

# **THE DOCTRINE OF THE “INSTRUMENTALIZATION” OF REFUGEES**

**The borders of Evros  
in the era of border securitization**





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**HUMANRIGHTS360**  
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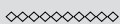
ΦΩΤΟ: ΜΑΡΙΟΣ ΚΩΝΣΤΑΝΤΙΝΙΔΗΣ

## A. INTRODUCTION

# On the “instrumentalization” of refugees and migrants

On the occasion of the events<sup>1</sup> in Belarus and Lukashenko’s choice to allow the passage of migrants and refugees from the country to Poland, a debate<sup>2</sup> has begun on the “instrumentalization of refugees”, in the same way as in the so-called “crisis” of March 2020 at the Greek-Turkish border in Evros. This debate links foreign policy, theoretical doctrines of securitization and national security with the lives of refugees and migrants in a way that creates risks for the protection of human rights. Migrants and refugees crossing the borders of either Evros or Poland are considered “tools” or “weapons” of another state. The concept of “tool / weapon” deprives those who try to cross the border of their human status, thus making it possible to violate their human rights, legitimizing the pushbacks and showing indifference to the death of people at the border.

It is this debate about the instrumentalization of refugees by others that obscures the instrumentalization of refugees by the countries of the European Union themselves. When the *Other* is baptized as an instrument of Erdogan or Lukashenko, he/she becomes, in addition to being undesirable, dangerous, a national hazard, and therefore huge investments are required in deterrence, surveillance, police recruitment and border guarding systems. In addition, the definition of refugees as “enemies” and “dangerous” forms alliances within European states that are constantly slipping into authoritarianism and the violation of the rights of wider social groups. What does the expression of solidarity of the President of the Commission Ursula von der



1. Refugee crisis deepens at the Polish-Belarusian border | Gallery News | Al Jazeera
2. PM Mitsotakis: Instrumentalization of migrants is a hybrid threat | eKathimerini.com

Leyen to the Prime Minister of Poland Mateusz Morawiecki for the management of refugees at the border mean for democracy in the country in general, e.g., for the right to abortion for women?

An article by Jan Cieski<sup>3</sup> describes how the so-called "crisis" on the border with Belarus is being used to consolidate the regime and treat those voices that can criticize it from a humanitarian point of view as "enemies". Similarly, an article by Cyril Ryzak<sup>4</sup> describes how this crisis reveals the superficiality of European humanity where the impoverished refugees have been turned into a "ball on a football field". This policy means generalizing illegal pushbacks at a cost many times over to the lives of refugees themselves, building fences, hiring border guards and, in general, treating refugees as "dangerous" to national security, often shaping, not always happily, a xenophobic climate within societies. The statements of the President of the European Council, Charles Michel<sup>5</sup>, on the review of the financing of fences at the external borders of the EU. is indicative of its orientation. In this line, the Polish parliament gave the green light for the construction of a 180-kilometer wall<sup>6</sup>, almost the total length of the Polish-Belarusian border, at a cost of 353 million euros. However, it should be noted that thousands of people in Poland protested against the pushbacks of migrants and refugees to the border with Belarus<sup>7</sup>.

But the question that arises and is really crucial, and which should be the starting point of any discussion, is the following: are refugees and migrants really dangerous? Is it really neces-

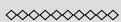
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3. The politics behind Poland's border crisis – POLITICO
4. [https://jacobinmag.com/2021/11/belarus-migrant-crisis-hollowness-european-humanitarianism-immigration-poland?fbclid=IwAR3ceQaX8iThMVSoR\\_Po730IS-tXJK6yimhAmezFLDv6TnlEznmPMYfQkp8](https://jacobinmag.com/2021/11/belarus-migrant-crisis-hollowness-european-humanitarianism-immigration-poland?fbclid=IwAR3ceQaX8iThMVSoR_Po730IS-tXJK6yimhAmezFLDv6TnlEznmPMYfQkp8)
5. <https://www.politico.eu/article/eu-external-border-walls-divide-countries-internally-poland-belarus-hungary/>
6. <https://www.italy24news.com/News/265196.html>
7. <https://www.dw.com/en/poland-thousands-protest-against-migrant-pushbacks-at-belarus-border/a-59532143>



sary to invest huge sums of European and national funds in deterring refugees? Would simply respecting human rights, access to effective and credible asylum procedures, the organized integration of refugees and migrants into work and education be not only less costly but also productive, as we are talking about people with the skills and will to live and to create?

It is therefore European asylum and migration policy that shapes the treatment of refugees on Europe's southern and eastern borders<sup>8</sup>, but also in Turkey<sup>9</sup>. The Guardian<sup>10</sup> refers to the widespread practice of pushbacks on the Turkish-Iranian border, especially after the Taliban seized power. It is even mentioned that this practice is considered to have started in Greece by the Greek authorities in the Aegean and beyond. However, the refusal of the states of the European Union and of the Union itself as an institution to play a more central role in the reception of refugees from Afghanistan leaves the field open for Turkey to proceed to widespread human rights violations at the external borders, and, of course in its inland.



8. <https://www.spiegel.de/international/europe/greece-and-croatia-the-shadow-army-that-beats-up-refugees-at-the-eu-border-a-a4409e54-2986-4f9d-934f-02efcebd89a7>
9. <https://www.hrw.org/news/2021/10/15/turkey-soldiers-beat-push-afghan-asylum-seekers-back-iran>
10. <https://www.theguardian.com/global-development/2021/oct/14/afghan-refugees-accuse-turkey-of-violent-pushbacks>

## B. In the light of the Pact on Migration and Asylum

### (I) NEW PROPOSED REFORMS TO THE PACT ON MIGRATION AND ASYLUM

The EU Pact on Migration and Asylum continues to be a field of political controversy and negotiation within European States. Alliances of countries such as the countries of the South (MED5: Spain, Portugal, Italy, Greece, Malta), the countries of Visegrad (V4: Czech Republic, Hungary, Poland and Slovakia) as well as the countries of Northern Europe are organized and intertwined with the management of the refugee population.

The first drafts were presented to the European Parliament in October, amending the already proposed regulations on Asylum procedures and the Regulation on Asylum and Migration Management. The proposed regulations constitute an even stricter and restrictive for the rights of applicants for international protection, version of hitherto already bureaucratic and very strict regulations. However, we do not know whether it is just a result of pressure from the Member States of Northern Europe or simply a way of pressure for the regulations proposed so far to be accepted as "the best available option".

In ECRE 's view<sup>11</sup>, the draft proposal for a regulation on asylum procedures introduces complex procedures, creating cumulative problems for applicants through questionable quality procedures. Subsequently, the proposed draft Regulation on Asylum and Migration Management increases the responsibilities of the first host countries at the EU's external borders and raises questions about how MEPs of the Southern Member States endorsed these amendments in the European Parliament.

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<sup>11</sup>. <https://ecre.org/editorial-the-pact-first-drafts-on-apr-and-ramm/>



Overall, the proposed draft Regulations contribute to the impairment of the applicants' rights. More options for detention, an increase in the detention limit from 4 to 12 weeks before the transfer under the Dublin Regulation and the imposition of indefinite "additional measures" in order to prevent unauthorized movements are some of them. The possibility of returns before the full and comprehensive risk assessment of the return is also increased, as it allows Member States choosing the role of 'return sponsor' to expel a person from the 'sponsored' Member States with quick procedures.

The most important proposed reform in the existing draft regulations is the increased responsibility of states at the external borders of the European Union. The first country of entry is responsible for an applicant, thus abolishing the concept and process of determination of responsibility and leaving thus the Dublin Regulations unaffected. In fact, family reunification between siblings is again limited to the right of the unaccompanied minor to be re-unified with his / her adult sibling, and the until now proposed holding of a degree by a Member State as an eligibility criterion for transfer to that Member State is removed from the regulation.

Under the proposed amendments, the permanent responsibility of the host states for applicants is restored, the time limit for submitting a request for responsibility from another Member State is limited to one month, and the time limit for transferring an applicant to another state is doubled to one year instead of six months.

The draft proposes removing the article on the solidarity mechanism for search and rescue situations, which would allow Member States to continue bans on mooring ships and disembarking refugees, as well as, of course, the practice of ongoing pushbacks. Again, according to ECRE, the mechanism in times of "crisis" can be used to prevent arrivals and, therefore, to deny access to international protection. It is in line with the pressure from the Council to "legitimize" pushbacks and allow for differentiation in the treatment and access to asylum procedures depending on the number of arrivals.

As part of the push to "legalize" the pushbacks, twelve European countries, including Greece (the rest are: Austria, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Hungary, Lithuania, Latvia, Poland and Slovakia) request in their letter<sup>12</sup> that the border measures be tightened in view of the debate on the reform of the Schengen border code. In essence, the twelve Member States, citing the concept of "instrumentalization" of refugees and "threat", call for them to be allowed to act swiftly and in proportion to the "threat" "in defense of their national security and the security of the whole Union".

At this point, we should add the concerns of the platform PICUM<sup>13</sup> regarding the non-inclusion in the Pact of provisions to protect humanitarian organizations from the non-criminaliza-

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12. [https://www.efsyn.gr/kosmos/eyropi/313763\\_barbaro-kodika-sengken-me-nomimes-epanaproothiseis-theloy-n-12-hores-metaxy-ton](https://www.efsyn.gr/kosmos/eyropi/313763_barbaro-kodika-sengken-me-nomimes-epanaproothiseis-theloy-n-12-hores-metaxy-ton)

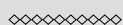
13. <https://picum.org/wp-content/uploads/2021/10/Help-is-no-crime.pdf>

tion of solidarity. Post-rescue or land-based activities such as providing food, shelter, temporary transport, or information remain outside the scope of protection, especially when carried out by non-governmental organizations unauthorized or non-competent to provide such assistance. Search and rescue operations are considered legal only when they follow the instructions of the coordinating authority (state or European), thus leaving the window open for prosecution against non-governmental organizations.

## (II) GREEK LEGISLATION AND THE PACT ON MIGRATION AND ASYLUM

Having in mind<sup>14</sup> that the EU Pact on Migration and Asylum, even if not voted by the European Parliament, has begun to be implemented in practice in Greece through various legislative procedures [we refer in particular to Law 4825/2021<sup>15</sup> (Government Gazette A 157 / 4.9 .2021) entitled "Reform of expulsion and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions in the competence of the Ministry of Migration and Asylum and the Ministry of Civil Protection and other urgent provisions"]. This law introduces provisions that are consistent with the orientation to detention and expulsions / returns.

Specifically, according to articles 2<sup>16</sup> and 22<sup>17</sup> of Law 4825/2021, an attempt is made to "unify" the concepts of return / expul-



14. <https://www.humanrights360.org/el/i-katapatisi-ton-dikaion-ton-prosfygon-stin-ellada-ypo-to-prisma-tis-evropaikis-symfonias-gia-to-asylo-kai-ti-metanastefsis-palevontas-me-to-skotadi/>
15. <https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021>
16. [https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021#%CE%86%CF%81%CE%B8%CF%81%CE%BF\\_2|744963](https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021#%CE%86%CF%81%CE%B8%CF%81%CE%BF_2|744963)
17. [https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021#%CE%86%CF%81%CE%B8%CF%81%CE%BF\\_22|745001](https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021#%CE%86%CF%81%CE%B8%CF%81%CE%BF_22|745001)

sion and to provide for an issuance of an expulsion decision against persons who fall under the status of asylum seeker. It is worth noting that asylum seekers always fall within the scope of the Returns Directive and therefore it is not possible to issue an expulsion decision against them (Law 3386/2005), but only a return decision (Law 3907/2011). This provision is extremely problematic because, for new entrants to the islands and Evros without the legal formalities, their inclusion in reception and identification procedures is provided (no. 14, par. 1 L. 4375/2016, no. 39, par. 1 Law 4636/2019), while the issuance of expulsion decisions against them would lead, among other things, to the circumvention by the administration of the fundamental guarantees provided by Law 4636/2019 to asylum seekers until the completion of their asylum procedure and would put them at risk of pushbacks or collective expulsions.

Article 28 of Law 4825/2021<sup>18</sup> limits the categories of reception, identification and accommodation structures of par. 4 of article 8 of Law 4375/2016 from six (6) to three (3) and in particular to the Reception and Identification Centers (RIC), the Reception Structures and the Closed Monitored Structures "which are structured and have the functions of the RIC of the first category and in which, in separate areas, temporary accommodation facilities **and special detention facilities of article 31 of law 3907/2011<sup>19</sup> (A' 7)** operate. Within the perimeter of the area, where the Regional Services of this paragraph are located, there are separate areas with appropriate specifications for the stay of third country nationals or stateless persons belonging to the vulnerable groups of par. 8 of article 14". **This provision raises concerns about the conversion of all accommodation structures into closed monitored structures with detention centers included in them, which will also fall under the responsibility of the Ministry of Citizen Protection and the Greek Police with**

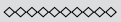
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18. <https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021>

19. [https://www.kodiko.gr/nomothesia/document/129081/nomos-3907-2011#%CE%86%CF%81%CE%B8%CF%81%CE%BF\\_31|129257](https://www.kodiko.gr/nomothesia/document/129081/nomos-3907-2011#%CE%86%CF%81%CE%B8%CF%81%CE%BF_31|129257)

**possible tightening and diversification of the purpose from an integration process to a prolonged detention.**

Finally, with article 40 of Law 4825/2021<sup>20</sup>, **rescue at sea by members of humanitarian organizations is criminalized.** For the legal rescue of people at risk at sea, the organizations are required to be registered in the "Register of Greek and Foreign Non-Governmental Organizations (NGOs)" of article 58 of Law 4686/2020 (A '169), which is kept at the Ministry of Migration and Asylum and respectively their members, employees and associates to be registered in the "Register of Members of Non-Governmental Organizations (NGOs)" of par. 2 of article 191 of law 4662/2020 (A '27), to act under the orders and instructions of the port authorities-provided that the action of the Greek Coast



20. [https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021#%CE%86%CF%81%CE%B8%CF%81%CE%BF\\_40|745026](https://www.kodiko.gr/nomothesia/document/744954/nomos-4825-2021#%CE%86%CF%81%CE%B8%CF%81%CE%BF_40|745026)



Guard is not possible-and having previously received written approval from the Port Authorities ". It is obvious that this provision provides for the criminalization of the act of rescuing people at sea and, in essence, imposes its prohibition.

### (III) ORIENTATION TO AN EXTERNAL DIMENSION OF ASYLUM AND MIGRATION UNDER THE EU PACT ON MIGRATION AND ASYLUM

One of the darkest points of the Pact on Migration and Asylum is its external dimension<sup>21</sup>.

In the context of externalizing the management of the refugee issue through the EU Pact on Migration and Asylum, the pursuit of cooperation with third countries is included. Re-admission agreements, with countries such as Turkey or Libya, are an important aspect of the Pact.

Particularly worrying for the European and Greek orientation in terms of respect for human rights is the proposal of the Deputy Foreign Minister in charge of Economic Diplomacy K. Frangogiannis, during his visit together with the Greek business delegation in Libya to assign the training of the Libyan Coast Guard to the Greek Coast Guard<sup>22</sup>. A few days after that meeting, at least six migrants were shot and killed in a detention center in Tripoli<sup>23</sup>, where they are stacked in miserable detention conditions beyond human capacity. On October 21, 2021, the UN High Commissioner for Refugees (UNHCR) issued a statement<sup>24</sup> describing the desperate situation with ongoing arrests, violence and deaths and calling for the evacuation and chartering of humanitarian flights, recognizing that this is a minimal contri-

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21. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690535/EPRS\\_BRI\(2021\)690535\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690535/EPRS_BRI(2021)690535_EN.pdf)

22. <https://greekreporter.com/2021/10/05/greece-libya/>

23. <https://www.dw.com/en/libya-migrants-shot-dead-at-detention-center/a-59455474>

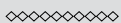
24. <https://www.unhcr.org/news/press/2021/10/6171e8414/unhcr-calls-libya-urgently-develop-plan-asylum-seekers-refugees-welcomes.html>



bution that does not cover the need for a safe environment for those trapped in Libya.

Finally, the World Border Security Congress<sup>25</sup> was held in Greece on October 5-7. The program<sup>26</sup> and speakers<sup>27</sup> of the Conference are indicators of how the management of refugees and migrants is part of securing borders on the basis of a mainly business-oriented logic. The conference was attended by officials, military and technocrats from European Union countries as well as third countries such as Libya, Nigeria, Bangladesh and other countries. In the context of the externalization of borders, according to the Spartacus Network<sup>28</sup> and the program of the conference<sup>29</sup>, the goal is to design new deterrence practices and the introduction of new border technologies to prevent migratory movement, with an effort to involve the countries of origin of migrants and refugees in preventing their escape, and not instead to provide conditions of democracy and security for the lives of their citizens.

The conference website urges governments<sup>30</sup> around the world to continue investing in border security through new products and technologies. In fact, it is pointed out that the value of the global market for border security is estimated at almost 20 billion pounds per year.



25. <https://world-border-congress.com/>

26. <https://world-border-congress.com/conference/>

27. <https://world-border-congress.com/conference/speakers/?fbclid=IwAR3smMi2FUAPZ-vplJFRzL8YedCSppIOGm04CQRk76A96YqtCIdaRattbyQg>

28. [http://diktiospartakos.blogspot.com/2021/09/blog-post\\_906.html](http://diktiospartakos.blogspot.com/2021/09/blog-post_906.html)

29. <https://world-border-congress.com/conference/>

30. <https://world-border-congress.com/exhibition/>



## c. The borders of Evros in the era of border securitization

### (I) NEW ENTRANTS, ARRESTS, DEPORTATIONS

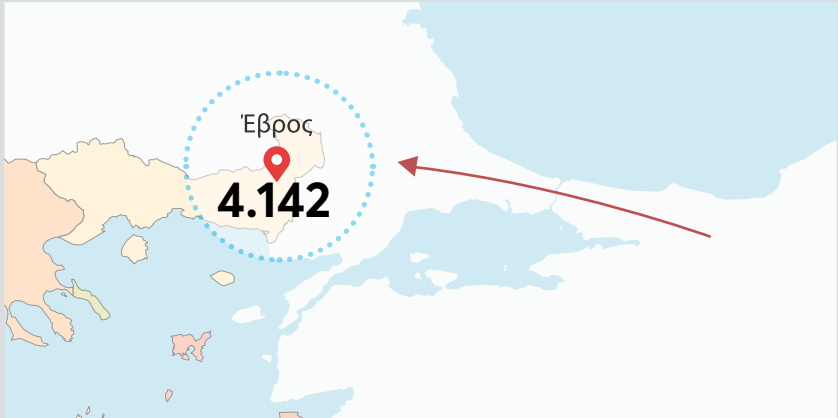
According to statistics from the UN High Commissioner for Refugees<sup>31</sup>, in 2021 there were 3,156 sea arrivals and 4,142 arrivals from the land border of Evros. These numbers are a proof of the extent of the state practice of illegal pushbacks in the Aegean islands but also at the land border in Evros. The systematic violation of the principle of non-refoulement by the Greek authorities and the desperate and life-threatening, security and freedom conditions experienced in the countries of origin but also in Turkey, force the refugees to seek other more dangerous paths to a safer environment. The Balkan route as well as the roads through Eastern and Central Europe are an escape route, with all the dangers posed by low temperatures and chain pushbacks. The practice of pushbacks and militarization of borders in the name of "security" is a doctrine that is embraced by neighboring countries towards refugees<sup>32</sup>. Respectively, the Bulgarian government on November 1, 2021, according to the statements of the Minister of Defense Georgi Panayotov, on the bTV network<sup>33</sup>, "sent about 350 soldiers along with 40 units of equipment to its border with Turkey to assist the border police. According to the country's Ministry of Interior, about 6,500 people, most of them Afghan nationals, entered the country illegally from January to September, a number three times higher compared to the numbers in the same period in 2020."

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31. <https://data2.unhcr.org/en/situations/mediterranean/location/5179>

32. <https://www.spiegel.de/international/europe/greece-and-croatia-the-shadow-army-that-beats-up-refugees-at-the-eu-border-a-a4409e54-2986-4f9d-934f-02efcebd89a7>

33. <https://www.evros-news.gr/2021/11/02/%ce%b7-%ce%b2%ce%bf%cf%85%ce%bb%ce%b3%ce%b1%cf%81%ce%af%ce%b1-%ce%ad%cf%83%cf%84%ce%b5%ce%b9%ce%bb%ce%b5-%cf%83%cf%84%cf%81%ce%b1%cf%84%cf%8c-%cf%83%cf%84%ce%b1-%cf%83%cf%8d%ce%bd%ce%bf%cf%81%ce%b1/>



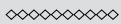
At the Greek land border in Evros, daily reports<sup>34</sup> in the local news broadcast the arrests of people allegedly traffickers, as well as those trying to cross the border either towards the Greek Mainland or trying to find a passage to the countries of Northern Europe. The arrests take place either in riparian areas, or in the mountains of the prefecture of Evros, or following controls to vehicles of traffickers by police patrols. The arrests of the alleged traffickers are made through car chases<sup>3536</sup> or through the intervention of the Special Operational Intervention Teams of the local Police Directorates as well as of the border guard departments. In the context of border securitization, it is worth noting that the online magazine Border Security Report<sup>37</sup> refers to the success of Eurojust,<sup>38</sup> which "assisted the Greek and Bulgarian authorities in stopping a trafficking ring in Greece", arresting eleven suspects who used expensive cars for the trans-

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34. <https://www.proinos-typos.gr/synelifthi-allodapos-sti-drama-gia-diakinisi-paranomou-metanaston-apo-tin-idiki-epichirisiaki-omada-epemvasis-tis-elas-dramas/> και <https://www.ertnews.gr/perifereiakoi-stathmoi/komotini/rodopi-synelifthisan-2-diakinites-kai-22-mi-nomimoi-metanastes/> και <https://www.e-evros.gr/gr/eidhseis/3/astynomiko-deltio-ths-18hs-septembrioy-2021/post44608> και <https://www.e-evros.gr/gr/eidhseis/3/astynomiko-deltio-ths-17hs-septembrioy-2021/post44602>
35. <https://www.e-evros.gr/gr/eidhseis/3/astynomiko-deltio-ths-20hs-septembrioy-2021/post44624>
36. <https://www.proinos-typos.gr/synelifthi-allodapos-sti-drama-gia-diakinisi-paranomou-metanaston-apo-tin-idiki-epichirisiaki-omada-epemvasis-tis-elas-dramas/>
37. <https://border-security-report.com/wp-content/uploads/2021/09/BSRSepOct2021.pdf>
38. <https://www.eurojust.europa.eu/>

fer of persons from the Greek-Turkish border in Evros to Thessaloniki. At this point, reference should be made to our previous report<sup>39</sup> and the death toll from car crashes following persecution, as this is the third leading cause of death<sup>40</sup> for migrants and refugees at the border.

However, apart from the arrests of the alleged traffickers and those accused of the crime of illegal entry (see below), on 26.8.2021 the police arrested <sup>41</sup>and drove an English journalist of the Sunday Times as well as a Greek photographer because they were found according to the police authorities without a permit in a military zone (Precautionary Security Zone), in the area of Dikaia near the Greek-Bulgarian border.



39. <https://www.humanrights360.org/defending-human-rights-in-times-of-border-militarization/#1>

40. <https://www.humanrights360.org/the-european-and-national-asylum-policy-at-the-land-borders-of-evros/#2a>

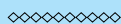
41. <https://www.evros-news.gr/2021/08/27/%cf%83%cf%8d%ce%bb%ce%bb%ce%b7%cf%88%ce%b7-%ce%b1%ce%b3%ce%b3%ce%bb%ce%af%ce%b4%ce%b1%cf%82-%ce%b4%ce%b7%ce%bc%ce%bf%cf%83%ce%b9%ce%bf%ce%b3%cf%81%ce%ac%cf%86%ce%bf%cf%85-%ce%ba%ce%b1%ce%b9-%ce%ad/>



## THE PRACTICE OF POLICE AND JUDICIAL AUTHORITIES OF PROSECUTING AND SANCTIONING THE OFFENSE OF ILLEGAL ENTRY:

The criminal prosecution and conviction for the crime of illegal entry by the competent Prosecutor of the Court of First Instance of Orestiada against those who enter Greece after the events of March 2020 continues, even with relatively reduced sentences compared to the previous period. In the last period of time, sentences concern mainly imprisonment of less than three (3) years, with suspension of execution of the sentence and without a fine. The Prosecutor therefore is still not refraining from criminal prosecution for illegal entry, contrary to Article 31 of the Geneva Convention<sup>42</sup> which calls on the Member States to refrain from criminalizing refugees on the grounds of illegal entry or residence, and the Court continues to issue convictions, albeit with reduced sentences. Reducing the sentences to at least three years means suspending the appeal and not imprisoning them until trial, in contrast to the previous and prevailing practice of convicting them at imprisonment with the first instance decision for a misdemeanor until the appeal is heard. Unfortunately, there is a reasonable fear that this practice, established after March 2020, will continue and the penalties will depend on the official political rhetoric at national and European level.

Given the recent rise of the Taliban throughout Afghanistan and the rapidly deteriorating security and human rights situation throughout Afghanistan, it is important to mention cases such as the trial of one of the first appeals lodged by an Afghan national in connection with the events of March 2020, to 4 years in prison and a fine of 10,000 euros. Having already served 12 months of prison in a detention center, with a decision in the second instance of the Three-Member Criminal Court for



42. <https://www.unhcr.org/3bcfdf164.pdf>

**Misdemeanors of Orestiada, his sentence was reduced to 13 months with suspension and without the imposition of a fine. The criminal treatment of new entrants, even from countries with a high refugee profile, raises questions about the continuation of this judicial practice.**

**On the criminal prosecution of unaccompanied minors in Afghanistan, who, upon their entry into Greece, were summoned before the Single-Member Juvenile Court to trial for illegal entry and which had been postponed due to exceptional measures for COVID-19, the case law imposes reprimands for illegal entry. Two minors under the age of 15, were brought to court accompanied by their parents, facing charges, although they were not sentenced. In fact, for the adult members of these families who were present before the Single-Member Juvenile Court, accompanying their minor children, separate cases had been filed, the trial of which was postponed again.**

**Finally, the intervention of the HumanRights360 team was substantial in the case of a Turkish national, of Kurdish origin, who had been convicted by the Single-Member Criminal Court for Misdemeanors of Orestiada, for the crime of illegal entry into the country to 4 years in prison and 10,000 euros, without its appeal having a suspensory effect. He served a 6-month prison sentence in a detention center and was released after submitting a request for a suspension of execution of the sentence, which was accepted. finally accepting. He was legally represented by our organization before the Regional Asylum Office of Thrace during both the registration and the international protection interview and was fortunately granted refugee status.**

In the context of the recording of human rights violations at the border in Evros, we refer below to complaints, reports and publications from July 2021 until today, indicative of the extent and intensity of the phenomenon of illegal pushbacks.

The Border Violence Monitoring Network<sup>43</sup> has recorded in detail<sup>44</sup> three<sup>45</sup> cases of violent pushbacks at the border of Evros, in July 2021, involving different groups of police, border guards and other officers of the security forces. Of the three incidents, we will focus on the third<sup>46</sup> as it concerns a group of refugees from Syria, among whom were two women trying to reach the Reception and Identification Center. The group was heading towards Fylakio and they were arrested 500 meters before entering. Before they could reach the center, four cars with ten police officers surrounded them. As soon as the group tried to explain that they wanted to reach the RIC, the police officers started beating them and slapped the two women. Police removed their mobile phones, documents, money, jackets, sneakers and forcibly put them in a truck, bringing them first to a detention center and then to Evros, where they were forcibly pushed back to Turkey.

Subsequently, a family of Turkish political refugees<sup>47</sup>, persecuted by the Erdogan regime along with eight other people, were arrested by the police, all their documents were confiscated, they were taken to a police station and from there to the forest. According to the complainants, during their arrest, they were

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43. <https://www.borderviolence.eu/>

44. <https://www.josoor.net/post/breaking-another-group-of-50-people-stranded-on-an-island-in-evros-meric-river>

45. July 10, 2021 00:00 – Dilofof/Kapikule – Border Violence Monitoring Network και July 7, 2021 00:00 – Lagyna – Border Violence Monitoring Network

46. <https://www.borderviolence.eu/violence-reports/july-2-2021-0000-mikrochori-kerimtecisalih/>

47. <https://synoraanoixta.wordpress.com/2021/07/20/%cf%83%ce%b5%ce%be%ce%bf%cf%85%ce%b1%ce%bb%ce%b9%ce%ba%ce%ae-%cf%80%ce%b1%cf%81%ce%b5%ce%bd%cf%8c%cf%87%ce%bb%ce%b7%cf%83%ce%b7-%ce%b-c%ce%b5%cf%84%ce%b1%ce%bd%ce%b1%cf%83%cf%84%cf%81%ce%b9%cf%8e%ce%bd/?fbclid=IwAR3PBiTQjbOZgZApmtYAYNEuKsygVdgbYHQOP4wfF8s4hde-Na131MUIMYns>



forced to undress themselves and the women were sexually harassed during the physical examination. Following the physical search, a police vehicle transported the refugees to the land border with Turkey. In Turkey, the woman's husband was arrested at the Ypsala police station in Andrianoupolis as he was being persecuted by the regime and he was released on parole.

The organization RSA (Refugee Support Aegean) in its announcement<sup>48</sup> refers to the chronicle of the pushback of a Syrian refugee to Evros as recorded by them. In particular, the Greek authorities illegally pushed back a group of persons, including a Syrian refugee for whom an application for precautionary measures was pending under Rule 39 of the ECHR and during which, the Greek authorities were required to provide information about the location of the applicant, to allow him to communicate with his lawyer and to refrain from any measure of removal from the territory until the registration and examination of his asylum application. In fact, according to his complaint, the authorities have applied the same *modus operandi* of arrest, removal of mobile phones, indifference to the call for access to the process of international protection, ill-treatment and removal of their clothes.

Watch The Med<sup>49</sup> describes the chronicle of a death on an island in Evros, in late August to early September 2021. Three Syrian refugees found a sick Syrian refugee when they entered the Greek territory. One of them took him on his shoulders and they addressed the Greek authorities, asking for international protection orally. They are arrested by the Greek authorities and completely illegally and violently transported together with three other Pakistani nationals to an island in Evros where they are abandoned to their fate. The three Syrians escaped by

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48. [https://rsaegean.org/el/timeline-pushback-evros/?fbclid=IwAR16iivZxKd99bMFBuW1zI8AhU8XS\\_Tfi-L8J5uRCOo210-cRCzdVxIRwX4](https://rsaegean.org/el/timeline-pushback-evros/?fbclid=IwAR16iivZxKd99bMFBuW1zI8AhU8XS_Tfi-L8J5uRCOo210-cRCzdVxIRwX4)

49. <https://watchthemed.net/reports/view/1962?fbclid=IwAR1GzVg8rkQgflYB7hUWCIEINxfuW-Ko-OGPnk65kp4GNzz3odyqBk94ecM>

swimming, while five other Syrian refugees arrived on the islet. On September 2, 2021, the Syrian patient died on the islet. The Greek authorities, in addition to what they already knew, had been re-informed by the Organization Alarm Phone<sup>50</sup> about the tragic situation in which the refugees were left, as well as their willingness to apply for international protection. The Turkish authorities were also informed but they were very late. Finally, on the afternoon of September 2, 2021, the Turkish authorities went to the islet, released the refugees and transported to Turkey the now deceased Syrian refugee M.A.

A Syrian refugee was found shot<sup>51</sup> in the thigh by strangers while trying to cross Evros with a plastic boat near the settlement of Thourios, between Orestiada and Didymoteicho. He was taken to Orestiada hospital for surgery and a preliminary examination was performed for his injury.

As HumanRights360 we recorded the incident of a violent pushback of a fourteen-year-old minor from Afghanistan who, among other things, described the events to us as follows:

*"Suddenly and just before nightfall, the police surrounded us. They wore green uniforms and wore badges without masks. We were ordered to fall to our knees until the police vehicle came and picked us up. We boarded a dark blue vehicle and were transported in a plastic container. I could not see anything else as the vehicle parked in the back and, when we left, we immediately entered the container. There were other people there. They were mostly men, but I think there were also minor children. We waited there for a few hours, but I cannot say exactly how long. They did not give us food, water or even allow us to go to the toilet. Before dawn they drove us in a white vehicle back to the river. There were policemen there in dark blue and green uni-*

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50. [https://twitter.com/alarm\\_phone/status/1431992311425257473?lang=el](https://twitter.com/alarm_phone/status/1431992311425257473?lang=el)

51. <https://apnews.com/article/europe-middle-east-turkey-migration-8a1cd1b027fb58d33b140b25ee582cce>

*forms. There were also people like us, some were our compatriots, some from Pakistan. They were the ones who put us in the boat and led us back, they went back to push back the rest of the people. They also translated instructions for the police. I do not remember exactly how many there were. When it was my turn and I got on the boat, I asked a Pakistani who was leading us back why he was doing it and he replied that he was promised the issuance of papers."*

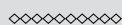
Finally, as HumanRights360, we provided legal assistance to a pushback survivor, who was arrested in Thessaloniki as he went to the nearby police station to report the loss of his ID card as a recognized refugee and was transferred to Evros where he was forcibly pushed back to Turkey. We submitted a report to the Ombudsman stating in detail the events of the pushback and assisted him in his attempt for legal re-entry. At the moment, a preliminary administrative investigation is being carried out "for suspicious actions of police officers and any imputation of disciplinary responsibilities against them". In the preliminary administrative examination, the lawyer of HumanRights360 was invited to testify and noticed that the questions posed did not show any interest in identifying the perpetrators but focused more on examining the credibility of the reporting person. Unfortunately, we are concerned that the country's continuous exposure to the ongoing revelations of pushbacks at the border and allegations of kidnappings from the mainland for the purpose of pushbacks to the border of Evros, will lead the political leadership to escalate the persecution of those who complain, either victims or humanitarian organizations. The call of the directorate of the Ministry of Migration and Asylum to the National Transparency Authority, the Judicial authorities and the internal control mechanism of the Police for the investigation of the complaints ignores, first, the vulnerable position of the victims in Greece towards the state organs and institutions, and secondly, the insurmountable difficulty of identifying perpetrators who usually wear uniforms without insignia, full face masks as well as the organized involvement of different police services and security

forces in the carrying out of pushbacks. Therefore, the establishment of an independent mechanism for recording border violations with the participation of civil society organizations remains imperative to enhance the credibility of victims and members of humanitarian organizations but also to strengthen and coordinate actions to end these illegal practices that expose our country and Europe that tolerates them.

## (II) MILITARIZATION/SECURITIZATION OF BORDERS

In the context of the militarization of the borders, we should focus first and foremost on the statements and announcements of the competent Ministers of Civil Protection and National Defense after the re-seizure of power by the Taliban in Afghanistan. At a time when images of frightened people trying to escape from Kabul airport, the Government Council of Foreign Affairs and National Defense (ΚΥΣΕΑ) held an emergency meeting in Greece<sup>52</sup> on “the release of those who collaborated with the Greek authorities, the protection of the borders and the avoidance of a new humanitarian crisis”.

The political leadership in Greece at the time of the Minister of Civil Protection Michalis Chrysochoidis and the Minister of Defense Nikos Panagiotopoulos, went to Evros to inspect the fence in Evros and the measures for the protection of the borders<sup>53</sup>, a visit which was held for communication, as well as for practical reasons. In fact, the first stated that: *“The Afghan crisis creates new data in the geopolitical sphere and at the same time creates opportunities for migration flows. It is known that we as a European country par-*



52. <https://www.capital.gr/politiki/3576588/kusea-gia-afganistan-proteraiotita-i-asfalisi-epistroti-egklobismenon>

53. <https://www.kathimerini.gr/politics/561470764/chrysocho-dis-panagiotopoulos-ta-synora-mas-tha-parameinoyn-asfali-kai-aparaviasta-i-ellada-synechizei-nathorakizetai/>

*ticipate in the institutions of the European Union and within this framework a number of decisions are taken, **however as a country we cannot wait impatiently for the possible consequences**", and then he added: "We support the democratic rights and freedoms of the people but at the same time we cannot allow the instrumentalization of the migratory flows that may arise". The Minister of Defense then continued in the same tone that they are considering ways to strengthen these systems.*

According to an article<sup>54</sup> in the newspaper of Kathimerini, sources state that the construction of the 27-kilometer-long fence in Evros has already been completed. The same goes for the installation of the automated border surveillance system, which consists of eleven cameras and radars with a range of up to 15 km in the Turkish territory. In fact, in the same post, police chiefs point out that "for the last twenty-four hours, they have been monitoring the operational means they have in their warehouses, whether they are unmanned aircraft or tear gas-and-stun-grenades." With the change of the political leadership of the Ministry of Citizen Protection, the new Minister T. Theodorikakos visited Evros, accompanied by the Leader of EL.AS. M. Karamalakis, in order to inspect the new 37 km fence, even referring<sup>55</sup> to the recent defense agreement between the Greek and French government regarding the purchase of three Belharra frigates, pointed out that "we are even more powerful after the signing of the strategic alliance of our country with France ". In addition, the recruitment of another 800 border guards for the gateways to Greece has already been announced<sup>56</sup>, as well as the recruitment of 250 border guards for patrols at the land border in Evros.



54. <https://www.kathimerini.gr/politics/561472225/evros-anatoliko-aigaio-schedia-ektaktis-anagkis-apo-el-as-kai-limeniko/>

55. <https://www.news247.gr/politiki/theodorikakos-apo-evro-enischyoyime-ta-ellinotoyrkika-synora-me-250-neoys-synoriofylakes.9384195.html>

56. <https://www.euronews.com/2021/10/11/greece-to-bolster-border-with-turkey-over-afghanistan-migration-fears>

According to the Spartakos Free Soldiers Network, during the inspection of the Deputy Minister of National Defense Alkiviadis Stefanis in Evros on 12-13 August 2021, the recruitment of 250 border guards in Evros was announced, at a cost of six million euros from the Internal Security Fund of the EU, as well through financial assistance of the Greek State. In fact, according to the decisions of granting a subsidy to the Minister of Citizen Protection that have come to light, the following are decided: first, the granting of a subsidy for the Action entitled: "Special Action: Recruitment of Fixed-Term Border Guards in the Regional Unit of Evros" with the "Hellenic Police Headquarters" as beneficiary and with a total eligible public expenditure of € 3,921,971.80 and a contribution of the Union of € 3,529,774.62 and, secondly, the provision of a grant entitled: "Training of New Border Guards on a Fixed-Time Basis" with the "Hellenic Police Headquarters" as beneficiary and with a total eligible public expenditure of € 2,350,000.00 and a contribution of the Union of € 1,762,500.00, for the training of border guards with duties to achieve more effective protection and surveillance of the external borders of our country.

Frontex reportedly<sup>57</sup> remains in Greece and on the border of Evros with 400 employees, several dozen vehicles, some of them equipped with thermal vision technology, and eight patrol boats. Frontex spokesman Peter Switalski said their role was to monitor developments in Afghanistan and Tunisia, which could have an impact on migration flows to the European Union.

Subsequently, according to reports<sup>58</sup>, the fully modern Zeppelin aircraft of Frontex arrived at the airport of Alexandroupolis and has been monitoring the sea<sup>59</sup> and land border between Greece

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57. [https://www.huffingtonpost.gr/entry/frontex-zepelin-kai-epsele-technologya-sta-senora-kathos-exaplonontai-oi-maches-sto-afyanistan\\_gr\\_61165067e4b07c140313e5df](https://www.huffingtonpost.gr/entry/frontex-zepelin-kai-epsele-technologya-sta-senora-kathos-exaplonontai-oi-maches-sto-afyanistan_gr_61165067e4b07c140313e5df)

58. <https://www.enikos.gr/politics/apokleistikes-eikones-epiase-douleia-ston-aera-o-big-brother-tou/1654538/>

59. <https://www.evros-news.gr/2021/07/19/%CE%B1%CE%BB%CE%B5%CE%BE%CE%>



and Turkey since July. This is one of the two Zeppelin, worth 3,000,000 taken on a four-month lease from the French contractor that will be developed in Greece for border surveillance in order to prevent the entry of refugees. The two aircrafts for marine supervision, according to the first publication, are twenty meters long, equipped with radars, thermal cameras and AIS equipment used mainly for the movement of ships and their range can reach up to twenty miles. The complaint of the Free Soldiers Network Spartakos<sup>60</sup> for the involvement of the army in violations of the rights of the newly arrived refugees at the border in Evros is part of the militarization of the management of the newly arrived refugees. In a letter to the Network, the officers of the 71st Airborne Brigade asked for an end to their missions in Evros and their involvement in the interception and pushbacks of refugees and migrants in Evros. The announcement states that Brigade officials face mental and physical



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60. <http://diktiospartakos.blogspot.com/2021/10/71.html>

health problems from this very involvement in the pushbacks of migrants and refugees.

Based on the announcement<sup>61</sup> of the Ministry of Civil Protection, the construction of the 40 km long fence was complete, and the automated electronic border surveillance system has been put into trial operation. According to the National Radio and TV broadcast (ERT)<sup>62</sup>, from Sofiko Orestiada to the Evros Delta in Alexandroupolis, a total of 11 new cameras and radars will operate. The range of cameras and radars varies and ranges from 3.5 to 15 kilometers. The data recorded by the cameras and radars will be transferred to the four local operation centers of Soufli, Tycherio, Didymoteicho and Fera, as well as to the regional operation centers of Alexandroupolis and Orestiada. The project budget reaches up to 14.9 million euros.

Finally, it is worth mentioning the Border Security Report (September / October 2021)<sup>63</sup> in the chapter entitled "Border Surveillance and Artificial Intelligence Systems", which highlights their importance in times of "crisis", for example the "crisis" at the Greek-Turkish border in Evros. The "crisis" in Evros is used as an example of the implementation of various surveillance and deterrence systems, which since then are constantly evolving and new ones are added, such as the two Zeppelins mentioned above. At this point, however, we will stick to the ROBORDER platform, which contributes to a more comprehensive and extensive border surveillance. The ROBORDER platform aims to develop and demonstrate a fully functional autonomous surveillance system with unmanned moving robots including air, sea (on the water surface and underwater) vehicles as well as ground vehicles with built-in sensors such as thermal and optical sensors.

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61. [http://www.mopocp.gov.gr/index.php?option=ozo\\_content&perform=view&id=7471&Itemid=724&lang=](http://www.mopocp.gov.gr/index.php?option=ozo_content&perform=view&id=7471&Itemid=724&lang=)

62. <https://www.youtube.com/watch?v=ooU4xtLIFMA>

63. <https://border-security-report.com/wp-content/uploads/2021/09/BSR-Sep-Oct-2021.pdf>



### (III) EXPANSION OF THE RIC AND THE PRE-REMOVAL DETENTION CENTER (PRO.KE.KA) OF FYLAKIO IN ORESTIADA

One of the major issues in the news and in the local public debate<sup>64</sup>, which concerns the Reception and Identification Centre of Fylakio, is the imminent expansion of its capacity by 33,500 square meters, which have already been rented by the competent Ministry for 5 + 5 years at a cost of 1,000 euros per 1,000 square meters, a total of 23 million euros. In the previous months, and specifically in the period between January-March, the Struggle Committee of the Municipal Council of the Municipality of Orestiada organized and carried out mobilizations under an unfortunately anti-refugee and anti-immigrant perspective<sup>65</sup>, against the planning of the expansion of the Reception and Identification Center and the Pre-removal detention Centre (PRO.KE.KA) of Orestiada. On 1/3/2021 the Government Spokesperson announced<sup>66</sup> that, following consultations of the Government with the local community it was decided not to proceed with the expansion plan and increase the capacity of the Reception and Identification Center of Fylakio and instead to proceed with works to improve the existing one.

On 26/07/2021, a document of the Ministry of Migration and Asylum was published in the local electronic press<sup>67</sup> and in the government site of DIAVGEIA and signed by the Secretary General of Migration Policy, Admission and Asylum, Patroklos Georgiadis, who invited three candidate contractors, Mytilineos SA, INTRAKAT, and TERNA SA, to submit financial proposals for the project of creating structures in Lesbos, Chios as well as for the

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64. <https://www.emprosnat.gr/politiki/oi-mnistires-tou-ergou-ton-142-5-ekat-evro-tou-ypourgeiou-metanastefsis-kai-asylou>
65. <https://www.xronos.gr/koinonia/orestiada-nea-diamartyria-kata-tis-epektasis-toy-prokeka>
66. <https://sputniknews.gr/20210301/evros-den-anavathmizetai-i-horitikotita-tou-kYt-fylakiou-9767678.html>
67. <https://www.evros-news.gr/2021/07/27/%ce%bc%cf%85%cf%84%ce%b9%ce%bb%ce%b7%ce%bd%ce%b1%ce%af%ce%bf%cf%82-%ce%ba%cf%8c%ce%ba%ce%ba%ce%b1%ce%bb%ce%b7%cf%82-%ce%ba%ce%b1%ce%b9-%cf%84%ce%b5%cf%81%ce%bd%ce%b1-%cf%85%cf%80%ce%bf%cf%88%ce%ae/>



ΦΩΤΟ: ΜΑΡΙΟΣ ΚΩΝΣΤΑΝΤΙΝΙΔΗΣ

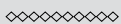
"upgrade of the existing Structure in the RIC of Fylakio". With a decision<sup>68</sup> published on September 6, 2021, on the website DIA-VGEIA, the construction company TERNA SA, having submitted the most economically advantageous offer, was declared as a temporary contractor for the construction of the project at the price of 23 million euros. On September 14, the contract<sup>69</sup> for the assignment of the tender for the expansion of Fylakio RIC to the aforementioned company was finally concluded. The initial estimate was that the projects would start in October. It is worth mentioning that this company is also carrying out works on the new fence in Evros<sup>70</sup>, aiming at the deterrence of migration flows.

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- 68. <https://www.evros-news.gr/wp-content/uploads/2021/09/%CE%95%CE%A0%CE%95%CE%9A%CE%A4%CE%91%CE%A3%CE%97-%CE%9A%CE%A5%CE%A4-%CE%A6%CE%A5%CE%9B%CE%91%CE%9A%CE%99%CE%9F%CE%A5.pdf>
- 69. <https://www.evros-news.gr/wp-content/uploads/2021/09/%CE%9F%CE%A1%CE%99%CE%A3%CE%A4%CE%99%CE%9A%CE%9F%CE%A3-%CE%91%CE%9D%CE%91%CE%94%CE%9F%CE%A7%CE%9F%CE%A3-%CE%9A%CE%A5%CE%A4-%CE%A6%CE%A5%CE%9B%CE%91%CE%9A%CE%99%CE%9F%CE%A5.pdf>
- 70. <https://lapolitica.gr/%CF%86%CF%81%CE%AC%CF%87%CF%84%CE%B7%CF%82-%CF%83%CF%84%CE%BF%CE%BD-%CE%AD%CE%B2%CF%81%CE%BF-%CE%B3%CE%B9%CE%B1%CF%84%CE%AF-%CE%BF-%CE%B5%CE%B8%CE%BD%CE%B9%CE%BA%CF%8C%CF%82-%CE%B5%CF%81%CE%B3/>

In the period that followed, officials of TERNA SA started discussions with local subcontractors and companies of Evros<sup>71</sup>, with whom they collaborated in the construction of the new fence, in order to undertake part of the expansion works. However, representatives of local companies are currently hesitant, fearing renewed reactions from the local community. Coming to today, no work has been done to expand the existing structures of the RIC of Fylakio.

Finally, it is worth mentioning the decision<sup>72</sup> of the President of the Republic to invite to the celebrations of the Republic a former official of the local government who participated in the far-right rallies against the expansion of RIC and PRO.KE.KA. However, it is also indicative that this invitation was accompanied by the cancellation of the invitation to the refugee rescuer Jason Apostolopoulos<sup>73</sup>.



71. <https://www.evros-news.gr/2021/10/17/%ce%ba%cf%85%cf%84-%cf%86%cf%85%ce%bb%ce%b1%ce%ba%ce%af%ce%bf%cf%85-%cf%80%cf%81%ce%bf%cf%84%ce%ac%cf%83%ce%b5%ce%b9%cf%82-%cf%83%ce%b5-%cf%84%ce%bf%cf%80%ce%b9%ce%ba%ce%bf%cf%8d%cf%82-%cf%85%cf%80/>
72. [https://www.avgi.gr/politiki/392558\\_me-akrodexia-drasi-kai-ametakliti-katadiki-kalesmeni-tis-proedroy](https://www.avgi.gr/politiki/392558_me-akrodexia-drasi-kai-ametakliti-katadiki-kalesmeni-tis-proedroy)
73. [https://www.euractiv.com/section/politics/short\\_news/greece-cancels-award-of-honoured-refugee-rescuer/](https://www.euractiv.com/section/politics/short_news/greece-cancels-award-of-honoured-refugee-rescuer/)

## **D. The intervention and the activity of HumanRights360 in the RIC of Fylakio. Protecting unaccompanied minors and defending their rights**

### **(I) THE RIC OF FYLAKIO AND THE PROTECTION OF MINORS IN THE MIDST OF THE PANDEMIC**

During the period of preparation of this report (July - October 2021), the number of new arrivals (1,139 including unaccompanied minors) who are transferred to the RIC of Fylakio, in order to undergo the prescribed reception and identification procedures remain relatively constant compared to previous ones. Regarding the particularly vulnerable group of newly arrived unaccompanied minors, from July 2021 to the end of October 2021, 211 unaccompanied minors have been transferred to the Center in Fylakio.

The multiple sentencing decisions<sup>74</sup> for Greece and the pending appeals before the European Court of Human Rights (ECtHR) regarding the illegal detention of minors and the legislative abolition of the protective custody of unaccompanied minors, have put pressure on the competent authorities in speeding up reception, identification and asylum procedures and have led to a reduction in the number of unaccompanied minors being held in inappropriate conditions and to the faster placement of unaccompanied children in appropriate accommodation structures by the competent Special Secretariat for Unaccompanied Minors, as precisely defined by law. However, efforts to expedite the aforementioned procedures, combined with the mandatory fourteen-day quarantine to prevent the spread of COVID-19 to the newly arrived population, create narrow time limits for

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74. <http://www.arsis.gr/synenteyxi-typoy-kratisi-asynodeytn-anilikwn/>



**111**  
REFERRALS  
FROM THE RIC



**141**  
cases of provision  
of legal counseling  
services

related to asylum procedures (collection of identity or medical documents, intervention and correction of incorrectly registered data, translation of documents, transfer of cases), family reunification (contact with family members within Europe or country origin, collection of necessary documents - the team handled **21 cases of family reunification**), assignment of temporary care, etc.



**136**  
preparations and /  
or representations  
of applicants for  
international protection

registrations of their applications or support during the interview and support in bureaucratic procedures before public services (hospitals, social services, etc.), of **which 5 UASC** were legally supported and represented during their interview conducted in accordance with the new Joint Ministerial Decision, whose application was declared admissible.



**158**  
psychosocial  
meetings

including sessions for the creation of social records, with follow-up sessions to ensure the welfare of the beneficiaries, interventions in the process of assigning temporary care (adult relatives accompanying the minors, research of the family bond, collection of documents, assessment of the best interests of minors, submission of social reports to the competent Prosecutor, referrals to accommodation structures).



child protection agencies to complete the necessary procedures for the legal and psychosocial assistance of minors with full respect for their rights. It is a fact that the institutions have intervened effectively in order to avoid any circumvention of the fundamental rights of minors in the context of this acceleration and the general pressure exerted on the administration of the RIC, safeguarding with their presence the best interests of the minors and their legal representation throughout all stages of the procedures. In addition, the quarantine that takes place in the Fylakio RIC, creates issues of lack of space, which implies the accumulation of new entrants in the Border Guard Departments, but also in PROKEKA Orestiada, taking into account that it has been operating for several months, as a pre-RIC place of stay for 3-4 weeks, until the newcomers are gradually transferred to the RIC.

In general, the reception and identification procedures in the midst of the pandemic continue and the Asylum Unit of Fylakio continues to register applications for international protection and conduct interviews, according to the Joint Ministerial Decision No. 42799/2021 (Government Gazette 2425 / B / 7-6-2021)

for the Designation of third countries that are characterized as safe and the compilation of a national list, according to the provisions of article 86 of law 4636/2019 (A '169).

In January 2021, it was announced by the EODY team that the vaccination of the beneficiaries will be launched and the requests of those who wish to be vaccinated started to be registered from April 2021. However, to date the vaccination has not taken place. The initial requests registered were around 100, with the majority of applicants being Turkish nationals, however today there is no request for vaccination from beneficiaries. The arrival of vaccinated Turkish nationals in the RIC of Fylakio who have already carried out the necessary vaccination in their country of origin, has also been noted. As of July 2021, 27 cases of COVID-19 have been reported. The largest increase in cases was observed in August, with 20 cases recorded. In the autumn months, the cases decreased significantly, with only 7 cases recorded. It is worth noting that regarding health issues, a significant obstacle to the immediate placement of unaccompanied minors in accommodation structures are skin diseases, since minors must be cured before leaving the Fylakio RIC. The most common skin diseases that occur are scabies and Staphylococcus, whose medication and treatment cannot be undertaken by the EODY unit in Fylakio RIC. A request has been submitted to the child protection agencies HumanRights360 and Arsis, which, in response to the emergency, ensure the provision of medicines for the recovery of minors. Recently, HumanRights360 started a new partnership with the NGO Givmed, gaining access to the Med for NGOs platform from which it is possible to have access to part of the required medicines.

## **(II) THE SYSTEM OF GUARDIANSHIP FOR MINORS**

Following the discontinuation of the Guardianship program for unaccompanied minors of the NGO Metadrasi in 2020, the need

for assistance by an authorized legal representative in the reception and identification procedures for minors under the age of 15 led to the resumption of the program in March 2021 under the auspices of the National Center of Social Solidarity and the consequent dispatch of two authorized representatives to the RIC of Fylakio. In August 2021, the program was terminated again without the possibility of renewal, the Authorized Representatives left the RIC and their absence once again created significant issues and deficits in the representation of unaccompanied minors, bringing back gaps and pathogenesis of the past in the registration procedures of the youngest of the unaccompanied children who are in the RIC.

In view of the significant gap created, METADRASI sent an Authorized Representative to the RIC in October 2021 to register the unaccompanied minors under 15 years of age. The Authorized Representative has taken over Thessaloniki and Evros as her points of responsibility and will visit the RIC of Fylakio twice a month, in order to make mass registrations of unaccompanied minors under 15 years of age.

The fragmented action at the level of an established guardianship system may help to address an individual problem, but it cannot be seen as a holistic solution. A focused approach to selected problems or issues alone is neither effective nor sustainable in the field of child protection.

An integrated child protection system focuses on the child in need of protection, meets their needs and ensures their best interests. Therefore, first of all, the need for a permanent presence of a guardian in the RIC of Fylakio and then, his/her support for the optimal provision of services to all unaccompanied children crossing the European borders of Evros, arises.

The guardian is the person with the most holistic picture of the situation and the individual needs of the child. He/she is the



most suitable person to bring the child in contact with various authorities and services, to ensure the strict observance of protection measures against problematic issues (see Determination of minority, registration at First Reception) and to guarantee the continuity of the protection provided to the child. The appointment of a permanent guardian in the field safeguards the rights of the child and strengthens his preventive and protective role.

### **(III) ISSUES WITH THE APPLICATION OF JMD 9889 - GOVERNMENT GAZETTE B '3390 / 13.08.2020 ENTITLED "DETERMINATION OF MINORITY OF APPLICANTS FOR INTERNATIONAL PROTECTION"**

The issue of determining the minority of third-country nationals entering the country without legal formalities continued to concern the bodies active in the field of child protection within the RIC of Fylakio, but also the Administration of RIC throughout the previous period.

Once again, however, the question arises on the extreme difficulty of collecting and presenting official documents from the country of origin, within such a short period provided by law to prove that the person is a minor. The fact that measures of restriction of liberty are imposed within the RIC of Fylakio, as it is the only closed center of first reception and identification in Greece, makes it difficult to collect any documents from the country of origin and consequently to ensure the best interests of the beneficiaries, the minority of whom is disputed.

Within the RIC of Fylakio, this procedure is carried out by law by the competent body of EODY, however, on September 29, the Mobile Minority Determination Unit of IOM, accompanied by representatives of the Special Secretariat for Minors, arrived at the RIC in order to carry out the procedure. From a total of 27 beneficiaries examined and for whom the doctor of EODY had expressed doubts regarding the minority, it was decided that 13 were minors and 14 adults.

A total of ten administrative appeals were filed by the lawyers of HumanRights360 against age determination decisions in accordance with article 25 of the Code of Civil Procedure and article 1 par. 9 of JM 9889/2020. The reasons for the appeals were indicatively the following: the non-exhaustion of the successive stages for determining the age, the lack of sufficient reasoning regarding the referral of the applicant to the next stage, the presentation of an original document from the country of origin. **In two cases the applicants had come from PRO.KE.KA after an age determination procedure carried out by the Laboratory of Forensic Research of the University General Hospital of Alexandroupolis and their minority was ascertained. That is, even though they had entered the RIC as minors, the EODY Doctor expressed doubts on the minority, as a result of which they were re-led in an age determination process and a decision was issued, according to which they were ascertained as adults and these decisions were the basis of the administrative appeals lodged.**

#### **(IV) IMPLEMENTATION OF JM 42799/2021: "DESIGNATION OF THIRD COUNTRIES THAT ARE CHARACTERIZED AS SAFE AND COMPILATION OF A NATIONAL LIST, ACCORDING TO THE PROVISIONS OF ARTICLE 86 OF LAW 4636/2019 (A '169)"**

The Joint Ministerial Decision No. 42799/2021 (Government Gazette 2425 / B / 7-6-2021) for the designation of third countries that are characterized as safe and the compilation of a national list, according to the provisions of article 86 of law 4636/2019 (A '169), was applied directly before the RIC and the Asylum Unit of Fylakio, in the context of the single registration. Therefore, all applications for international protection originating from nationals of Syria, Afghanistan, Pakistan, Bangladesh and Somalia, from 07.06.2021 are now examined as to their admissibility and applicants must identify and prove the reasons for which Turkey is not a safe third country for them. Family reunification and relocation cases, unaccompanied minors under the age of



ΦΩΤΟ: ΜΑΡΙΟΣ ΚΩΝΣΤΑΝΤΙΝΙΔΗΣ

15 and juvenile victims of torture are excluded from the application of this JMC. However, stateless persons are normally included, as this does not refer to citizenship or citizens but to applicants by country of origin and not citizenship.

In case it is judged that the applicant enjoys adequate protection from the third country (in this case Turkey) the Office rejects as inadmissible the application for international protection, according to art. 84 of Law 4636/2019 and its readmission to Turkey is ordered. This decision may be appealed before the Appeals Authority, usually within 20 days. The majority of the applicants for international protection for whom a decision of inadmissibility is issued, are transferred for further detention to the Pre-Removal Detention Centers of Xanthi and Drama, Paranesti.

It is worth noting that in the cases of mainly Syrian applicants, who as a rule after the completion of their interview before the Asylum Unit of Fylakio are released, the notification of the decision of inadmissibility on their application, is carried out by the

manager of the RIC of Fylakio on the same day in which the notification of the decision on non-detention is carried out by the Orestiada Police Directorate. **The problem with this practice is that the deadline for filing an appeal starts from the day after the notification, at which point the applicants who are released will have to appear at the nearest RAO/ Asylum Unit of their place of residence in order to file the Deed of Submission of the Appeal.** In the majority of cases, even when the case has been assigned to a lawyer of the Asylum Service Registry and the appeal has been filed on time by the lawyer, the applicants are unable to show up for the Deed of Submission of the Appeal, in order to set the date of the hearing before the Appeals Authority, as it is objectively difficult for them to have reached their final destination and to have direct access to a RAO/ Asylum Unit within the short period of 20 days of the deadline. **Consequently, it is at the discretion of the relevant Committee of Appeals Authority whether the appeal will be deemed timely, in case the applicant manages to appear after the 20-day deadline to sign the Deed of Submission of the Appeal, with a large risk, however, that it will eventually be considered overdue.**

Before the Asylum Unit of Fylakio, the decisions which accept the application for international protection and which have been issued from the beginning of the implementation of the JMD until today, reach 90% in the cases of minors over 15 years of age and 55% in cases of adults. The main criteria on which the Asylum Unit of Fylakio is based for the issuance of a decision on admissibility for minors over 15 years of age, mainly, is the length of stay in Turkey, the existence of family or other supportive environment, cases of illegal pushback at the Turkish-Iranian border, violence and torture and other special conditions that may occur.

**Legal Representation of unaccompanied minors during the interview on admissibility.** During the mentioned period of application of the Joint Ministerial Decision No. 42799/2021 (Government Gazette 2425 / B / 7-6-2021), despite the immediate

placement of unaccompanied minors in accommodation structures immediately after the registration of the application for international protection and before the interview, a significant number of interviews on admissibility of minors over 15 years of age were scheduled and conducted before the Asylum Unit of Fylakio. Five unaccompanied minors, mostly Afghans and Pakistanis, who were referred to HumanRights360 were legally assisted in the preparation and conduct of their interview, on the grounds why Turkey is not a safe country and should not be considered as such for them. The decisions that were issued considered their applications admissible and the asylum service again called for an interview on the merits of the case, before the territorially competent RAO/Asylum Unit of the place of the accommodation structure where the minor lives.



## (V) AN IMAGE FROM THE RECEPTION AND IDENTIFICATION CENTER OF FYLAKIO IN ORESTIADA

The abuse of the rights of the refugee population through the harsh practices of the EU with the militarization of the borders, as well as the poor living conditions of the asylum seekers who managed to enter the country, are reprehensible facts and the advocacy for securing the basic rights of refugee population is everyone's responsibility. This is a great fight that will be won with many small or big victories. Such a small victory is the first football match at the RIC of Fylakio!<sup>75</sup> The football match took place in the new sports complex that was established within the RIC, a for sports activities for minor guests in the RIC of Fylakio, sponsored by the international organization UNICEF<sup>76</sup> in collaboration with the NGO ARSIS<sup>77</sup>. Unaccompanied minors temporarily residing at the Fylakio Reception and Identification Center organized their teams and competed in the first friendly match organized. After the end, medals were awarded by the manager of RIC to all the players for their willingness and cooperation. In the stadium, which was built with the funding of UNICEF, unaccompanied minors will now be able to play football, volleyball and basketball, unwind and have fun, among other educational activities enjoyed through non-formal education activities by the Education Unit of the Mobile Child Protection Unit of ARSIS and IOM.

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75. <https://www.facebook.com/ArsisSafeZones/posts/603396104408677>

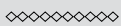
76. <https://www.unicef.org/>

77. <http://www.arsis.gr/en/home/>

## E. IN LIEU OF AN EPILOGUE

### A disturbing present

We are at a historic juncture in the course of the European Union and in the domestic political management of the refugee population. Refugees and migrants are baptized “tools / weapons” of other states, thus losing their human status in official political rhetoric and at the same time legitimizing the use of weapons against them, investing huge sums in their deterrence and cultivating tolerance in the idea of their death at the borders of either Evros and the Aegean or at the borders of Poland and Belarus. At the same time, defending the rights of refugees and migrants and rescuing them at sea can be considered a criminal offense and already in Greece two activists face groundless accusations<sup>78</sup> and they risk 25 years in prison for providing assistance to refugees. In the same case, another twenty-three persons<sup>79</sup> are accused of aiding and abetting refugees on misdemeanor charges. But the criminalization of solidarity with refugees, the funding of huge sums in deterrence, repression, surveillance, militarization and border security does not leave societies and democracy unaffected within European states. The constant authoritarianism, the training of the police and port authorities in arbitrariness, in the organized violation of the rights of refugees, the proven systematic violation of the principle of non-refoulement through the abduction of refugees on the islands and inland and their violent illegal pushback to Turkey, is a reality that can reach up to the murder of a Roma driver by DIAS police officers with 38 bullets<sup>80</sup> in a residential area as well as the use of water cannons and the injury of firefighters in their demonstrations<sup>81</sup> claiming recruitments. Defending the rights of refugees and migrants concerns all democratic citizens.



- 78. <https://www.amnesty.eu/news/greece-humanitarian-workers-lives-remain-on-hold-as-trial-is-adjourned/>
- 79. <https://www.reuters.com/world/europe/aid-workers-accused-spying-go-trial-greece-over-refugee-rescues-2021-11-18/>
- 80. <https://wearesolomon.com/mag/accountability/young-roma-shot-dead-by-greek-police-yet-another-case-of-police-impunity-part-1/>
- 81. <https://www.euronews.com/2021/11/05/greek-firefighters-clash-with-police-at-climate-ministry>



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