

## RSA Submission to the United Nations Committee on Enforced Disappearances

1. **Refugee Support Aegean (RSA)** is a Greek non-profit organisation, partner of **Stiftung Proasyl**, focusing on strategic litigation in support of refugees, monitoring the Greek asylum system and human rights in the border areas, and providing legal, social and humanitarian support in individual cases. The present submission focuses on practices of enforced disappearances and “push backs” against refugees and migrants in Greece, drawing on cases recently supported and represented by RSA lawyers before domestic authorities and international bodies such as the European Court of Human Rights (ECtHR).
2. Mounting, well-documented evidence points to a systematic practice of out of law apprehension /secret detention and forced return to Turkey of persons who have expressed the intention to seek asylum on Greek soil or in territorial waters, in flagrant contravention of international and domestic law standards. In all the cases the authorities deny to acknowledge their apprehension/ detention and “push back” to Turkey.
3. Cases legally represented by RSA corroborate the persistence of such a practice both in the Aegean Sea and at the Evros land border. Illustrative examples are provided below:

**Case study | Aegean (March 2020):** *LA v. Greece* (App No 43746/20) concerns a Syrian refugee who reached the island of Rhodes in the early hours of 27 March 2020 in a group of 18 persons. After apprehension by police authorities on the road, they were held in a tent area closed to the Port of Rhodes for about two and a half days. In the night hours of 29 March 2020 the group was forced on a Coast Guard vessel. Upon reaching Turkish territorial waters, the Coast Guard switched off the engine and lights of the vessel and moved the people to a tent-like life raft and left them adrift. The applicant recognised the life raft on the photographs shared by the Turkish Coast Guard in its 30 March 2020 announcement of 18 persons rescued off the coast of Muğla, and confirmed the group was indeed the persons on the photographs. After being returned to Turkey, LA provided UNHCR with a personal account of his experience in Rhodes and gave consent for the disclosure of his testimony and data by UNHCR. The UN Refugee Agency made reference to his testimony in a letter of 12 August 2020 to the Greek authorities and requested an investigation into the alleged incident. No response had been provided by the authorities as of 27 January 2021, when UNHCR informed RSA of developments on the case. While in Turkey LA submitted a complaint before the Greek Ombudsman ( National mechanism against arbitrariness), which is still pending, and has brought a case before the ECtHR. The Greek authorities have denied L.A s apprehension, secret detention and push back to Turkey.

**Case study | Evros (October 2021):** *MA v. Greece* (App No 50338/21) concerns a Syrian refugee who entered Greece through the Evros border in order to seek asylum along with a group of people including three children. On 13 October 2021 he asked his brother, a registered asylum seeker represented by RSA, to seek legal assistance, expressed fear of *refoulement* to Turkey and then to Syria, and transmitted his geolocation on the Greek territory asking for help. On the same day, RSA's lawyer, acting on his behalf, informed the Orestiada Police Directorate of MA's location and of his intention to lodge an application for international protection. Two hours later, while no response had been provided by the Greek authorities, contact with MA was lost. RSA's lawyer wrote again to the Hellenic Police and reiterated the request for information on the applicant's arrest and place of detention. Subsequently, while still no response had been received by the authorities, RSA filed before the ECtHR a request for interim measures under Rule 39 of the Rules of Court, to ensure the Greek authorities provide information on the applicant's whereabouts, allow him contact with his lawyer and refrain from any forcible removal from the territory until his asylum claim is registered and processed. On the same day, the ECtHR suspended the examination of the interim measures request and requested information from the parties. By the evening hours of 13 October 2021, however, MA and the rest of the group unlawfully returned to Turkey. As reported by MA upon their apprehension in early afternoon, men in uniforms confiscated their mobile phones. They ignored their explicit requests for international protection. The group was held incommunicado without any registration in two detention sites, where they were stripped naked and were only given back their underwear. They were subsequently transferred to the river, forced on a boat, driven by two masked officers, and left helpless inside Evros river near a small strip of land in the river. On 14 October 2021, the police authorities replied to RSA that MA had never been located or apprehended in the Evros area.

**Case study | Evros (...2021):** On ...2021, RSA was informed that four Turkish nationals, had entered Greece and wished to seek asylum. One person had transmitted his geolocation to his family, corresponding to the area of Didimoticho. That day, RSA wrote to all competent police services in the morning, providing the relevant information and geolocation and requesting that the persons be allowed to register an asylum application in Greece. In the afternoon, RSA wrote again to the Police Directorate to inform them that contact between the persons and their family members had been lost and to highlight the urgency of the request. RSA wrote again in the evening to provide the details and geolocation of the third person in the group. On..., the Orestiada Police Directorate notified RSA that no arrests of persons with the above personal details have been made by services reporting to the Directorate. RSA requested the Police Directorate to register the four Turkish nationals as missing persons and to take the necessary measures to locate them. No response. On ....RSA informed the Ombudsman and UNHCR that, according to information shared by their family members, the persons concerned were pushed back to Turkey and were immediately arrested and detained by Turkish police authorities. No information about their whereabouts were available to the relatives and lawyers for 4 days. Two of them remained in prison at that time.

**Case study | Evros (...2021):** A case of two Turkish national brought to the attention of the Committee on .....2021. The two people contacted friends after entering Greece and reaching the area of Didimoticho, expressing their intention to seek asylum and their need for legal aid. RSA's lawyer acting on their behalf contacted the Orestiada Police Directorate on their behalf, and transmitted their request to apply for international protection. Several hours later, while no reply had been given by the Hellenic Police, RSA applied before the ECtHR for interim measures to secure the applicants' right to remain on Greek territory until their claim was registered and examined. On the same date the Court adjourned the examination of the case and requested information from the Greek authorities on the persons' whereabouts. On ....the police authorities replied in written that these people were never located. The next days RSA was informed that the persons had been unlawfully returned to their country of origin on. The two refugees were arrested by the Turkish authorities and imprisoned . therefore it has not been feasible to contact further with them.

**[Case study /Evros/ 2022]** RSA s lawyer was informed about the case of a Turkish national, who among other 4 people have entered Greece on .....aiming to seek asylum. RSAs lawyer acting on his behalf informed the same day (about 13.13 )in written the police authorities about him, and his need to apply for asylum. Taken his last geolocation he was apprehended in Orestiada. The police authorities responded only orally by telephone request ( about 15.00) that these people have never been apprehended. On the same day a interim measure request was submitted before ECHR . The same day on 21.46 the lawyer has informed by email the competent authorities that his whereabouts are still missing and that he has already submitted an application for interim measures before ECHR. The next day the ECHR ordered interim measure against his removal. It has been some days until RSA lawyer was informed about his whereabouts. In particular he complained that he was arrested by the Greek authorities after 12.00, has stayed in incommunicado detention in two different detention centers ( one seemed to be a police station and the second an ex detention place not in current official use).His identity card was taken, but never officially registered and pushed back in the night after 22.00 to Turkey, where he was trying to escape arrest by Turkish authorities.

**Case study/ Rhodes/ January 2021** According to the testimonies of survivors,on 14.1.2021, a boat with refugees, was near Rhodes island, when six men fell into water due to bad weather .The survivors (among them close relatives of the missing people) managed to land in the island but later were apprehended by the Greek authorities and "pushed back to Turkey( let them adrift in a life raft), where they were rescued by Turkish authorities. Neither the apprehension of the survivors neither their request for a search and rescue operation or for a declaration of the missing people were registered by the competent Greek authorities. It was only after the request of the brothers of two missing people( who live in other European country) dated 18.1.2021 , that the 6 people were declared as missing before Greek authorities. One body was found in Greece and has been indeed identified as one of

the missing 5 people. The authorities have been informed about this case since 18.1.2021.

**Case study/ Lesvos/ August 2021** .On 29/30 August 2021 a shipwreck took place near Lesvos island. Three people among them two minors were still missing. The survivors- among them close relative of the missing people-, have never been informed by the competent authorities about the conducted search and rescue operation of the missing people or about the procedure of declaring and tracing the missing bodies. Survivors have reported to RSA that the shipwreck took place suddenly , while a “push back operation” has been preceded by the Greek and that they were afraid to submit any complaint about the push back incident . RSA lawyers representing the father of one of the missing child complained before the Greek Ombudsman about the serious omissions regarding the search operation, the declaration and tracing procedure of his missing son etc. Until today the father holds no official paper about his missing son and was never called for DNA test. The coast guard has only responded vaguely to the Greek Ombudsman that “three people” were declared as missing on 22.9.2021 ( one and half month after the shipwreck).

**4. Breach of the principle of non-refoulement** The aforementioned practice of push backs entails risks of direct *refoulement* insofar as Greek authorities carry out push backs of people fleeing Turkey, including refugees persecuted for reasons of political opinion. Furthermore, enforced disappearances by Greek authorities are liable to expose refugees risks of indirect *refoulement*. In the aforementioned case of *LA v. Greece*, the applicant had previously faced unlawful deportation from Turkey to Syria and ran a real risk of *refoulement* in Turkey, as subsequently acknowledged by the Greek Asylum Service following his re-entry into Greece and entry into an asylum procedure (Regional Asylum Office Thessaloniki, Decision No 167772/2021, 4 August 2021).

4. **Secret detention/ Incommunicado detention:** Unlawful returns to Turkey are preceded by arbitrary deprivation of liberty in border police stations or unofficial detention sites in the Evros area and the Eastern Aegean islands. As detailed in the cases above, upon apprehension by the Greek authorities, refugees lose contact with their relatives / friends and/or RSA lawyers and are held in unknown locations. The people were never officially registered by the authorities. Reportedly their mobiles are taken away and have no access to outside world .RSA would like to remind the CPT remarks about the lack of safeguards in border police station in general, even for those who are officially registered .
5. **Delayed or withheld information on whereabouts/refusal to acknowledge apprehension and detention:** Withholding of information on the whereabouts of persons subject to enforced disappearance is an adjunct to the practice of secret detention in Greece. As described in the cases cited above, RSA lawyers acting on behalf of refugees present on Greek territory have submitted written requests to the territorially competent Police Directorates in the Evros area to notify the authorities of their intention to lodge an asylum application in Greece, recalling the state’s duty not to remove them until their claims are processed. Contact with the

individuals concerned is usually lost shortly thereafter, presumably as a result of apprehension and arrest by the Greek authorities. Per previously applicable practice in cases of “push backs”, the Orestiada and Alexandroupoli Police Directorates gave written replies to RSA lawyers’ requests stating that no such persons had been apprehended or located. However, recently Police Directorates in the Evros region no longer respond in written to written requests for information.

6. **Degrading/humiliating treatment -risk of life- omission of search and rescue operations:** During the secret detention and push back operations the migrants are in the mercy of the officers. Mobiles, money or other personal items, including ids or passports are taken away. Migrants are arbitrarily stripped naked, insulted and beaten / ill-treated .
7. “Push back” practices, as described in the cases above, especially in the water **endanger the life and security of people.** (see also case Safi and others v Greece ECHR)
8. **Obligations to missing people** There is a systemic lack of an effective procedure of declaring the missing people in the borders and enabling their tracing by their relatives. In the above mentioned cases omissions regarding search and rescue operations and regarding the declaration of missing people are connected with “push backs” practices
9. **Unwillingness to investigate** In Greece there is a long precedent of impunity regarding procedural rights of of article 3 and 2 ECHR in cases of migrants ( see CPT and ECHR caselaw) . Lack of safeguards in the border, police and coastguards stations or sites, not effective initial investigation( cases that the investigating authority is the same of that committing the alleged violation) , lack of adequate interpretation, law standard forensic medicine reports, the victims and witnesses are not systemically protected, evidence is not held or secured , not clear “ rules of involvement” by coastguard regarding border surveillance etc). Taken the nature and the systematic of secret detention/push backs , the unwillingness of the authorities (involved or ordered such operations)has to be taken into account.
10. **Failure of the Asylum Service to report allegations:** Asylum seekers often report incidents of enforced disappearances they have personally experienced during their personal interview before Asylum Service caseworkers To our knowledge, however, in none of the cases supported by RSA has the Asylum Service referred to the Prosecutor)concerning allegations received in the context of asylum interviews.:

**Case study | Kos (April 2022):** MS, a Palestinian refugee from Gaza, was interviewed by the Regional Asylum Office of Kos on 18 April 2022. When describing his arrival in Greece, he stated: “I tried to enter through land, I could not, 5 times I tried through the sea to come here... I had arrived in Komotini and Kavala and they returned me. Who returned you? The border guards. From the side of Turkey or the Greek side? 2 times the Turks and 2 the Greeks and the fifth time I entered.”