



**Committee on Foreign Affairs**

**Fact-finding mission on migration issues at the  
European Union's southern borders and the Indian  
Ocean**

Co-rapporteurs : Estelle Youssouffa MP

and Laurent Marcangeli MP

French National Assembly

**Contribution from Equal Legal Aid**

*May 2023*

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## FOREWORD

### **Brief presentation of Equal Legal Aid**

Equal Legal Aid ([ELA](#)) is a not-for-profit organisation registered with the Préfecture du Nord in France. Its purpose is to provide information, guidance and individual support to asylum seekers and refugees in their various procedures within the European Union. In particular, the association provides **pro bono legal services to displaced persons in Northern Greece, as part of their asylum procedures**<sup>1</sup>.

The association's permanent team of 6 lawyers and 3 volunteer lawyers provide legal assistance to asylum seekers through a programme combining outreach activities (legal clinics and hotline) and consultations at the association's premises in Thessaloniki. This assistance includes information provision, legal assistance and representation before the asylum authorities. Legal assistance is provided free of charge at all stages of the asylum procedure, from registration until a final decision is taken, including appeals and subsequent applications.

Since it was set up in 2020, the association has supported **888 asylum seekers from 41 different countries** who arrived in Greece at the Greek-Turkish land border at Evros, or from the 5 Greek hotspots on the islands of Lesbos, Chios, Samos, Leros and Kos. The association's beneficiaries were subjected to **border asylum procedures, accelerated procedures** for applicants from countries with low recognition rates, and the **regular procedure**. In addition, the majority of the applicants supported by the association are subject to **admissibility procedures** before the asylum application itself is examined.

The vast majority of the beneficiaries supported by the association live in **refugee camps** (there are more than 12 in the northern region of Greece) or in **Reception and Identification Centres** (RICs), or in the new **Closed Controlled Access Centres** (CCACs) in the hotspots, or in **Pre-removal Detention Centres**.

The information presented in this document is based both on **field analysis and operational insights** from our structure and on **relevant reports** published recently by associations, NGOs and international organisations active locally. In particular, it answers questions 2, 5, 7 and 8 of the questionnaire sent out as part of the fact-finding mission:

- *What is your view of the European Pact on Migration and Asylum (proposed regulation establishing screening of third-country nationals at external borders, asylum procedure at the border, etc.)?*
- *Can you give us an update on the management of the border between Greece and Turkey and the allegations made against Greece regarding illegal returns?*
- *How do you assess the current situation in the first reception countries (Greece, Cyprus, Italy, etc.)? How do you assess the situation in the hotspots and camps, particularly from a health point of view?*
- *What assessment can be made of the agreement concluded by the European Union with Turkey in 2016?*

We thought it appropriate to address these four questions together, as the answers are intrinsically linked.

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<sup>1</sup> To find out more about the association's activities, see the [2022 annual report](#).

# INTRODUCTION

## Contextual information on the situation in Greece with regard to migratory flows

- **A deteriorating context**

Since 2019, the human rights situation in Greece (and especially the rights of displaced people and those who defend them) has steadily deteriorated: the New Democracy government, elected in 2019, is particularly hostile and is stepping up attacks on displaced people and their defenders. This deterioration has not escaped the attention of the international community: Greece has been singled out for the deterioration in press freedom<sup>2</sup> and downgraded in the world rule of law index<sup>3</sup>.

In addition, the UN Special Rapporteur on the Human Rights of Migrants published a report on human rights violations at borders in April 2022, examining recent developments in migration and border governance and their impact on the human rights of migrants. In Greece, the rapporteur deplores the regrettable trend towards legitimising refoulements at the border and criticises the generalisation of the concept of safe third countries. Finally, he expresses his concern at "the significant increase in the number of people prevented from entering Greek territory, as part of the authorities' declared strategy"<sup>4</sup>. The UN Special Rapporteur on the situation of human rights defenders also denounced "the suffocating effect of the Greek government's migration policy on civil society" in July 2022 after two official visits<sup>5</sup>.

Despite refoulements at its borders, Greece remains in pole position as Europe's leading host country. It continues to register large numbers of applications for protection: 37,362 new asylum applications were lodged in Greece in 2022. At the same time, 22,316 applications are still awaiting a decision at first instance<sup>6</sup>.

The year 2022 will have been particularly dark, marked by the diptych of refoulement/criminalisation affecting the exiles themselves and human rights activists and defenders. The accusations are ultimately the same: espionage, human trafficking, criminal organisations. Numerous high-profile trials have been held in Greece this year, most of which have resulted in charges being dropped, or sentences reduced in the absence of evidence<sup>7</sup>.

- **Exacerbation of institutional and police violence against exiles**

Since its election in 2019, the New Democracy government has been pursuing crude and murderous methods with a clear and obvious objective: to reduce migration figures at all costs, which the Greek government boasts about at every opportunity, in the national and international media and before European political bodies.

The Greek government is pursuing this objective with almost surgical precision: harassment of asylum seekers by the authorities, confinement in dystopian prisons, administrative harassment, mass deportations, criminalisation of solidarity and prosecution of activists and defenders of migrants' rights, and finally, extreme militarisation of the border with Turkey and mass illegal deportations<sup>8</sup>.

Institutional and police violence is at its worst in Greece in 2023 as the elections approach, and a climate of fear has crept into migrant communities and civil society.

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<sup>2</sup> Reporters Sans Frontières (RSF), [World Press Freedom Index 2022](#)

<sup>3</sup> World Justice Project, [Global Rule of Law Index 2022](#), 28th position out of 31 countries in the regional index

<sup>4</sup> Special Rapporteur on the human rights of migrants, [report A/HRC/50/31](#): Violations of human rights at international borders: trends, prevention and accountability, 26 April 2022.

<sup>5</sup> [United Nations High Commissioner for Refugees](#), July 2022.

<sup>6</sup> Greek Ministry of Asylum and Migration, [Annual Report 2022](#) and [appendix](#).

<sup>7</sup> For example : [Le Monde, 9 December 2022](#) , [Le Monde, 10 January 2023](#), [InfoMigrants, 14 April 2022](#).

<sup>8</sup> See above.

- **Serious erosion of the rights of displaced persons**

Since it was elected, the government has undertaken the outright dismantling of the asylum procedure and existing protection mechanisms, in line with its policy of security and deterrence. Once again this year, the government has taken a number of key measures in this direction:

- the extension of admissibility procedures, and in general, a migration policy based on externalisation ;
- the suspension of the online asylum application service from November 2021 to July 2022, in direct contravention of European and international law;
- the definitive closure of the ESTIA II accommodation programme, which has resulted in vulnerable people being transferred to isolated camps and, at the same time, thousands of recognised or rejected refugees being made homeless in the middle of December.

In addition to these three flagship measures, there is a myriad of others, which are difficult to condense into a few lines: multiplication of procedural obstacles, "monetisation" of the asylum procedure with the creation of taxes and procedural fees of all kinds, an increase in rejection decisions, etc. As a result, we are witnessing a worrying erosion of the rights of exiles in Greece, which nothing seems to stop, not even the repeated injunctions of the European Court of Human Rights.

- **Fewer asylum applications, fewer rights**

Consequence of the government's dismal performance in 2022, very few new asylum applications were registered in Greece. And with good reason: even if a person crosses the border without being pushed back, they still have to be able to apply for asylum, which is a real challenge. With successive government reforms, the assistance of a lawyer has become essential at almost every stage of the procedure, without which the person seeking asylum is completely powerless to assert his or her rights. But this is not a given: in addition to the prohibitive cost of hiring a private lawyer for a person with no resources, the number of pro bono lawyers is also insufficient to cover needs.<sup>9</sup>

In this troubled political and social climate, violations of rights are multiplying in a climate of general indifference. As activists and defenders of migrants' rights, we are watching, dismayed and powerless, as violence is unleashed, indiscriminately affecting first-time arrivals, registered asylum seekers and recognised refugees, as well as their defenders, who are muzzled by legal proceedings. The proliferation of hate speech, anti-NGO propaganda and the criminalisation of solidarity are evidence of the major political and ideological shift taking place in Greece and Europe, making it essential to maintain an international presence to defend human rights and report on the situation on the ground.

For our association, the facts are clear and terrifying: the context in which we operate has deteriorated steadily since 2020, and the fundamental right to asylum is no longer guaranteed in Greece.

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<sup>9</sup> Equal Legal Aid published a report on this subject in January 2022: [Access to legal aid for exiles. Northern Greece](#), January 2022.

## I. EXACERBATION OF VIOLENCE ON THE GREEK-TURKISH BORDER

The management of the Greek-Turkish border is characterised by the systematic practice of illegal refoulements (B), the extreme militarisation of the border zone and, as a result, an increase in deaths and disappearances at the border (C).

### A. The situation on the Greek-Turkish border in the Evros region

Arrivals in Greece have fallen overall since 2020, with 18,780 recorded in 2022<sup>10</sup>. Several factors explain these low figures: the pandemic, as much as the very antagonistic context in Greece since 2019, the year marking the election of the current government led by the New Democracy political party.

In addition to the Greek hotspots, the Evros region, where the land border between Greece and Turkey is located, has since 2018 become a major entry point for exiles who have followed the eastern route. In 2015, only 1% of new arrivals were recorded at the land border, but by 2022 this figure had risen to 34%, according to the UNHCR<sup>11</sup>.

In addition to these new arrivals are asylum seekers transferred from the islands to the 12 refugee camps in the north of the country. According to the Government<sup>12</sup>, 8,316 people were transferred in this way in 2022. What's more, all the northern European destinations considered by exiles involve transiting through Thessaloniki, the region's largest urban centre. Conversely, the region of Northern Greece receives people turned away by the "buffer" states of Albania, Serbia, Northern Macedonia and Bulgaria.

Whether by choice or by force, displaced persons are trapped in Thessaloniki and the surrounding area in a very precarious situation. As a result, the region of northern Greece, and in particular around Thessaloniki, is a major crossroads for people on the move, both a transit centre and a bottleneck. This region therefore presents major challenges in terms of asylum and border management.

### B. Mass illegal refoulements

Illegal refoulements at Greece's borders, previously a state secret, are now the cornerstone of the Greek government's policy of deterrence<sup>13</sup>. The government is proud to have turned back more than 260,000 people in 2022, in operations that have become almost institutionalised and of exceptional violence<sup>14</sup>. These illegal refoulements, which are well documented, are relentlessly denounced by civil society actors<sup>15</sup> and regularly reported by the international press<sup>16</sup>. The involvement of the European border protection agency, FRONTEX, in these illegal practices, revealed by an investigation by the EU's Anti-Fraud Office (OLAF), has provoked strong reactions at EU level, notably in the European Parliament<sup>17</sup>.

As a not-for-profit organisation providing legal aid to asylum seekers in northern Greece, we have been involved in supporting several hundred people since we started our work in 2020. As part of our legal support programme, we collect the exile stories of the association's beneficiaries. We can say with

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<sup>10</sup>United Nations High Commissioner for Refugees, [operational portal](#).

<sup>11</sup> *Ibid.*

<sup>12</sup> Greek Ministry of Asylum and Migration, [Annual Report 2022](#) and [appendix](#).

<sup>13</sup> Special Rapporteur on the human rights of migrants, [report A/HRC/50/31](#): Violations of human rights at international borders: trends, prevention and accountability, 26 April 2022.

<sup>14</sup>Euronews, [Greece says it prevented 260 000 from entering in 2022](#), 22 January 2023.

<sup>15</sup>[Border Violence Monitoring Network](#), [Aegean Boat Report](#), [InfoMigrants](#), [European Council on Refugees and Exiles](#).

<sup>16</sup>[Le Monde](#), [Die Spiegel](#), [The Guardian](#), [EuroNews](#).

<sup>17</sup> [Le Monde](#), Pushbacks of migrants: In Evros, MEP in front of the "wall of lies" of the Greek Government, 20 September 2022.

certainty that all of our asylum-seeker beneficiaries have been the victim of **at least** one refoulement at the Greek-Turkish land border.

The modus operandi of these illegal refoulements, as described to us by our beneficiaries, is always more or less the same and systematically involves at the very least: coercion, physical and verbal aggression, sexual violence, degrading treatment, kidnapping and confinement in places that are generally secret and unhealthy, and theft or destruction of personal belongings (identity papers, mobile phones, cash, etc).

In our experience, these refoulements affect undocumented migrants, asylum seekers and recognised refugees without distinction, and can occur at any time, during and after the border crossing. On numerous occasions, we have been informed of people being illegally pushed back after being arrested in the centre of Thessaloniki, 380 km from the border, even though they were in possession of valid documents (such as an asylum seeker's card or residence permit)<sup>18</sup>. In a recent case in February 2023, one of our beneficiaries, a registered asylum seeker awaiting an interview with the Greek asylum authorities, was arrested in Thessaloniki city centre and pushed back to Turkey.

In addition, our hotline has been called on numerous occasions by asylum seekers in a situation of great distress, often accompanied by minor children, stranded on Greek territory near the border, with no possibility of applying for asylum and terrified at the thought of being turned back. On each occasion, the groups in question were turned back to Turkey, even though contact had been made with the authorities and the UNHCR to report the exact location of the groups and their intention to apply for asylum by our team of lawyers. In such situations, there is nothing we can do to avoid refoulement.

As lawyers, we are dismayed and horrified by these acts of barbarism carried out at the border of the European Union by the state law enforcement authorities, without any consequences to date, notwithstanding the edifying reports produced by civil society organisations for more than 3 years and the actions initiated (sometimes successfully) before the European bodies and in particular the European Court of Human Rights.

#### **Further reading:**

- In a report published in March 2023, the NGO **Greek Council for Refugees (GCR)** provides particularly detailed descriptions of 11 cases of refoulement in the border region of Evros and on the Aegean islands, and of 2 cases of refoulement by the Turkish authorities in Evros, contributing substantially to the existing body of evidence of the illegal practice of refoulement by the Greek state<sup>19</sup>. According to the NGO, *"Refoulement of refugees to Turkey is commonplace and is accompanied by humiliation, illegal detention, intimidation, physical and sexual violence and arbitrary confiscation of personal belongings"*.

In particular, and in all the cases described in the report, asylum seekers were arbitrarily detained in official or unofficial detention sites, for periods ranging from a few hours to a whole day, before finally being deported. In addition, all the victims claim to have been subjected to a strip search during their unofficial detention. In at least three cases, people reported incidents of sexual violence, ranging from humiliation to sexual assault and rape. The report also shows that human rights defenders supporting refugees, including NGOs such as the Greek Council for Refugees, are increasingly intimidated and hindered in their work by the Greek authorities. For the NGO, *"instead of putting an end to these rights violations, the Greek government is attacking those who support refugees, labelling them*

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<sup>18</sup>To read the testimony of one of our beneficiaries who was a victim of refoulement: [article](#) published on our website on 11 February 2022. Also, the [article](#) published in February 2023 in La Chronique, the human rights magazine, about Mrs Paulette and Amir, which describes the obstacle course that followed the refoulement to repatriate Amir to France.

<sup>19</sup> Greek Council for Refugees, [At Europe's borders: between impunity and criminalisation](#), March 2023.

*enemies of the state and smugglers, in order to silence them and hinder their work in favour of human rights."*

The NGO concludes: "A detailed analysis of the testimonies on the cases of refoulement in Greece over a period of one year highlights these illegal activities as a comprehensive, systematic and carefully planned migration and border policy by the Greek government. This is evident from the modus operandi and characteristics of these complex operations described by the victims, which contradict the narrative of "lack of evidence" about these rights violations, conveyed by the EU and the Greek authorities."

- In a report published on 30 March 2023, the **Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)** notes that unlawful practices of refoulement regularly take place at the land and sea borders of several Council of Europe member states under deplorable conditions. The Committee warns of the growing number of cases of ill-treatment of foreign nationals deprived of their liberty and calls on all Council of Europe member states to comply fully with the provisions of international law, in particular the prevention of torture and inhuman or degrading treatment. Finally, the Committee calls on European states to put an end to these illegal practices and to the ill-treatment of foreign nationals deprived of their liberty during forced removals<sup>20</sup>.
- In an investigation published on 9 March 2023, the Greek daily **Solomon** and the Spanish daily **El Pais** revealed that the Greek security forces had stolen more than 2 million euros from exiles and asylum seekers during illegal deportations at the Greek borders<sup>21</sup>;
- **European Council on Refugees and Exiles (ECRE)**, [Greece: Refugees criminalised while Authorities commits crimes with impunity](#), 10 March 2023 ;
- **Human Rights 360**, [Systemic breaches of the rule of law and of the EU asylum acquis at Greece's borders brought before the European Parliament](#), 24 June 2022.

### **C. Militarisation and disappearances**

The Greek-Turkish border, called Evros after the river of the same name (also known as Maritsa) that partly forms it, is around 200 km long. It lies in a mountainous region that is difficult to access. It is hemmed in on both sides by a demilitarised zone totalling 20 km<sup>22</sup>. It already includes a wall 40 kilometres long and 5 metres high, completed in 2021<sup>23</sup>. In addition, 1,800 border guards deployed by the FRONTEX agency patrol the area, along with Greek police officers. To prevent border crossings, the police and border guards have an impressive technological and military arsenal at their disposal (drones, thermal sensors and cameras, night vision goggles, noise cannons, etc.)<sup>24</sup>. This arsenal was reinforced after the events of February 2020. Tens of thousands of asylum seekers, mainly from Syria, Palestine and Afghanistan, were massed at the border and prevented from advancing by the Greek border guards or retreating by the Turkish authorities. The exiles were trapped for several days without access to water, food or any form of assistance, and the area was closed to humanitarian aid, rescue services and journalists.

Following this event, Greece suspended the possibility of applying for asylum for several weeks, and then for several months after the start of the Covid 19 pandemic. This event was also the obvious starting point for the authorities' policy of criminalising "illegal" entries, leading to dozens of asylum

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<sup>20</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, [32nd General Report of the CPT](#), March 2023.

<sup>21</sup> Solomon and El Pais, [The great robbery: during illegal pushbacks in Greece, refugees are robbed by border guards](#), published on 9 March 2023.

<sup>22</sup> Infomigrants, [Evros frontier: A militarized no-man's land where 'no one can access migrants'](#), 12 October 2021.

<sup>23</sup> Infomigrants, [Greece to fortify border to stop migrants, seeks EU funds](#), 22 December 2021.

<sup>24</sup> Infomigrants, [Airship deployed to patrol border between Greece and Turkey](#), 2 August 2021; Infomigrants, [In post-pandemic Europe, irregular migrants will face digital deterrents](#), 31 May 2021.



seekers being sentenced in summary trials (often without lawyers or translators) to long prison terms for "illegally crossing" Greece's borders, in flagrant violation of international law.

The militarisation of the border regularly hits the headlines in Greece and is used as political leverage by the New Democracy government. The Greek Minister for Migration, Notis Mitarakis, has announced the deployment of hundreds of additional border guards to patrol the Greek-Turkish land border in the Evros region and the funding of additional surveillance infrastructure and fencing following the deadly earthquakes in Turkey and Syria in February 2023<sup>25</sup>. In addition, and despite accusations of illegal refoulements, FRONTEX is stepping up its presence at the border. The European agency's border guards are expected to continue patrolling Greece until February 2024<sup>26</sup>. While the New Democracy government has repeatedly announced its intention to extend the wall along the entire length of the land border and to request financial support, the European Union is refusing to contribute to the costs<sup>27</sup>.

The immediate consequence of these policies is that crossing the Greek borders - both land and sea - is increasingly dangerous, and the number of people who have died or gone missing in the Mediterranean has never been higher. For example, on 19 April 2023, a young woman was killed by police in Northern Macedonia, on the Greek border. Her asylum application had previously been rejected by Greece. Accompanied by her partner, she had decided to seek refuge in another European country, before being shot dead during a border check. Her partner was arrested and detained. The 3 May 2023, a man has been slaughtered a ball in the head north Greece, near the border with the Turkey at the time a routine control. Of foreign origin, he was driving a vehicle containing seven passengers in search of protection. These two murders are a direct consequence of the tightening of border conditions, the trivialisation of violence and the lax attitude of the European Union towards Greece.

More and more people are risking their lives bypassing the Greek islands to travel in extremely overcrowded boats from Turkey to Italy. According to HCR, the last week of February 2023 was marked by the arrival of 695 people in Italy, during a long journey precarious by the sea since the coasts turques. During one of these attempts, 58 refugees and a newborn baby died on the Calabrian coast.

According to the International Organization for Migration (IOM), more than 20,000 people disappeared on the migratory routes to Europe between 2014 and 2019. During the same period, 2,609 bodies of deceased migrants were buried in Spain, Italy and Greece, according to statistics collected by the International Committee of the Red Cross (ICRC) in these countries. The ICRC is undertaking research in 2019 to quantify the number of thousands of people who have perished on the dangerous sea route between Africa and Europe and have never been found. It is estimated that only 13% of the estimated number of migrants who disappeared or died in the Mediterranean was found by the authorities between 2014 and 2019<sup>28</sup>.

Since the beginning of 2023, the IOM has reported that 824 people have been found dead or missing in the Mediterranean. The period from January to March 2023 was the deadliest first quarter for migrants crossing the central Mediterranean since 2017, with 441 lives lost trying to reach Europe, making the central Mediterranean the most dangerous migration route in the world<sup>29</sup>.

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<sup>25</sup> The Guardian, [Greece fortifies border to block refugees from Turkish-Syrian earthquakes](#), 26 February 2023.

<sup>26</sup> The National Herald, [FRONTEX Police to Patrol Greece-North Macedonia Border until January 2024](#), 21 April 2023 ; New York Times, [Greece Border Abuses Highlight Europe's Clashing Priorities on Migration](#), 16 February 2023.

<sup>27</sup> Politico, [EU vows more cash for frontier policing as border fence debate revives](#), 10 February 2023, Infomigrants, [Greece expands border fence with Turkey and urges EU support](#), 23 January 2023.

<sup>28</sup>International Committee of the Red Cross, [Counting the dead: How registered deaths of migrants in the Southern European sea border provide only a glimpse of the issue](#), 2022.

<sup>29</sup> France 24, [Deadliest first quarter for central Med migrants since 2017](#), 12 April 2023.

#### **D. Criminalisation of human rights activists and defenders**

In Greece, human rights defenders, humanitarians and activists are facing a worrying phenomenon of criminalisation of their activities. They are accused of belonging to criminal networks of smugglers, facilitating the illegal entry of exiles, and even of espionage. Three cases in particular have had a major impact over the last 12 months, due to their symbolic nature and the way they have been treated by the media and politicians.

##### **1. The case of the 38 in Evros and the proceedings brought against the NGO Human Rights 360**

The NGOs Greek Council for Refugees and Human Rights 360 were alerted in July 2022 that a group of around fifty Syrians was in distress on one of the islets in the river Evros. On 20 July 2022 and again on 9 August 2022, the European Court of Human Rights (ECHR) ordered the Greek government to come to their aid, but these injunctions were not followed up. The authorities claim that they are unable to locate the group. During this period, the group, still stranded in Evros, reported that they had been pushed back and forth several times on both sides of the Greek-Turkish border. During one of these refoulements, two exiles allegedly drowned, according to their testimonies. Finally, the group was "rescued" on 15 August 2022 by the Greek authorities after a 5-year-old girl allegedly died from a scorpion bite. The case caused a stir in the Greek and international media, with the presumed death of the little girl being attributed to the faulty inaction of the authorities. In their defence, the authorities first claimed that the islet where the survivors were located was actually on Turkish territory, a claim that has since been refuted by topographical surveys of the area. Then they denied the very existence of the girl, accusing journalists and NGOs of "fake news".

In September 2022, an investigation was opened at the Orestyada public prosecutor's office. The lawyer for the alleged victim's parents, who works for the Greek NGO Human Rights 360, was prevented from meeting her clients, who were being held at the Fylakio reception centre on the border. In September, the Athens Bar Association protested against our colleague's treatment and published a press release. At the same time, the survivors of the group, still detained at Fylakio, denounced the threats and pressure exerted by government officials. These complaints are the subject of a report sent to the Greek Supreme Court by their lawyers.

In autumn 2022, the national anti-money laundering authority was asked to investigate the NGO's financial management. Then, in November, an investigation was opened by the public prosecutor's office. As for the NGO, it believes that it is a victim of the "witch-hunt" launched by the authorities against NGOs denouncing illegal refoulements<sup>30</sup>. The victim's family has asked for the body of their daughter (whose existence is still in dispute) to be exhumed, but this will have to wait until the river level drops and the islets are once again accessible. The case is still under investigation.

##### **2. The Dimitras and Olsen cases**

In December 2022, Panagiotis Dimitras, director of the Greek Helsinki Monitor, an NGO monitoring human rights violations in Greece, and Tommy Olsen, founder and director of the NGO Aegean Boat Report, denouncing illegal refoulements in the Aegean Sea, were indicted. They are accused of heading criminal organisations facilitating the illegal entry and stay of migrants<sup>31</sup>. The Greek Helsinki Monitor has documented and launched legal proceedings in a large number of cases of illegal refoulement. The case is currently under investigation. In the meantime, Dimitras has been banned from getting involved with Greek Helsinki Monitor, despite being one of its founding members. Other members of the NGO Aegean Boat Report had already been arrested in July 2021 for smuggling

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<sup>30</sup> Human Rights 360, [4 plus 1 lies and the truth about HumanRights360 and the European Economic Area \(EEA\) funds](#), 29 November 2021.

<sup>31</sup> Middle East Eye, [Why Greece is clamping down on these refugee rights activists](#) : "NGO workers denounce Greek 'criminalisation' of advocacy for refugees, warning it could lead to more deaths and deter others from carrying out humanitarian work", 22 April 2023.

migrants and spying. Civil society denounces a witch-hunt by the Greek government against human rights defenders.

Speaking about the criminalisation of Dimitris Panagiotas and Tommy Olsen, the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, said:

*« Each [of these cases] deters people from acting in solidarity with migrants, refugees and asylum seekers and undermines the work of all Human Rights Defenders in the country. Such attacks are happening against a backdrop of restrictions on non-governmental organisations working on migration, which have served to obstruct defenders who the Government should see as allies in upholding their obligations under international and European human rights law. (...) The current Government has placed migration within a security paradigm, facilitating rights violations, including pushbacks, which make a mockery of Greece and the EU's commitment to human rights. There needs to be change and accountability. The management of migration should be intertwined with human rights policy to ensure the rights of all persons are fully upheld, including migrants, refugees and those seeking to exercise their right to apply for asylum.»<sup>32</sup>*

### **3. The case of the 24 on Lesbos**

In 2018, twenty-four volunteer aid workers from sea rescue NGOs on Lesbos were arrested and spent more than three months in pre-trial detention<sup>33</sup>. They were indicted and charged with money laundering, espionage, human trafficking and membership of a criminal organisation. They face up to twenty-five years in prison for these offences.

These accusations, which are not based on any evidence, have been strongly criticised, both by NGOs such as Amnesty International, which has denounced a "grotesque trial"<sup>34</sup>, and by institutions such as the UN, which is calling for all charges against these aid workers to be dropped outright<sup>35</sup>. It is particularly concerned about the risk of creating a "dangerous precedent" and the paralysing effect that these trumped-up charges could have on the work of human rights defenders<sup>36</sup>.

Elizabeth Throssell, spokesperson for the UN Office of the High Commissioner for Human Rights, recently recalled in Geneva the absence of civilian search and rescue operations in Greece, before declaring that "saving lives and providing humanitarian aid should never be criminalised. Such actions are, quite simply, a humanitarian and human rights imperative"<sup>37</sup>.

On 13 January 2023, the Mytilene court decided to annul the espionage proceedings on the grounds of procedural flaws on the part of the public authorities. However, the proceedings against the humanitarians on charges of money laundering, human trafficking and membership of a criminal organisation are still under way. Pending their trial, some aid workers, such as Sara Mardini, have also been banned from entering Greece<sup>38</sup>.

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<sup>32</sup> Mary Lawlor, UN Special Rapporteur on Human Rights Defenders, press release, [Why are human rights defenders in Greece at risk and what can be done about it?](#), 14 March 2023.

<sup>33</sup> Le Parisien, [Refugee Sarah Mardini in prison for helping migrants in Greece](#), 29 August 2018.

<sup>34</sup> Amnesty International, [Greece: 'Farcical' trial of rescue volunteers begins next week](#), 5 January 2023.

<sup>35</sup> UN news, [Greece in spotlight over trial of activists, volunteers who rescued migrants](#), 13 January 2023.

<sup>36</sup> *Ibid*

<sup>37</sup> Le Monde, [Greek court quashes "espionage" proceedings against twenty-four aid workers on Lesbos](#), 13 January 2023.

<sup>38</sup> France 24, [Greece: Court quashes "espionage" proceedings against 24 aid workers](#), 13 January 2023.

## II. SIGNIFICANT DETERIORATION IN RECEPTION CONDITIONS

The Greek reception system is entirely based on detention and "encampment" (A), which have become widespread since 2019 (B), resulting in deteriorating reception conditions for asylum seekers and breaches of the law (C).

### A. Identification and reception services at Greek borders

In Greece, the First Reception Service (FRS) was created in 2011<sup>39</sup>. It was given responsibility for reception, identification and orientation, which had previously been the responsibility of the Greek police under the authority of the Ministry of the Interior. In practice, this service is based on **closed structures** or **Reception and Identification Centres (RICs)**, which are responsible for managing third-country nationals who have entered Greece 'illegally'. Their responsibilities include:

- checking the identity and nationality of new arrivals;
- registering their applications;
- medical checks and, if necessary, the provision of first aid and psychological support;
- information on rights and obligations, particularly with regard to applications for international protection;
- identifying potential vulnerabilities and referring them to specialist services.

Locally, these tasks are delegated to Mobile First Reception units, which are organised into different administrative bodies, according to their area of expertise.

Once they have been identified, applicants for international protection are referred to the relevant **regional asylum service**. In some cases, a **mobile asylum unit** is detached to certain initial reception centres. Responsibility for asylum is shared between the Greek Asylum Service (GAS) and the European Union Asylum Agency (EUAA).

In addition to the identification tasks mentioned above, the first reception centres and mobile units are required to meet a number of legal requirements:

- ensuring decent living conditions;
- maintaining family unity;
- provide access to emergency medical care and any necessary medical and psychological support;
- identify and correctly refer vulnerable groups of people;
- provide adequate access to information on the rights and obligations of each applicant for international protection;
- maintain contact with associations and social organisations.

The first RIC, a closed reception centre called Fylakio, opened on 15 March 2013 in the Evros region, near the Greek-Turkish border, with a capacity of 240 places. Until 2020, only two other reception facilities were run by the initial reception service (the Diavata camp near Thessaloniki and the Elonas camp near Athens). In addition to these three centres, more than 17 "open" reception facilities (in other words, refugee camps) were set up in mainland Greece to receive asylum seekers once they had been identified.

It soon became apparent that the capacity of the Fylakio centre was not sufficient. It happened that twice as many people arrived there in a single day. The same problem has been observed on the islands of Samos, Chios and Lesbos, where there are other closed reception and identification centres (now renamed CCACs). When migratory flows intensified in 2015, these closed centres, with their limited reception capacity, were quickly overwhelmed. And yet they are responsible for initial

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<sup>39</sup> [Law no. 3907/2011](#) transposing into Greek law the provisions of European Directive no. 2008/115/EC, in particular with regard to the rules and procedures common to the Member States concerning illegally staying third-country nationals.

administrative screening, enabling applicants to be directed effectively and vulnerable groups to be identified.

Following the agreement reached between the European Union and Turkey in March 2016, and in order to cope with the increase in flows, a new law was adopted in Greece in 2016<sup>40</sup>. The mobile first reception units adapted their operations to incorporate the new **admissibility procedures** arising from the agreement with Turkey, which applied geographically to the island hotspots (Lesbos, Samos, Chios, Leros and Kos) and the Fylakio RIC in Evros. In application of the EU-Turkey agreement and admissibility procedures, drastic restrictions on freedom were implemented in these five geographical areas, the much disputed "geographical restrictions". The aim was also to increase the capacity of the initial reception services and to cover the shortfall in human and financial resources.

In practice (and to this day), temporary solutions continue to be the only response to accommodation needs. We must stress the lack of uniformity in accommodation conditions, and question the selection criteria that preceded the installation of certain sites, which are clearly unsuitable or even dangerous. The asylum-seeking population has been spread out over dozens of camps throughout Greece, on reconditioned industrial, railway or military sites, or even in no-man's-land where prefabricated containers, military-style group tents or ordinary tents have been installed, far from urban centres and posing major logistical problems of access to services (administrative, legal, medical, educational), supplies (drinking water, electricity, food, waste management), security and integration. One example is the Nea Kavala camp near the village of Polykastro in northern Greece. Located on a former civil aviation site, containers and group tents were hastily installed on this site, which was able to accommodate up to 3,000 people, 4 km from the nearest village and 30 km from the first hospital; or the new Kara Tepe camp on Lesbos, set up on a former military training site with no access to running water or electricity.

## **B. Policy of "encampment" and widespread detention**

If the refugee camps in Greece have been infamous since 2016, the situation has not improved since then - quite the contrary. The current New Democracy government is meticulously pursuing its policy of "encampment" or, in other words, the arbitrary and systematic use of detention at all stages of the asylum procedure, for all applicants. Several key measures have been taken over the last 3 years to achieve this:

- 1. The construction of "closed" camps on some of the hotspot islands**, in particular Lesbos and Samos, where the notorious "Closed Controlled Access Centres" are gradually replacing the original structures and causing outrage because of their dystopian character as ultra-technological open-air prisons. On the islands of Chios and Kos, also hotspots, the construction of CCACs is causing controversy among local residents and authorities, who have initiated legal proceedings against the Greek government to halt the work. Construction of these sites is still blocked to this day. As for the Samos CCAC, which has been in operation for over a year, it is the subject of debate (see below).
- 2. The gradual transformation of the mainland's "open" camps into so-called "semi-closed" structures**, with the addition of 4-metre concrete perimeter walls, digital security gates, opening hours and checks on reasons for leaving. These transformations and facilities have been widely criticised for leading to the de facto detention of asylum seekers, in violation of international and European law. For examples of these semi-enclosed camps, see the Diavata camp near Thessaloniki and the Nea Kavala camp near the village of Polykastro, where 4-metre concrete walls were erected in 2021<sup>41</sup>.

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<sup>40</sup> Law no. 4375/2016 transposing, inter alia, Directive 2013/32/EU of the European Parliament and of the Council "on common rules for procedures in Member States for granting and withdrawing international protection status".

<sup>41</sup> Infomigrants, [Greece: At Nea Kavala camp, "a concrete wall blocks the view and cuts off the sound"](#), 12 October 2021.

3. **The definitive closure of the ESTIA II accommodation programme in December 2022**<sup>42</sup>. The ESTIA programme was initially set up by the European Union in 2015, under the direction of the UNHCR, to provide vulnerable asylum seekers with accommodation in urban areas<sup>43</sup>. The aim was to provide these people with easier access to medical and psychosocial care and to promote their integration into Greek society. In December 2022, the Greek government definitively stopped this programme. All vulnerable persons eligible for the programme (i.e. with an asylum application pending at first instance) were transferred to refugee camps, at the discretion of the authorities. Vulnerable people who were not eligible for the programme were evicted from their homes, with no alternative accommodation, in the middle of December (the winter truce does not exist under Greek law). The definitive closure of the programme has been unanimously condemned by civil society actors, not only because it has thrown thousands of vulnerable people onto the streets, but also because it runs counter to expert opinion. According to them, the programme should be considered a success in terms of meeting the needs of vulnerable people and integration, but also because of its positive impact on the local economy, since it involved renting out privately-owned homes in a market marked by property speculation.
4. **The generalisation of detention for asylum seekers in accelerated procedure or with a rejection, prior to removal.** The number of refugees and migrants detained at the end of 2022 has increased by 20% compared to the end of 2021, reaching 2,813 detainees. But a rise of almost 50% was recorded last year for the strictly administrative detention of refugees and migrants in Greece, reaching 30,631 people, according to data made available in March 2023 by the national police<sup>44</sup>. Although administrative detention is defined as a last resort under Greek law, it is widely used for prolonged periods of up to 18 months, without legitimate reason and without the intervention or control of a judge. In reality, detention is used in Greece as a deterrent and to compensate for the inability of State authorities to carry out complex return and expulsion procedures.
5. **Restrictions on accreditations issued to NGOs and international organisations:** the Greek government has also adopted a regulation imposing on structures working in the field of migration, asylum and integration disproportionate declaration obligations and operating standards for the issuance of an accreditation allowing access to refugee camps and RICs<sup>45</sup>. This regulation is the subject of an appeal currently pending before the Greek Supreme Court on the grounds that it violates freedom of association as guaranteed in particular by the Charter of Fundamental Rights of the European Union. But above all, this regulation is significantly hindering access to reception facilities. In addition to the progressive encampment of asylum seekers, these restrictions lead to situations of detention without any witness. Many detention centres, whether semi-closed camps, CCACs or RICs, have become veritable black holes, with no NGOs or international organisations present to ensure that fundamental rights are respected. These restrictions have also for the consequences of penuries yet vital services, previously provided by international NGOs.

### **C. Structural failure of the Greek reception and identification system**

Overall, the Greek reception system has failed to prepare or adapt state structures to cover reception, accommodation and asylum registration needs. The structural failure of the Greek reception system is

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<sup>42</sup> Read our article on [the closure of the ESTIA II programme](#).

<sup>43</sup> ESTIA II grew out of the European Union (EU)-funded ESTIA I programme, which was initially set up by UNHCR in 2015 with the aim of facilitating the integration of asylum seekers into Greek society and addressing the specific needs of vulnerable people. In an attempt to achieve these laudable aims, the most vulnerable people were provided with private accommodation, centrally located in several cities across Greece. In addition, the ESTIA programme offered psychosocial and mental health support, interpreters, medical referrals and cash assistance was distributed to vulnerable people and those living in camps.

<sup>44</sup> EFSYN, Greece, [Increasing detainees and shortages in refugee detention centres](#), 5 April 2023.

<sup>45</sup> RSA, [Greek NGO Registry and its implementation incompatible with international and EU law, according to ECRE expert opinion](#), 20 December 2021

mainly due to its inadequacy at the time of its creation, but also and above all, to the inability of the authorities to develop it and make up for these shortcomings during its expansion. The government's inconsistent and ineffective strategy is also the result of external policies, reflecting wider priorities within the European Union.

Many criticisms have been voiced about **the organisation of first reception sites**: too great a distance from the nearest urban and administrative centres, minimal availability and high cost of transport (public or financed by NGOs), minimal and expensive access to public services and schools, feeling of marginalisation, congestion and increase in the unregistered population in sites located within an urban centre (Eleonas in Athens, Diavata in Thessaloniki), lack of resources, lack of clarity in the roles and responsibilities of each department, lack of support for capacity building in the majority of sites on the continent, minimal collaboration with municipalities, lack of transparency, lack of evacuation plans, lack of safety and fire protection plans, physical risks and safety issues, cases of substance abuse and drug trafficking, limited site accessibility for people with disabilities. The lack of a harmonised approach to the provision of services (cleaning, maintenance, medical, legal) and hygiene kits and basic necessities to new arrivals was also singled out.

Furthermore, the 2016 reform did not resolve the **lack of transparency** attributed to the Greek State with regard to the allocation of European funding and the opacity of the procedures for tendering, negotiating and awarding contracts for projects relating to the acquisition, construction, rental of sites dedicated to temporary and/or permanent accommodation, transport between sites, food and medical services, funeral costs, management of humanitarian aid and storage, etc. The introduction of screening procedures in the hotspots and in Evros in closed camps has not made it possible to deal effectively with the increase in the number of arrivals. Worse still, the combination of these screening procedures in closed centres with the adverse effects of the EU-Turkey agreement has led to :

- on the one hand, **total congestion of the sites** due to the geographical restrictions imposed, with the dramatic consequences we are all aware of (described below);
- and the **impossibility of identifying vulnerable people** whose needs and rights require ad hoc reception procedures.

At the same time, the Greek asylum service has not been able to respond quickly to asylum applications made between 2015 and 2017, not only in temporary accommodation structures on the mainland, but also in hotspots where geographical restrictions apply.

The limited reception capacity, the lack of accurate estimates of flows and the geographical restrictions resulting from the EU-Turkey agreement have led to congestion on the sites. Asylum seekers, detained de facto in conditions that violate fundamental rights, have been subjected to procedures that are supposed to be accelerated but are constantly prolonged, in an increasingly complex administrative environment. The agreement concluded between the EU and Turkey and the corresponding policies have forced the reception system to adapt constantly to emergencies, allocating funds and resources to one-off tasks instead of building a coherent mechanism based on long-term planning.





Photos of the pre-removal detention centre at the Greek-Turkish border

Violations of rights in the RICS and in the Greek camps are legion. They are well documented by civil society and regularly reported in the international press. In particular, the following difficulties can be listed (non-exhaustive list):

- appalling material conditions (square footage/person below European prison standards, overcrowding, difficult access to running water, drinking water, electricity, problems with sewage treatment and waste disposal, lack of heating, rodents and insect infestation, inadequate communal areas, lack of sports, leisure or educational facilities for children, etc);
- difficult or impossible access to appropriate medical care (particularly for chronic illnesses, given the isolation of the sites);
- widespread psychological problems, lack of appropriate help (a problem exacerbated by the adoption of regulations limiting accreditation and the impossibility for major medical NGOs such as Médecins Sans Frontières or Médecins du Monde to operate in the camps, which have been banned from entering the camps since 31 December 2022);
- no access to lawyers;
- difficulty in identifying and caring for vulnerable people adequately.

These difficulties have been compounded by the closure of the ESTIA programme, which transferred thousands of vulnerable asylum seekers to unsanitary camps.

In a landmark ruling on 4 April 2023, the European Court of Human Rights (ECHR) found that Greece had violated Article 3 of the European Convention on Human Rights, which prohibits torture and inhuman or degrading treatment, in a case concerning the living conditions of an asylum seeker who gave birth in Samos and was subsequently transferred to a camp on the mainland where living conditions were substandard. The Court has once again confirmed that the living conditions of asylum seekers, and pregnant women in particular, are unacceptable in Greek camps<sup>46</sup>.

#### **Further reading:**

- **Refugee Support Aegean (RSA)**, [Refugee women in the offside Greece encampment policy and services takeover lead to isolation and deny protection](#), 21 March 2023 : testimonies of several refugee women from Afghanistan living in camps in mainland Greece. Relevant extracts from the article:

*“Remote refugee camps, now dubbed “Controlled Access Centres”, are the only shelter option available to asylum seekers in Greece since the government closed down the “ESTIA II” decentralised accommodation program at the end of 2022. Placement in camps throughout the mainland is decided by the Reception and Identification Service (RIS) based on available capacity. Accepting such a placement is a precondition for receiving reception conditions during the asylum process under EU and domestic rules, including a monthly financial allowance.*

<sup>46</sup> European Court of Human Rights, 3rd section, A.D. vs Greece ([55363/19](#)), 4 April 2023.



With Greece's plan to transform all existing facilities into Closed Controlled Centres progressing, the Ministry of Migration and Asylum is proceeding with the takeover of services provided inside the camps. This has led to the gradual phasing out and departure of "Site Management Support" services formerly provided by the International Organisation of Migration (IOM), reportedly completed by 20 March 2023. Key services including hours-long transportation of camp residents to urban centres for medical appointments, asylum interviews or other purposes have been stopped altogether.

The women describe the financial and practical obstacles they face to leave the camps and reach services based in the cities, lack of information and orientation and undignified situations once using public transportation without tickets. The current decrease / end of services run until recently by IOM inside the camps has created further stress to them as they worry to face complete lack of support in matters of legal advice, psycho-social support, referrals or transportation from now on."

- **FENIX Humanitarian Legal Aid**, [Unrecognised vulnerability: Greece's systematic failure to identify and certify Victims of Torture](#), 25 April 2023. Relevant extracts from the article:

"Practice over the years has demonstrated serious deficiencies in the identification and certification of victims of the torture of applicants in Greece, including on Lesbos. Systematic deficiencies have been observed in the identification of vulnerabilities due to low quality of vulnerability assessments, rushed procedures and disregard of incidents of torture outside the country of origin during the asylum interview. Additionally, structural deficiencies are also observed in the specific process to certify victims of torture, namely due to restrictive legislation limiting only public authorities to provide certification for VoTs in accordance with the Istanbul Protocol, whilst national authorities and bodies do not have the qualification or training and lack of interpretation to proceed with this certification.

The deficiencies observed during the asylum procedure and VoT certification leave asylum seekers, who reported being subject to or present signs of having been subjected to acts of torture, without access to fundamental rights and guarantees, including access to special reception conditions and special procedural guarantees in line with their special needs, and access to rehabilitation and adequate care.»

- In a joint initiative by the Border Violence Monitoring Network<sup>47</sup>, Mobile Info Team<sup>48</sup> and I Have Rights<sup>49</sup>, three reports published simultaneously in February 2023 provide further evidence that **displaced persons and asylum seekers are systematically detained and ill-treated in Greece**. These three in-depth studies highlight human rights violations against asylum seekers in detention, through excessive use of violence, neglect of basic needs and failure to respect legal practices. According to a survey carried out by the Border Violence Monitoring Network in the 3 pre-removal detention centres in Greece, 65% of respondents said they had been subjected to violence by the authorities or had witnessed violence by the authorities in detention; 15% of respondents specifically used the term "torture" to describe their treatment; 20% of testimonies mentioned punishment tactics in "dark rooms" or "other rooms".

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<sup>47</sup> Border Violence Monitoring Network, [Dark rooms, degrading treatments and denial: the use of violence in Greece's pre-removal detention centers](#), February 2023.

<sup>48</sup> Mobile Info Team, [Prison for papers](#): "Prison for Papers": Last Resort Measures as Standard Procedure - Researching Pre-removal Detention Centres on Mainland Greece, February 2023.

<sup>49</sup> I Have Rights, [The EU-funded Closed Controlled Access Center: de facto detention of people seeking protection in Samos](#), February 2023.

### III. SIGNIFICANT DECLINE IN THE RIGHT TO ASYLUM IN GREECE

Since the events of February 2020, exiles have found it extremely difficult to apply for asylum in Greece (A). Greece, like many European countries, is increasingly resorting to externalisation, which leads to violations of rights (B). In addition, successive reforms have made the asylum procedure extremely complex and fraught with obstacles (C).

#### A. Material difficulties in applying for asylum

In February 2020, Greece suspended the right to apply for asylum for several weeks, a suspension then extended for months with the Covid 19 pandemic. Although explicitly prohibited by the Geneva Convention, the Greek authorities criminalised border crossings. Asylum seekers arrested during this period were brought before the courts in emergency proceedings and many were sentenced to several years in prison, without the assistance of a lawyer or even an interpreter. These derogations from international law, which were not followed by sanctions, set a worrying precedent, and since then the difficulties of seeking asylum in Greece have multiplied.

In November 2021, the Ministry of Migration and Asylum adopted two circulars requiring asylum seekers to physically visit one of the five RICs in Greece in order to apply for asylum. This measure was particularly detrimental on several levels:

- firstly, because it meant that applicants would have to travel by their own means on Greek territory, without any papers or documents indicating their wish to apply for asylum, in an aberrant denial of the difficulties that undocumented migrants may encounter in travelling;
- secondly, because the circular absurdly stipulated that only one RIC on the entire continent, the 280-place RIC in Fylakio, whose overcrowding problem has already been mentioned (see above), would receive all applications;
- In addition, the two circulars did not provide for any measures to detect vulnerable cases, whose specific needs and rights during the asylum procedure were mentioned above;
- Finally, the Fylakio RIC is located on the Greek-Turkish border, where the risk of refoulement is very high.

Even though the circular did not specify in practice how these changes would be implemented and no measures had been taken in the RICS or the asylum offices to adapt to these changes, the pre-registration platform for asylum applications (on the Skype application), which had been set up in 2016, was suddenly abolished. While the platform on Skype was highly open to criticism and was more akin to a lottery than an administrative procedure, it at least had the merit of existing. What followed was a **suspension of asylum applications for more than nine months**, between November 2021 and July 2022<sup>50</sup>. In other words, a European government has introduced a deliberate material obstacle aimed at purely and simply preventing asylum applications from being lodged on its territory.

Since 13 July 2022, a new procedure has been in place requiring foreign nationals wishing to lodge an asylum application to register on an online platform, in order to make an appointment for the pre-registration of their asylum application at an RIC in Malakasa (near Athens) or Diavata (near Thessaloniki)<sup>51</sup>. Although this new procedure was initially well received, it was soon criticised and denounced as yet another obstacle in the same vein as the previous ones, designed to make it increasingly difficult to obtain protection. Numerous malfunctions have been reported by organisations defending exiles, who denounce the persistent and deliberate material impossibility of registering asylum applications. For example, this platform has been saturated for several months, with appointments often scheduled more than a year after registration on the platform. In addition, the booking of appointments is regularly suspended for periods ranging from a few weeks to several

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<sup>50</sup> Mobile Info Team, [Blocked from the system: Voices of people excluded from the asylum procedure on mainland Greece, Crete and Rhodes](#), May 2022.

<sup>51</sup> InfoMigrant, Leslie Carretero, [With the new asylum procedure, "the Greek government is creating undocumented immigrants"](#), 23 September 2022.

months for certain particularly common languages such as Farsi or Arabic. Finally, these successive changes have created widespread confusion, including among associations defending the rights of exiles.

Since 1 September 2022, part of the Malakasa (near Athens) and Diavata (near Thessaloniki) camps has been officially converted into a closed reception and identification centre for asylum seekers (RIC). Asylum seekers must go there voluntarily to apply for asylum and are detained there for 25 days. The operation of these two new centres is still opaque at the time of writing. We must - once again - strongly condemn the deplorable conditions in which asylum seekers are forced to exercise their fundamental rights, detained for prolonged periods, without access to a judge or a lawyer (our team of lawyers has been prevented on several occasions from accompanying its asylum seeker beneficiaries during registration interviews, a possibility explicitly provided for in Greek law and in European texts).

## **B. Generalisation of externalisation and admissibility procedures**

On 18 March 2016, the European Union reached an agreement with Turkey, as a result of which Syrians fleeing war in their country and arriving at Greek hotspots (Lesbos, Chios, Samos, Leros, Kos and Fylakio) would now be subject to an "admissibility procedure"<sup>52</sup> - the aim of the agreement being to send people back to Turkey, in order to avoid having to examine their asylum claims in Europe. The European Commission noted the discriminatory effects of this controversial measure - which de facto limits the right to apply for asylum - but considered at the time that they were justified by the extraordinary circumstances and temporary nature of the agreement<sup>53</sup>.

Five years later, as the number of asylum seekers arriving in Greece has fallen considerably, the Greek government has extended the admissibility procedure:

- On 7 June 2021, the Greek government declared Turkey a safe third country for people of Afghan, Syrian, Somali, Pakistani and Bangladeshi nationality;
- then on 20 December 2021, the Greek government added Albania and Northern Macedonia to the list of safe countries, extending the much-criticised admissibility procedure to all asylum seekers (of any nationality) who have transited through these two countries before arriving on European soil.

These decisions have raised many concerns about the safety of returned asylum seekers<sup>54</sup>, given their treatment by the Turkish authorities<sup>55</sup>. The situation with regard to the rights of exiles in Greece has deteriorated, as has the general decline in the rule of law. Last year, for example, Turkey withdrew from the 2014 Istanbul Convention on preventing and combating violence against women and domestic violence and is not a signatory to the 1967 protocol. It therefore does not guarantee full protection in accordance with the 1951 Geneva Convention. Turkey derogates from the principle of non-refoulement, admitting that it expels asylum seekers to countries where they are at risk of torture or cruel, inhuman or degrading treatment. Numerous reports indicate that Turkey has persecuted ethnic and religious minorities, members of the LGBTQI+ community, political opponents and human rights defenders. In addition, the Turkish judicial system, which is not independent, is incompatible with European and international standards. Finally, **Turkey has not accepted the return of any asylum seekers from Greece since March 2020**<sup>56</sup>.

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<sup>52</sup> Asylum Information Database, [Admissibility procedures](#), 30 May 2022.

<sup>53</sup> European Commission, [Communication from the Commission to the European Parliament, the European Council, and the Council on the next operational steps in EU-TURKEY cooperation in the field of migration](#), 16 March 2016.

<sup>54</sup> Europe's views, [Concern in Greece following the designation of Turkey as a "safe third country"](#), 23 June 2021.

<sup>55</sup> InfoMigrants, Marion MacGregor, [Refouled and forcibly expelled: Turkey toughens its policy on Afghan migrants](#), 2 December 2022.

<sup>56</sup> European Commission, [Commission staff working document "Turkey has continued to refuse to resume the readmission of returnees from the Greek islands, halted in March 2020, citing the restrictions imposed by COVID-19"](#)

The extension of admissibility procedures in Greece follows the logic of externalisation, which consists of States discharging their responsibilities in terms of asylum, relocating the reception of exiles and the processing of asylum applications to other countries, outside the European Union, and without any control of respect for human rights. These practices also involve the forced transfer of exiles. Externalisation constitutes a breach of States' international obligations, in particular the principle of non-refoulement. The UNHCR considers that "these practices jeopardise the rights of people seeking safety and protection, stigmatise them, penalise them and can put their lives in danger"<sup>57</sup>.

In its latest report, the European Commission opposes Greece's designation of Turkey as a safe third country<sup>58</sup>. It makes detailed reference to the obstacles to refugees' access to international protection, the violations of the principle of non-refoulement and of human rights in detention, and the more general decline in the rule of law in Turkey. For its part, the UNHCR has denounced the lack of procedural guarantees and of a mechanism for determining refugee status in Northern Macedonia, believing that these shortcomings inevitably compromise the fairness of the entire procedure.

In practice, these two decisions have had devastating effects in Greece, which have been unanimously condemned:

- Violation of the right to asylum, due to the very high rates of arbitrary rejection of applications, based solely on the concept of "safe third countries", without any examination of the merits of the applications;
- Violation of the right to dignity, due to the extremely precarious material situation in which rejected asylum seekers have to survive, because of the legal limbo in which these people find themselves: without deportation to Turkey, without papers, often homeless, and with no possibility of asserting their rights.

It is of significance that these admissibility procedures concern the nationalities corresponding to the **largest contingent of asylum seekers in Greece**, and moreover originate from **countries with a high rate of recognition of refugee status**. In 2022, 52% of asylum seekers in Greece were from Syria, Afghanistan, Somalia, Bangladesh and Pakistan<sup>59</sup>.

As the NGO Refugee Support Aegean points out:

*"(...) The main countries of origin of applicants [in 2022] include all the nationalities for which Turkey has been designated as a "safe third country" (joint ministerial decision 42799/2021), and on which there is a presumption of inadmissibility [of the asylum application]. Four nationalities appear on the national list of "safe countries of origin" (joint ministerial decision 708368/2022) and are therefore covered by the accelerated procedure by virtue of a presumption of manifest unfoundedness. Nationals from Pakistan and Bangladesh fall under both lists."*

In 2022, Greece continued to systematically and arbitrarily apply the concept of "safe third country" despite the clear absence of prospects of readmission to Turkey since 2020, as the plenary session of the Greek Council of State recently pointed out in the context of a preliminary reference to the Court of Justice of the European Union (CJEU)<sup>60</sup>. In a resounding preliminary opinion, the Greek Council of State ruled that a country cannot be considered safe if it does not accept refugees being returned to its territory to seek asylum, as is the case with Turkey. This is only a half-hearted victory for the

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*despite repeated requests from the European Commission to fully implement all the provisions of the EU-Turkey Declaration.*", 19 October 2021.

<sup>57</sup> UNHCR, [UNHCR warns against "exporting" asylum, calls for responsibility sharing for refugees, not burden shifting](#), 19 May 2021.

<sup>58</sup> European Commission, [report on Turkey](#), October 2022.

<sup>59</sup> Greek Ministry of Asylum and Migration, [Annual Report 2022](#) and [appendix](#).

<sup>60</sup> Refugee Support Aegean, [Decision declaring Turkey a "safe third country" brought before Greek Council of State](#), 8 October 2021.

associations that have relentlessly denounced these abusive<sup>61</sup> and unjustified procedures, as it will take several months for the CJEU to reach a decision.

In 2022, the Greek asylum service rejected 3,601 applications as inadmissible on the basis of the "safe third country" concept. Of these, 3,445 concerned Turkey as a "safe third country", 96 concerned Northern Macedonia and 60 concerned Albania<sup>62</sup>.

#### **Further reading:**

- **Refugee Support Aegean**, [The EU-Turkey deal is collapsing 7 years after its signing](#) 16 March 2023. Relevant extracts:

*The backsliding of the rule of law in Greece continues alarmingly and systematically, and the governmental and state handling of refugee constitute one of the most serious threats to its functioning and to the democratic acquis of the country. The result of the "agreement" was and is the deprivation of refugees' fundamental rights, the challenge of the right to asylum, confinement and detention of asylum seekers and finally, their prevention from entering and staying on EU territory. (...) Still, **the deal continues to have devastating effects on the lives of thousands of refugees** on the Greek islands, with their unconditional and out-of-bounds hostage and their exclusion from the rightful and foreseen protection. At the same time, illegal practices of deterrence and informal forced returns of asylum seekers from accessing Greek and European territory are evolving, as recorded in the recent Interim Report of the Recording Mechanism of Incidents of Informal Forced Returns and in the unprecedented number of interventions of the European Court of Human Rights (ECHR) to the Greek authorities in the last year. (...) On the "anniversary" of the 7 years of the Agreement, **the Greek Council of State, with its decision no. 177/2023, now seals its failure in the most official way.** The Council of State recognizes the obvious: the fact that the Agreement does not work, as Turkey has been refusing, for three years now, access to its territory and the return of asylum seekers rejected by the Greek authorities, based on the concept of "safe third country". Thus, the Council of State submitted preliminary questions to the Court of Justice of the European Union (CJEU), while at the same time, with a strong majority, it favored the annulment of the joint decision of the Deputy Minister of Foreign Affairs and the Minister of Migration and Asylum, at the point where it defines Turkey as a "safe third country" for applicants for international protection from Syria, Afghanistan, Pakistan, Bangladesh and Somalia."*

- **FENIX Humanitarian legal aid**, [A bilateral instrumentalisation of asylum seekers: A legal and political analysis of the failures of the EU-Türkiye deal and recommendations from the ground at the Greek borders.](#), 16 March 2023:

*"(...) There is ample evidence that Türkiye, like other states that the EU wants to collaborate with, cannot be considered safe. According to UNHCR, a state can only be deemed safe if it grants the person access to a fair and efficient asylum procedure, and if it treats the person in accordance with the 1951 Refugee Convention.<sup>1</sup> In its 2022 report on Türkiye, the European Commission itself casts serious doubt on whether the country can be considered safe.<sup>2</sup> Türkiye also does not consider itself fully bound by the 1951 Refugee Convention, as it still upholds territorial limitations. Moreover, Türkiye has not ratified different core human rights treaties; on the contrary, it recently even pulled back from the Istanbul Protocol. Finally, the country has been widely criticised for a growing disregard of human rights standards in the wake of the 2016 attempted coup, one that also affects migrant communities. Crucially, UNHCR also requires that a state effectively readmits persons, before it can be deemed a safe third country. In the case of Türkiye, readmissions have been suspended for three years, which means that no asylum seekers have been returned through*

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<sup>61</sup>57 non-profit organisations from Europe call for the revocation of the decision: online petition on Change.org of 7 June 2022 : [Greece must revoke the decision to consider Turkey a safe country.](#)

<sup>62</sup> Refugee Support Aegean, [The Greek asylum procedure in figures in 2022](#), 28 March 2023.

*legitimate channels. Those who have been returned, were returned through illegal pushbacks. This is key information to show that Türkiye cannot be considered a safe third country, but also that the EU's externalisation strategy is fundamentally flawed, as it puts too much power with unreliable third countries. (...)"*

- **The National Herald**, [Seven Years After EU-Turkey Deal, Refugees in Greece Still Struggle](#), 24 March 2023. Karl Kopp, Director of European Affairs at PRO ASYL, an ECRE member, said that "The deal is a human rights nightmare. It represents an exit of the EU from international refugee protection." He added: "The European Union continues to promote the normalization and expansion of policies like the one represented by the deal, endangering human lives, rule of law and democracy itself." He said, "The Greek Part of the agreement is collapsing, the EU reinforces these policies, and refuses to check compliance with EU law."
- **EU Observer**, [The EU-Turkey migration deal is dead on arrival at this summit](#), 23 March 2023
- **Human Rights 360**, EU-Turkey statement: [Six years of undermining refugee protection](#), 17 March 2022

### **C. Increase in procedural obstacles**

The asylum procedure has been thoroughly reformed several times since 2019, at the initiative of the New Democracy government. The most recent reform took place in June 2022<sup>63</sup> and is a striking example of the migration policy pursued by the Greek authorities. Presented as a codification of constant law, the law was subject to an accelerated adoption procedure, without any in-depth or public examination of its provisions. However, it introduced significant (and detrimental) changes to the current legal regime governing asylum.

The effect of these successive reforms has been to make the procedure considerably more complex, by increasing the number of derogations and reducing the deadlines and procedural safeguards. Derogatory procedures, such as accelerated, border or admissibility procedures, are now the norm. Nationals of more than 20 countries are now subject to derogation procedures, although all nationals of all countries are subject to the admissibility procedure if they have entered Greece via Northern Macedonia or Albania. Only certain countries are now subject to the regular procedure. For example, of the most common nationalities of asylum seekers in Greece, only nationals of Iran, Iraq, Palestine, Yemen, Sudan or the Democratic Republic of Congo are subject to the regular asylum procedure. Provided, of course, that they entered Greece via Turkey. However, these exceptional procedures do not offer sufficient procedural guarantees and do not necessarily involve an examination of the merits of the applications. Their generalisation, to the detriment of standard procedures, is therefore detrimental to the exercise of the right to asylum.

In 2022, out of 60,000 decisions rendered, half of the asylum applications were rejected without ever having been examined on their merits. In addition, almost 20,000 first instance decisions in 2022 were in fact administrative suspensions, closures or explicit withdrawals of asylum applications, without any assessment of the admissibility or merits of the asylum applications. The NGO Refugee Support Aegean notes that "the [Greek] asylum service continues to take such decisions en masse at certain times. For example, according to figures from the Ministry [of Migration and Asylum], 2,503 cases were closed in June 2022 and 1,930 in November, while 2,533 cases were suspended in May."<sup>64</sup>

The most significant changes and trends are developed in more detail below.

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<sup>63</sup> [Law no. 4939/2022](#), codifying legislative provisions on reception, international and subsidiary protection regimes.

<sup>64</sup> See footnote 62.

- **Increase in accelerated procedures following the addition of new States to the list of safe countries of origin**

On 15 February 2022, the list of safe countries of origin was updated with the addition of Egypt, Nepal and Benin by joint ministerial decision. At the same time, Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India, Armenia, Pakistan and Bangladesh retained their safe country of origin status. The total number of safe countries of origin on the list now stands at seventeen. Broadly speaking, **a person originating from a so-called safe country is presumed, in the absence of proof to the contrary, not to have a well-founded claim to asylum.** The burden of proof is therefore increased, as the applicant must rebut this presumption. However, the application is examined under an accelerated procedure, subject to disadvantageous deadlines and weaker procedural guarantees. In 2022, most of the negative decisions handed down at first instance concerned the manifestly unfounded nature of the claim. As mentioned above, four of the ten countries from which the majority of asylum seekers in 2022 originated are on this list.

- **Misuse of "border procedures**

As the NGO Refugee Support Aegean (RSA) points out<sup>65</sup>:

*"The border procedure is only applicable to applications submitted "at the border" or in the "transit zones" of ports and airports<sup>66</sup>; it is only by way of derogation in the event of "mass arrivals" that its application may be extended to persons lodging an asylum application while in a RIC or CCAC. However, in violation of the conditions of the border procedure, the asylum service continued to use it systematically in the CCACs of Lesbos, Chios, Samos, Leros and Kos in 2022 without there being any circumstances of "mass arrivals" or regulations to this effect (...). In addition, there are reports of incorrect use of the border procedure in the RICs of Diavata and Malakasa on the mainland."*

- **Increase in the number of subsequent applications**

As a result of the persistent use of admissibility procedures in Greece (and subsequent rejections), there has been an **exponential increase in the number of subsequent applications in Greece** (+207% between 2020 and 2022). In 2022, almost one decision in four concerned a subsequent application. However, since a 2021 reform, from the second subsequent application onwards, applicants must pay a fee of €100/person to register the application<sup>67</sup>. According to the NGO Refugee Support Aegean, of the 8,265 applications for reconsideration lodged in 2022, 1,187 were subject to this fee, representing €118,700 paid to the Greek state. An appeal raising the legality of this tax is currently pending before the Greek Council of State, with a hearing scheduled for June 2023.

There are other serious shortcomings in the Greek asylum procedure, particularly during appeal procedures before appeal committees in Athens (composition of committees, refusal of lawyers to plead, etc.), but also after international protection has been granted, for example the difficulties encountered by refugees in obtaining travel documents or renewing their residence permits.

In January 2023, the European Commission initiated an infringement procedure against Greece to bring its legislation into line with European law as regards the reception conditions for asylum seekers and the asylum procedures themselves<sup>68</sup>. One of the formal notices also concerns the arbitrary detention of asylum seekers in the reception and identification centres on the islands at the land border<sup>69</sup>.

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<sup>65</sup> *Ibid.*

<sup>66</sup> Article 95 §1 of the Asylum Code.

<sup>67</sup> Article 94 §10 of the Asylum Code, under joint ministerial decision no. 472687/2021.

<sup>68</sup> European Commission, [January Infringements package: key decisions](#), January 2023.

<sup>69</sup> European Council on refugees and exiles, [Grèce](#) : Infringement served to Greece by the European Commission, NGOs call for greater control over the Greek islands, Joint submission by civil society on the rule of law, Hundreds of thousands of people "prevented" from entering Greece, 3 February 2023.

In our view, these multiple obstacles lead to an asylum procedure that is fundamentally unfair, even abusive and discriminatory, ultimately encouraging secondary movements of exiles within the Schengen area, at their own risk and to the benefit of networks of smugglers.

**Further reading:**

- **Equal Legal Aid**, [The digitalisation of the Greek asylum procedures: A way into the future or a barrier to human rights?](#), October 2022 ;
- **Refugee Support Aegean (RSA)**, [Systemic deficiencies in the access of beneficiaries of international protection to documents and socio-economic rights](#), 30 March 2023 ;
- **Refugee Support Aegean (RSA)**, [Registration of asylum applications in the new mainland RIC in Greece](#), 21 February 2023 ;
- **Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report January 2023**, [Rule of law backsliding continues in Greece](#), 27 January 2023.

## **IV. REMARKS ON THE SCREENING PROPOSAL**

The new European Pact on Asylum and Migration proposes to introduce a screening procedure at the EU's external borders. This new stage should make it possible to determine as quickly as possible the procedure applicable to each applicant and to guide them effectively. The screening should comprise several components: identification, health checks, security checks (to ensure that the newcomer poses no threat), fingerprinting and recording of biometric data<sup>70</sup>. These screening procedures would be carried out by the authorities of the first host country, assisted where necessary by FRONTEX or the European Asylum Agency (EUAA).

This proposal is in fact already provided for in the current European framework<sup>71</sup> and does not fill the major legislative, institutional and regulatory gaps that have already been identified in practice when new arrivals are subject to asylum or return procedures at the external borders of the Schengen area.

As a preliminary point, it is important to note that screening, as proposed in the new pact, has been applied in Greece almost identically for several years, in the reception and identification centres on the Greek islands and in Evros<sup>72</sup>, with deplorable consequences<sup>73</sup>. Current practices in Greece regarding the identification and reception of asylum seekers at the border are far from exemplary. To extend them to the whole of Europe would be tragic from every point of view.

From the outset, the lack of procedural safeguards in the proposal must be emphasised, as well as the risk of major abuses that could result. In this respect, we agree with the position of the Conseil National des Barreaux, adopted in 2021<sup>74</sup>, which firmly condemns the fact that this procedure undermines fundamental rights.

### **A. Inadequacy of the criteria used in the screening proposal**

Screening is supposed to apply to three categories of new arrivals: third-country nationals arrested after crossing a border "illegally", exiles rescued at sea, and asylum seekers who have entered Europe

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<sup>70</sup> <https://www.senat.fr/rap/r20-871/r20-8714.html>

<sup>71</sup> Directives 2013/32/EU on asylum procedures, 2013/33/EU on reception and 2011/95/EU on qualification.

<sup>72</sup> [Law 4540/2018](#) transposing into Greek law [Directive 2013/33/EU](#) laying down standards for the reception of applicants for international protection.

<sup>73</sup> Odysseus network, Lyra Jakuleviciene, [Re-decoration of existing practices? Proposed screening procedures at the EU external borders](#), 27 October 2020.

<sup>74</sup> Conseil National des Barreaux, [The French National Council of Bar Associations is concerned about certain provisions of the new Migration and Asylum Pact](#), May 2021.



"illegally"<sup>75</sup>. In other words, screening will apply to all exiles at the European Union's borders. It should make it possible to identify the following categories of applicants :

- nationals of countries where the success rate of asylum applications does not exceed 20% of applications lodged;
- abusive or fraudulent asylum applications;
- applicants who may represent a threat to national security.

Asylum seekers in these categories will then be subject to a fast-track procedure, with their applications for protection processed in closed centres within a maximum of twelve weeks<sup>76</sup>. Put another way, the aim of screening is to identify asylum seekers with little chance of obtaining international protection, isolate them and subject them to accelerated procedures. In other words, the procedure is exactly the same as the one described earlier, which has been used in Greece since the 2019 reform.

The categorisation of asylum seekers before any individual interview is intrinsically biased: it prejudices an unfounded asylum claim, using purely subjective criteria, before any examination of the merits of the claim. In practice, the procedure is no longer fair and equitable: applicants are presumed to have an unfounded claim that must be overturned, even before the asylum application is presented. The use of such criteria denies **the intrinsic individuality and intimate nature of any asylum application**. In fact, an asylum application is based on two factors: the applicant's personal fears and the lack of adequate protection provided by the authorities in his or her country of origin. In addition, the grounds recognised as giving entitlement to international protection are not left to the discretion of individual states, but are defined using eight criteria set out in the Geneva Convention, which are taken up in the Qualification Directive<sup>77</sup>. These grounds must be assessed in the light of the applicant's personal situation and the facts and circumstances of each case. As a result, any generalisation denies the very nature of asylum and is therefore doomed to failure and potentially detrimental to this fundamental right.

A closer look at each of these categories reveals further inconsistencies, confusion and inadequacies in practice.

#### **1. Concerning nationals from countries where the success rate for asylum applications does not exceed 20% of applications lodged**

First and foremost, the text does not specify which statistics will be used to determine the success rate, between data from the first host country and aggregated data common to all Member States. The **source and nature of the data** used is essential: practices of the various European countries differ in this respect. The recognition rate can also change over time, depending on geopolitical events in the country of origin and volatile situations that can degenerate dramatically in a very short space of time. It is to be feared that these rapid deteriorations will not be reflected quickly enough, or will be reflected very unevenly in the host country, depending on the relations between each country, their shared history, existing affinities or discrimination.

Coups d'état are a pertinent example of the limits of this system: they can tip a country into civil war in a matter of hours. However, nationals would still be considered to have unfounded claims, as is currently the case in Greece for applicants from Togo, Burkina Faso or Guinea, countries considered to be "safe" in the national framework. As a result, nationals originated from these countries are subject to accelerated procedures in Greece on the basis of this criteria, with high rejection rate

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<sup>75</sup>Legislative Train Schedule, Birgit Sippel, [Screening of third country nationals at the external borders](#), 20 March 2023.

<sup>76</sup> European Parliament, [Migration: new rules on screening of irregular migrants and faster asylum procedures](#), 28 March 2023.

<sup>77</sup>Article 10, [Directive 2011/95/EU](#) on standards for the qualification and status of third-country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted.

notwithstanding the very deteriorated security situation and general guidelines in the international communities not to deport refugees there.

Furthermore, the use of these criteria prior to any examination of the merits institutionalises a **two-tier, discriminatory right to asylum**, depending on the geographical origin of the applicant and the reason for the asylum application, in other words a difference in treatment that is legally unjustifiable. With this system, a national of a country in a state of generalised conflict, such as Afghanistan, is treated differently from another applicant who is potentially at risk on account of individual circumstances, in particular if they belong to a certain social group. For example, applicants whose claims are based on gender-based violence (e.g. female genital mutilation or persecution for homosexuality) could come from a country with a low recognition rate and therefore be subject to an accelerated procedure, even though, by definition, this type of claim requires a very thorough examination for the potential psychological disorders, the stigma, and the difficulty for the applicant to testify to the authorities after a lifetime spent in hiding. If we go further with this example, the acceptance rate for asylum applications from Cameroonian nationals in France in 2021 was 16.77%<sup>78</sup>. A Cameroonian national would therefore be placed under an accelerated procedure with minimal safeguards (if any at all), even though many Cameroonians are criminalised, persecuted or tortured because of their sexual orientation<sup>79</sup>. The applicants would nevertheless be expected to give a detailed account of the persecutions they have suffered and survived, in a prison-like environment with a heavy police presence (which could be assimilated to their former persecutors), without access to legal assistance or psychosocial support, and expect to undergo a very traumatic procedure in just a few weeks.

This first determination criterion as introduced does not stand up to even superficial analysis. It is inappropriate and even dangerous: its use completely biases the examination of asylum applications and does not offer sufficient guarantees for the rights of applicants. What's more, its implementation is likely to lead to a vicious circle, as seen in Greece, of congestion of sites, deterioration of reception conditions and examination of asylum applications.

## 2. Concerning abusive or fraudulent asylum applications

Firstly, no definition is proposed. In the absence of any text, it is legitimate to use the definition of the United Nations High Commissioner for Refugees (hereafter UNHCR)<sup>80</sup>, which 40 years ago already provided for accelerated procedures for manifestly unfounded or abusive applications.

Experience gained in closed centres at the European Union's external borders, particularly in Greece, calls for caution in this area. As mentioned above, each asylum application is by its very nature individual, and its basis is often traumatic. Unfortunately, the psychological situation of asylum seekers is not sufficiently taken into account when asylum applications are first registered. Many applicants have to deal with exhausted staff who are not trained in the challenges of asylum and the psychological dimension. Applications are processed without any health, security or legal requirements being met<sup>81</sup>.

All the testimonies we have gathered from our beneficiaries point to the same pitfalls: recordings made without a translator, without information on rights, words not recorded or poorly recorded, secondary traumas, even though the recording is an essential stage in the procedure, conditioning the entire application for international protection. As a result, many applications for protection are deemed to be abusive or fraudulent, with applicants unable to express themselves calmly and hearings taking place in very hostile conditions. The result, at the very least, is the omission of certain elements that are decisive for the outcome of the application for protection.

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<sup>78</sup> World Data, [Asylum applications and refugees from Cameroon](#)

<sup>79</sup> Amnesty International, [Cameroon: War crimes and torture](#), 20 July 2017.

<sup>80</sup> UNHCR, 34e Executive Committee Meeting, [The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum](#), 20 October 1983.

<sup>81</sup> Human Rights Watch, Greece : [Greece: Inhumane Conditions at Land Border](#), 27 July 2018.

In our view, it is essential to strictly control the prior assessment of applications when they are registered, to avoid them being wrongly rejected as manifestly unfounded or abusive. It should also be emphasised that the asylum applications which run the risk of being rejected on this basis are also those which require the most diligent examination (particularly applications based on membership of a particular social group). Such grounds are difficult to detect when the application is registered, their due process is incompatible with an accelerated examination, especially in hostile closed border centres that could trigger psychological reactions on the part of the asylum seeker.

### **B. Inadequate safeguards in the proposal on screening**

In order to guarantee the fundamental rights and freedoms of asylum seekers, the new Pact proposes the establishment of an "independent monitoring mechanism to ensure that all measures taken during screening comply with fundamental rights". The aim of this mechanism is to ensure compliance with national law, in particular the grounds for and duration of detention. The mechanism would a priori be specific to the screening procedure. In our view, there are still too many blind spots for us to have an overall view of its application. On the other hand, in the light of our experience at the Greek-Turkish border, a number of concerns can already be raised.

Cornelia Ernst MEP warned of the lack of safeguards in this text and the obvious consequences for asylum seekers, particularly on the issue of detention<sup>82</sup>. The authorities will be able to detain asylum seekers for 5 days, or even 10 "in times of crisis" and "in compliance with European law on this issue". According to the MEP, "Once adopted, the proposals will lead in practice to massive and systematic detentions at external borders. Even children as young as 12 could be detained at the border in certain circumstances. What's more, in practice, people will have no right to an effective legal remedy. People may be expelled as part of the border procedure while they are still awaiting the outcome of their appeal against their decision".

Several European associations stress the importance of **a judge's assessment of the duration and conditions of detention**, as well as the **permanent presence of independent organisations in screening facilities acting as human rights watch**. This is not currently provided for in the regulation, which is regrettable. In fact, one of the main problems observed in the reception centres at the Greek borders is that detention is ordered ex officio without judicial review and is carried out behind closed doors, without the presence of international organisations.

The European Council for Refugees and Exiles stresses the risks of infringements of fundamental rights and freedoms and calls, at the very least, for the scope of this monitoring mechanism to be extended beyond the screening procedure alone<sup>83</sup>. Our association shares these concerns and supports this position.

Generally speaking, we find it difficult to reconcile the stated aim of regulating illegal immigration through the screening regulation with the protection of the fundamental rights of asylum seekers. And the amendments made to the text are not sufficient to balance these two imperatives. Whether we are talking about the Geneva Convention, the Charter of Fundamental Rights of the European Union, the regulation on the protection of personal data, the right to the assistance of a lawyer, to an effective remedy or to the assistance of a translator, the border screening procedure does not currently provide sufficient safeguards<sup>84</sup>. On the other hand, the text contains an arsenal of measures that could have deleterious effects in practice: reduced deadlines for appeals, accelerated procedures, no guarantee of training for staff, no guarantee of access to legal information and to interpreters and translators, no psychological assistance, etc. The European legislators have committed the same errors and

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<sup>82</sup> Euractiv, Eleonora Vasques, [EU to start talks on migration reform laws](#), 29 March 2023.

<sup>83</sup> European council on refugees and exiles, [Screening out rights? Delays, detention, data concerns, and the EU's proposal for a pre-entry screening process](#), 2020.

<sup>84</sup> Council of Europe (CoE) and European Union Agency for fundamental rights, [Fundamental rights of refugees, asylum applicants and migrants at the European borders](#), 2020.

omissions as those found in the Greek procedure, which have been strongly denounced for the past four years.

The amendments proposed by the European Parliament are welcome in that they aim to provide greater protection for the rights mentioned above<sup>85</sup>:

- amendment 4 seeks to place respect for the 1951 Geneva Convention at the heart of this procedure<sup>86</sup>;
- amendment 9 introduces a subtle nuance with regard to the objective of this new procedure<sup>87</sup>: "At the same time, the screening should help discourage secondary movements in the Schengen area" instead of "At the same time, the screening could help discourage secondary movements in the Schengen area".

As asylum practitioners at Europe's borders in a country that already applies screening, it is hard to see how this procedure will discourage secondary movements. In fact, exactly the opposite has happened in Greece. On the contrary, subjecting asylum seekers to expeditious procedures that infringe their fundamental rights, all in dystopian prisons at Europe's borders, is likely to have the exact consequence of increasing secondary movements within Schengen.

Finally, with regard to the duties of border guards and amendment 6<sup>88</sup>, we have the same observations. It is true that their mission is particularly delicate. However, in view of the abuses that we are already seeing on the ground, too much discretion is - once again - being left to the authorities who will be responsible for initial reception at borders.

As well as being extremely costly, the screening procedure as envisaged today is, in our view, an invitation to abuse: based on our experience in the field, it will not achieve any of the objectives it has set itself and will result in asylum seekers becoming even more invisible. Leaving so much room for manoeuvre to border countries, without putting in place sufficient safeguards and endorsing accelerated asylum procedures behind closed doors in closed border centres, will lead to disaster. We also fear that people seeking protection will take ever greater risks to avoid the southern borders, as is the case today in Greece, to the benefit of the networks of smugglers. In other words, this procedure takes absolutely no account of the years of experience gained in Greece, nor does it capitalise on the lessons learned from the practice of accelerated procedures and the denials of rights observed. Its reasoning is biased and fundamentally incompatible with effective asylum procedures that respect the rights of exiles. It does not live up to European principles and values. If adopted, it will lead - at great expense! - to spread these abuses and malfunctions throughout Europe.

In our view, there are more economical and sustainable solutions that respect human rights and streamline asylum procedures across Europe. As the French National Assembly pointed out in 2021, "migration is here to stay"<sup>89</sup>. It is illusory to hope to stem the flows and prevent secondary movements through dissuasion policies when "migratory routes are constantly changing" and we have not yet grasped the scale of the population displacements, both current and future, caused by climate change.

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<sup>85</sup>European Parliament, Committee on Civil Liberties, Justice and Home Affairs, [Compromise amendments](#), 27 March 2023.

<sup>86</sup> *Ibid*, pages 4 et 5.

<sup>87</sup> *Ibid*, page 8.

<sup>88</sup> *Ibid*, page 6.

<sup>89</sup> French Assemblée Nationale, information report tabled by the European Affairs Committee on the Pact on Migration and Asylum, presented by Pieyre-Alexandre Anglade and Pierre-Henri Dumont, 30 November 2021.

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