the asylum procedure, and the means to acquire such resources in Greece, due to ongoing challenges in accessing the Greek labour market,[[4]](#endnote-3) and limited support asylum seekers receive (even if asylum seekers were to receive assistance without interruption, in many cases would still not suffice to cover the € 100 fee).[[5]](#endnote-4)

Deportations & Returns

Article 1 provides for the issuance of a deportation decision, instead of a return decision, in cases of irregular arrival and/or apprehension at the borders *in abstracto* (e.g. without specifying any connection with the time of arrival or place of apprehension within the Greek territory), and including for cases of asylum applicants whose applications have been rejected. [[6]](#endnote-5)

As noted by UNHCR, articles 1-7 practically undermine the safeguards “for persons who may be in need of international protection, including asylum seekers whose asylum applications have been rejected on admissibility grounds but not assessed on the merits”.[[7]](#endnote-6)

Independent Search and Rescue operations

Article 40 introduces further limitations to the independent role of civil society actors to operate within areas of jurisdiction of the Greek Coastguard (GCG), including with respect to search and rescue operations.

**2. Please provide information on recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency), with the view to control, reduce or prevent migrant arrivals in your country.**

Despite mounting, credible evidence, particularly since March 2020, of violent pushbacks at Greece’s land and sea borders reported by international and regional human rights bodies and instruments, intergovernmental organisations, media outlets and civil society organisations, no effective and transparent investigation has taken place to this day.[[8]](#endnote-7)

There has been an increase in the number of deaths of third country nationals (TCNs) at the Greek-Turkish borders reported by IOM in the first months of 2022, with more than 21 persons losing their life by mid-February, more than double than in the same period of 2021.[[9]](#endnote-8)

As noted by UNHCR, which has recorded close to 540 pushback incidents from Greece since the start of 2020, “these deplorable practices now risk becoming normalized, and policy based”.[[10]](#endnote-9)

**3. Please provide information on how the “safe third country” concept is applied and if there is any “safe third country” list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.**

A Joint Ministerial Decision (JMD) issued on 7 June 2021[[11]](#endnote-10), designates Turkey as a “safe third country” for people from Afghanistan, Syria, Somalia, Pakistan and Bangladesh, reinforcing the policy established by the March 2016 EU-Turkey Statement.

Concerns have repeatedly been raised on whether Turkey can be considered as a safe third country for the abovementioned asylum seekers in Greece.[[12]](#endnote-11) An additional, significant problem with this new decision concerns the fact that, since March 2020, Turkey has not been accepting the return of refugees and asylum seekers from Greece. [[13]](#endnote-12) As a consequence, refugees whose applications have been rejected as inadmissible according to the “safe third country” principle are brought into legal uncertainty.

**4. Please provide information on any progress made in developing independent border monitoring mechanism(s) at the national level.**

The Greek Government remains opposed to the development of an independent mechanism to monitor human rights violations at its borders, despite reassurances by the Greek Government in response to persistent requests from the European Commission for such a mechanism to be set up.

The establishment of such a mechanism remains urgent. Following the Statement by the UN High Commissioner for Refugees, who expressed his deep concerns on the situation in the Greek- Turkish borders,[[14]](#endnote-13) the Greek Minister on Migration and Asylum attributed the reports of pushbacks to Turkish propaganda.[[15]](#endnote-14)

Instead of establishing an independent mechanism, the Greek Government has designated the National Transparency Authority as the body responsible for the investigation of pushback allegations.[[16]](#endnote-15) This Authority has limited independence from the government, and lacks of expertise and mandate to conduct such investigations.[[17]](#endnote-16)

1. The answers on Greece are based on analysis and information provided by Save the Children’s partner, the Greek Council for Refugees (GCR). GCR is submitting separate and more detailed answers to the Rapporteurs questions. [↑](#footnote-ref-1)
2. Law 4825/2021 on the “Reform of deportation and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions of the Ministry of Migration and Asylum and the Ministry of Citizen Protection and other urgent provisions”, 4 September 2021: <https://bit.ly/3HlrFUB>. [↑](#endnote-ref-1)
3. Article 2, Joint Ministerial Decision 472687, Gov. Gazette 6246/B, 27 December 2021: <https://bit.ly/35my44O> (in Greek) [↑](#endnote-ref-2)
4. Article 53 (1) [L. 4636/2019](https://www.e-nomothesia.gr/kat-allodapoi/prosphuges-politiko-asulo/nomos-4636-2019-phek-169a-1-11-2019.html). [↑](#endnote-ref-3)
5. The financial subsidy is ranges from € 75 (one person household) to € 210 (households with 4 or more members), in cases where reception is provided in non-catered accommodation, and from € 150 (one person household) to € 420 (households with 4 or more members) in cases where said accommodation is catered. Article 3 of Joint Ministerial Decision 115202 of 26 July 2021, Gov. Gazette 3322/B: <https://bit.ly/3JOfTDY>. For more: Joint PR of 26 NGOs, “Are you eligible to eat?”, 18October 2021: <https://bit.ly/350NGeF> and Joint PR of 27 NGOs, “NGOs raise alarm at growing hunger amongst refugees and asylum seekers in Greece”, 25 November 2021: <https://bit.ly/3vicb1h>. [↑](#endnote-ref-4)
6. Although a clarification is provided on the non-application of this provision in cases where a right of stay has been subsequently granted, standard practice in Greece, whereby a return decision is issued at the time of entry and is just suspended (i.e. not revoked), even if the person(s) concerned has (or have) subsequently applied for international protection, risks rendering this clarification void of practical meaning.For more, see RSA, GCR et.al. *Comments on the Bill amending deportation and*

   *return procedures, residence permits and asylum procedures*, June 2021: <https://bit.ly/3M3Jaww>. [↑](#endnote-ref-5)
7. UNHCR, *UNHCR intervention during the hearing of actors on the Draft Law for the reform of deportation and return procedures*, 31 August 2021: <https://bit.ly/3LNR78Z>. [↑](#endnote-ref-6)
8. Amongst many-many others, see Greek Campaign for Access to Asylum, “Illegal pushbacks, Lives at risk, NGOs under prosecution: Investigations on pushbacks at the EU level, targeting of those highlighting them in Greece”, 16 March 2021: <https://bit.ly/3vjz0SA>. [↑](#endnote-ref-7)
9. IOM, “IOM Concerned about Increasing Deaths on Greece-Turkey Border”, 18 February 2022: <https://bit.ly/3hiY9oe>. [↑](#endnote-ref-8)
10. UNHCR, “News Comment: UNHCR warns of increasing violence and human rights violations at European borders”, 21 February 2022: <https://bit.ly/3HjHnQq>. [↑](#endnote-ref-9)
11. Joint Ministerial Decision (JMD) 42799/2021, Gov. Gazette 2425/Β/7-6-2021, available at: <https://www.e-nomothesia.gr/kat-allodapoi/prosphuges-politiko-asulo/koine-upourgike-apophase-42799-2021.html> [↑](#endnote-ref-10)
12. See for example: GCR, *Greece deems Turkey “safe”, but refugees are not: The substantive examination of asylum applications is the only safe solution for refugees*, 14-06-2021, <https://www.gcr.gr/en/news/press-releases-announcements/item/1735-greece-deems-turkey-safe-but-refugees-are-not-the-substantive-examination-of-asylum-applications-is-the-only-safe-solution-for-refugees> [↑](#endnote-ref-11)
13. This fact has been noted by both Greece’s Ministry of Migration and Asylum as well as the European Commission. See Ministry of Migration and Asylum, 28-07-2021, *New request from Greece for the return of 1.908 illegal economic migrants to Turkey*,<https://migration.gov.gr/en/neo-aitima-tis-elladas-gia-tin-epistrofi-1908-paranomon-oikonomikon-metanaston-stin-toyrkia/>, European Commission, Commission Staff Working Document: Turkey 2020 Report, 6 October 2020, p. 48, <https://bit.ly/3xgt4aK> [↑](#endnote-ref-12)
14. UNHCR, *News Comment: UNHCR warns of increasing violence and human rights violations at European borders,* 21-02-2022, <https://www.unhcr.org/news/press/2022/2/62137a284/news-comment-unhcr-warns-increasing-violence-human-rights-violations-european.html> [↑](#endnote-ref-13)
15. Hellenic Republic, Ministry of Migration and Asylum, *Press Release - Statement by the Minister of Migration and Asylum, Mr. Notis Mitarachi*, 21-02-2022, <https://migration.gov.gr/en/deltio-typoy-dilosi-toy-ypoyrgoy-metanasteysis-kai-asyloy-k-noti-mitaraki/> [↑](#endnote-ref-14)
16. Naftemporiki, *Στην Εθνική Αρχή Διαφάνειας η έρευνα για παράνομες επαναπροωθήσεις μεταναστών*, 21-01-2021, <https://www.naftemporiki.gr/story/1794056/stin-ethniki-arxi-diafaneias-i-ereuna-gia-paranomes-epanaproothiseis-metanaston> [↑](#endnote-ref-15)
17. Refugee Support Aegean, *RSA Submission to the European Commission on the 2022 Rule of Law Report*, p. 10, <https://rsaegean.org/wp-content/uploads/2022/01/RSA_RoL2022_Submission.pdf> [↑](#endnote-ref-16)