

Violations of human rights in Greece in the «light» of European Pact on Asylum and Migration

«Fighting with dark»



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Introduction

In this report we try to demonstrate how the proposed provisions for the [new European Pact on Asylum and Migration](#) have already been applied informally in the Greek context. In addition, we try to demonstrate that the Greek legislation & practice at the border and the asylum process in Evros region are informally aligned with the new European Pact, in a particularly hard line, constantly limiting asylum seekers' rights in Greece. We are seriously concerned that the most ominous provisions regarding the asylum procedures have already begun to be implemented with tragic consequences for refugees and the society in general. A society of segregation and exclusion breeds more exclusion.

The replacement of the existing Dublin Regulation (EU), no. 604/2013, was the alleged main negotiation between the countries of the South and indeed necessary for the cessation of refugees' confinement in the border countries. However, according to the new Pact, the first entry country to Europe criterion remains virtually intact while the Commission as a whole avoids the issue of intra-European mobility.

“Solidarity” remains voluntary while the Commission, taking into consideration that the Member States will not implement a relocation scheme on asylum and integration process, prejudges a relocation scheme only in a «sponsorship return» scheme. The concept of "solidarity" that the new Pact introduces, distorts the concept of solidarity and defines it in terms of technocratic return management, while the screening mechanism and the "controlled detention centers" that are introduced will result to further detention and confinement situations on the islands and possibly in A new “Moria” (which the European Commission is trying to avoid with the proposed Pact on Asylum and Migration).

The report concludes with a hope, with an effort to see the other image, the image of inclusion and real solidarity.

1. Asylum procedures in Greece in the light of the EU Pact on Migration and Asylum and in relation to pushback policies.

A series of [bodies](#) and [organizations](#) express their concern regarding the endorsement and, above all, the informal implementation of the EU Pact on Migration and Asylum.

The Pact is a legal-technical text that seeks to shape a European *modus operandi* around the management of the refugee population. It promotes a mechanism of "solidarity", including

the "return sponsorships" as a dominant form and option, rendering thus returns a central pillar of the Pact and the migration policy. Returns to be implemented, however, require an extensive detention system for those considered to be returning. At the same time, returns require transnational agreements and readmission agreements with third countries, in order to facilitate the removal of migrants and refugees outside the European Union. Transnational repatriation and expulsion agreements with those to be returned with their countries of origin as well as readmission agreements with third countries constitute the central direction of the Pact. The Pact seeks to legitimize human rights violations, and in particular violations of the right to international protection.

Looking at the developments in the asylum procedures in Greece through the lens of the EU Pact on Migration and Asylum, we observe its informal implementation, unfortunately with the forbearance of the European Union institutions, creating a situation for refugees and migrants in Greece reminiscent of the politics of the Visegrad countries. The European orientation towards an extreme right-wing perception of the refugee population as a "danger" from which we must protect ourselves, paves the way for the prevalence of human rights violations to wider sections of society.

At the level of meetings of the Ministry of Migration and Asylum with respective counterparts of ministers and politicians of other European States, it is evident that there is a focus on the external dimension of asylum and migration and the establishment of an enhanced European policy of "beneficial partnerships" with countries of origin and, as set also in the [meeting](#) with the Minister of Foreign Affairs and Deputy Prime Minister of the Government of Belgium.

Respectively, during the [meeting](#) with the Dutch Minister of Migration, the need for better results in returns was discussed and agreed upon. "There needs to be a strong solidarity mechanism that is in line with the obligations of Member States to manage asylum and migration." The Minister himself stated that "We agree on the need to prevent primary flows as a means of reducing secondary flows, to effectively protect our borders, to implement prompt procedures and to strengthen our ability to return those who are not entitled to international protection through a common European mechanism.

During the [working visit](#) of the Minister of Migration and Asylum in Bratislava with the Minister of Interior of Slovakia, the negotiation of the EU Pact on Migration and Asylum in terms of "strong and effective protection of the EU external borders" as well as the financing

by Slovakia of health care-provision activities in the Aegean islands amounting to 1 million euros, were discussed. The worrying identification - unfortunately not only in terms of political statement - of the Minister of Migration with the ideas of the Visegrad countries, is reflected in the statements of Mr. N. Mitarakis "Greece and Slovakia share many positions on the common European asylum and migration policy. We both stress the need for effective protection of the EU's external borders in a way that will prevent mass irregular flows. We also agree on the need to strengthen our cooperation with third countries - what we call the external dimension of migration -, to strengthen returns through a central European mechanism, and to strengthen the role of FRONTEX in both border control and returns...".

In Portugal, respectively, on 10.5.2021 he participated in the [Ministerial Conference](#) on the "Management of Migration Flows" with the main issues on the agenda being the strengthening of cooperation between the EU and the countries of origin and trafficking, the promotion of legal migration routes and the smooth integration of migrants, as well as the strengthening of mechanisms to prevent irregular migration and the protection of the EU's external borders.

These meetings on the negotiation of the Pact, constitute the reflection of a plan that has already begun to be implemented in Greece. Specifically, within 2021, the right to international protection in Greece is being challenged, to the extent that it is now a certainty that Greece cannot be a safe country of asylum. In brief:

- On 29.1.2021 with a [joint decision](#) of the Minister of Migration and Asylum and the Deputy Minister of Foreign Affairs, Mr. Miltiadis Barvitsiotis, Pakistan and Bangladesh are added to the list of safe countries of origin.
- On 32. 3. 2021 a [tender](#) is held for the fencing works and installation of security infrastructure in the Accommodation Structures of the Mainland with an estimated value of 28,406,664.99 euros, since their construction had already been provided without the requirement of a building permit based on [article 146 par. 3 of Law 4759 / 2020](#) as it amended [par. 1 of article 30 of Law 4495/2017](#).
- On 7 .6. 2021 Turkey is designated by [a joint ministerial decision](#) of the Minister of Migration and Asylum and the Deputy Foreign Minister as a safe third country, for applicants for international protection from Syria, Afghanistan, Pakistan, Bangladesh, Somalia. Greece is the second country after Hungary to recognize Turkey as a ["safe third country"](#) which is indicative of its political orientation. The JMC does not even

mention any exceptions and there is no possibility to ask for clarifications regarding its application provided to lawyers and applicants for international protection. Its application, although defined in the JMC on 7.6.2021, is essentially retroactive as it applies to those applicants for international protection who are in Greece and have not yet undergone an interview, i.e. the largest percentage, given that the pandemic delayed a high number of interviews. The Joint Ministerial Decision on the safe third country, had already been announced on 16.3.2021, at the [meeting](#) of Foreign Ministers, where the Minister of Migration and Asylum had emphasized "that Turkey is a safe third country not only for those coming from Syria, but for all refugees. "

❖ **Why is Turkey not a safe third country?**

It is worth noting that this joint ministerial decision comes at a time when, according to official statistics from the Ministry of Migration and Asylum, [Turkey in 2020 did not accept the return of any Syrian citizen based on the EU-Turkey Statement](#). The result was further detention and confinement in precarious conditions of this population on the islands while the imposition of geographical exclusion in restrictive conditions and even in the midst of the pandemic worsened the already aggravated situation of this population. But let us consider the criteria for designating a country as a safe third country, taking into account that the contribution of the criteria for designating a safe third country is cumulative, ie all of the following criteria must be met: (a)The applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion; (b) this country respects the principle of *non-refoulement*, in accordance with the Refugee Convention; (c) the applicant is in no risk of suffering serious harm according to Article 15 of PD 141/2013; (d) the country prohibits the removal of an applicant to a country where he or she risks to be subject to torture or cruel, inhuman or degrading treatment or punishment, as defined in international law; (e)The possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Refugee Convention; and (f) the applicant has a connection with that country.

So why can't Turkey be considered a safe Third Country for these nationalities? A key reason is that Turkey does not grant international protection under the 1951 Geneva Convention to persons seeking international protection from non-European countries. Even for Syrian citizens, for whom Turkey had pledged to give them access to protection under the provisions of the European Asylum System, we do not have any assessment as to whether they are

granted access to asylum, reception, healthcare services, education, access to the job market etc and finally how many of these people were able to integrate smoothly into the community and what is progress of their integration.

Furthermore, in March 2021, Turkey announced that it was planning to withdraw from the Istanbul Convention and therefore would no longer protect victims of gender-based violence and would consequently not provide adequate protection to victims of gender-based violence returning from Greece. In addition, [the risk of expulsions of refugees from Turkey, even to war zones in Syria, has been highlighted in many reports](#). As far as the criterion of connection with the Third Country is concerned, both quantitative and qualitative criteria are required that are not ensured by the simple passage of these individuals through Turkey. Concerns are therefore reasonable that this decision is based solely on the urgent need to remove this population from Europe and does not take into account at all the need to safeguard their right to an individual and fair examination of their asylum application.

- The [Joint Declaration between the EU and Afghanistan](#) is reflected in the Greek reality through the [meeting](#) (1.6.2021) of the Minister of Migration and Asylum and the Ambassador of Afghanistan to Greece, where the latter reaffirmed his full commitment to facilitate the return of those Afghan citizens who are not entitled to international protection. In fact, the two sides "agreed to work together to enhance returns, voluntary and forced, as well as to improve their cooperation in order to smoothly complete the required identification processes by the Afghan Embassy."
- On 5.5.2021 a [meeting](#) was held with the Ambassador of Bangladesh regarding the bilateral cooperation of the two countries in the field of migration.
- On 18.6.2021 the draft law proposed by the Ministry of Migration and Asylum was put up for [public consultation](#), entitled: "Reform of expulsion and return procedures of third country nationals, issues of residence permits and procedures for granting international protection and other provisions in the competence of the Ministry of Migration and Asylum and the Ministry of Citizen Protection ".



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❖ **As regards the draft law**

The modification of the framework without ensuring the individual assessment of the request for international protection of the person and without ensuring the observance of the principle of non-refoulement shows a choice of rhetoric about the *"need to protect the country from the invisible enemy"* but also an ongoing political deterrence of this population from Europe, which once again makes *"compromises"* on human rights by *"expelling"* this population without criteria anywhere outside Europe and by any procedure.

Two of the proposed provisions that support the above findings are commented below:

(a) The *"consolidation"* of the concepts of return and expulsion and the provision for an indiscriminate issuance of expulsion decisions to the detriment of persons falling 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). In cases of application of the provisions on expulsion, the consent of the country of origin or transit is not required, in contrast to the provisions on return where the consent of the country of origin or transit is

required, which further concerns us about the efforts to apply the provisions for expulsion extensively. Furthermore, this provision is extremely problematic for new entries in the islands and Evros who do not meet the legal requirements, because while it is provided that they are subject to reception and identification procedures (no. 14, par. 1 L 4375/2016, no. 39, par. 1 Law 4636/2019), 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 place them in the endangered deportation or collective expulsions.

(b) The restriction of 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 more specifically in the Reception and Identification Centers (RIC), Accommodation Structures and Closed Controlled Structures "which acquire a multifunctional character as within their area there are separate temporary accommodation facilities and special detention facilities, in order to create a clear and safe place of residence of third country nationals with respect for human beings. rights ". In essence, the following are abolished: "b) the Mobile Reception and Identification Units (MRIU), c) the open Temporary Reception Structures for third country nationals or stateless persons, who have applied for international protection, (d) the Open Temporary Accommodation Structures for third country nationals citizens or stateless persons when restrictive conditions have been imposed on them: persons under a return procedure in accordance with article 22 of law 3907/2011, or with paragraph 3 of this article in conjunction with article 30 of law 3907/2011 or whose removal has been postponed in accordance with Article 24 of law 3907/2011 or who fall under the provisions of article 76 para. 5 or article 78 or article 78a of law 3386/2005, e) the Closed Temporary Reception Structures for third country nationals or stateless persons, who have applied for international protection and against whom a detention order is issued, f) the Closed Controlled Island Structures ("KEDN") for the temporary reception and accommodation of third country nationals, who have applied for international protection or who are under a return procedure, according to article 22 of law 3907/2011 or according to paragraph 3 of this article in combination with article 30 of law 3907/2011 or whose removal has been postponed, in accordance with article 24 of law 3907/2011 or subject to the

provisions of articles 76 paragraph 5 or 78 or 78A of law 3386/2005, provided that restrictive conditions have been imposed on them.

In separate areas within the above structures, Reception and Identification Centers (RIC), Closed Temporary Reception Structures, Pre-Removal Detention Centers for Aliens (PRO.KE.K.A.) may operate, as well as separate areas with appropriate specifications for the residence of third country nationals or stateless persons belonging to the vulnerable groups of paragraph 8 of article 14 of law 4375/2016.

All these structures are established and abolished by Presidential Decree, while a General Regulation for the Operation of the Structures is issued (by a Minister) and a set of Internal Rules of Operation for the structures (by a General Secretary of Reception). The general supervision of the operation of the Closed Controlled Island Structures ("KEDN") is exercised by the Director of the Reception and Identification Center (RIC) that operates within it. In general, special facilities where third-country nationals are detained pursuant to Article 31 shall be established and abolished by a joint decision of the Ministers of Citizen Protection, Migration and Asylum, and Finance. **This provision raises concerns about the conversion of all accommodation structures into closed controlled structures with detention centers included in them, which will also fall under the Responsibility of the Ministry of Citizen Protection and the Greek Police within a possibly stricter framework and diversification of the target from a process of integration to prolonged detention.**

The concerns raised by the aforementioned legislation, are very likely to lead a significant number of third-country nationals without legal documents in precarious conditions and subject to expulsion- / return- and / or readmission procedures to Turkey in a strict, vague and doubtful- as regards its compatibility with the European Directives- framework, which could potentially lead to a "repatriation legislation" in breach of the principle of non-refoulement as protected by Article 33 of the Geneva Convention and in breach of the articles of the European Convention on Human Rights that protect the right to life, and prohibit torture, inhumane or degrading treatment or punishment. They further create an accommodation framework that is far from the open accommodation structures described in the Reception Directive and in no way create the conditions for an integration policy but intensify a regime of detention and inclusion that threatens social cohesion and

leads to further extreme rhetoric against this population group.

2. "Legalizing pushbacks"

The issuance and implementation of the Joint Ministerial Decision for Turkey as a safe third country, in essence, seems to function, in the communication for the political leadership of the relevant ministries, as a legitimate argument for the [systematic pushbacks](#) at the country's sea and land borders.

Human Rights 360 filed an action before the ECHR on 18.3.2021 for violations of articles 2 par. 1, 3, 5, 13 and article 4 of the Fourth Protocol of the ECHR representing Mr. Z.I., beneficiary of subsidiary protection granted from the German authorities, who was arrested on September 20, 2020, in Thessaloniki. The applicant, while in a town square, was approached by police, who requested his documents and then took him to the nearest police station. The applicant, from the very beginning, showed the police authorities who requested the documents he had with him, a certificate from the Regional Asylum Office of Samos about his recognition by the German authorities as a beneficiary of subsidiary protection as well as other documents. At the police station, he showed them the certificates again but the police ignored him. After some time, he was transferred to another place, reminiscent of a detention center. There they took his bag and mobile phone, also took his fingerprints and then put him in detention, along with other people. The next day, four white Greek police vans arrived, with Greek license plates, closed without windows, and led them to a stadium-like area. There came a police cage, with the driver and co-driver dressed in military uniforms and led them to the river Evros. They were forced to sit down and after hitting them, they were told not to make a fuss. They put him on the boat, beat him and sent him back to Turkey.

HumanRights360 has documented and is in the process of re-legalizing actions before domestic and international bodies and other cases of pushbacks. Specifically, one incident refers to the arrest of a newcomer and his return to Turkey, which meant his arrest by the Turkish authorities and his expulsion to a country other than his country of origin. And the second case, in the arrest of a recognized refugee, permanent resident of Greece since 2016, with a stable job and residence, who while going to report the loss of his documents to the police in Thessaloniki, was quickly arrested, illegally deported and pushed back through Evros in Turkey.

3. RIC Reception and Identification Center's (RIC) of Fylakio, Orestiada operation

I. Newcomers' arrivals

According to official [UNHCR statistics](#), the total arrivals since the beginning of 2021 in Greece amount to 3,798, of which 1,293 are by sea and 2,505 are by land, from the border of Evros, with additional people who have lost their lives or are considered to be missing. 41% are men, 23.5% women and 35.4% children. Compared to the year 2020, the numbers of arrivals are around the same levels, however, the arrivals at the land border of Evros have significantly increased. With dominant nationalities in Afghanistan, Somalia and the Democratic Republic of the Congo on sea arrivals, Evros welcomes mostly Turkish and Syrian nationals, followed by Afghans and Pakistanis. In the attempt to cross the border, they face serious dangers for their lives, as well as insults violating their dignity, such as the [Kurdish writer](#) who was arrested by the Greek authorities on June 29 in Evros. On April 12, 2021, [33 people](#) were trapped on an island in the river Evros, with border guards on both sides of the border shooting at them. On the same day, [three bodies](#) of unknown male migrants, were found on the Greek side of the border, near the area of Andrianoupolis. The pursuit of cars by the Greek police also led to a [car accident](#), where a five-year-old girl was injured.

Approximately every week, about 100 people are arrested by the Police Directorates of Orestiada and Alexandroupolis, while the release of Turkish nationals with a release note directly from the Border Police Stations is largely observed, without subjecting them to reception and identification procedures at the Fylatiaki Police Station. It is worth noting that in June no Turkish citizen entered the RIC, while the arrests show that the majority were of this nationality. During the first half of 2021 at the Orestiada RIC, 1395 arrivals were recorded, of which 131 minors, unaccompanied and separated from their families, with a gradual increase in arrivals in the second quarter of 2021 and a significant increase in the arrivals of minors in May and June 2021. At the time of writing this report, the capacity of the RIC amounts to 278 persons, among them 81 minors, who are unaccompanied and separated from their families.

Since the beginning of the year, 23 people have lost their lives trying to cross the border, according to the Alexandroupolis Forensic Medicine Service.

The pre-removal detention centre of PROKEKA Orestiada, after its reopening on 14.05.2021 and following a long period of suspension of its operation, due to reconstruction works, welcomes arrivals from the Border Police Stations only for the pre-reception and identification process, with an average stay of people 10-15 days within its premises. At the time of writing this report, approximately 140 people remain at PROKEKA, who have undergone a rapid test by the AEMY team and a 14-day quarantine, in order to receive the relevant certificate from the AEMY doctor as provided by the protocols in order to prevent the spread of the COVID-19, and in order to proceed immediately to the reception and identification procedures upon their transfer to the RIC, without the need to be also quarantined by the EODY team. This practice has recently started to be applied in order to facilitate the operation of the RIC and to avoid double quarantine and delay of the procedures, so that after the completion of the procedures and the departure from the center it will be possible to receive new entries.

ii. Implementation of the Common Ministerial Decision 42799/2021 regarding the safe third country concept

On 07-06-2021 the Joint Ministerial Decision 42799/2021 - Government Gazette 2425 / B / 7-6-2021 of the Ministries of Foreign Affairs and Migration and Asylum was issued for the Designation of third countries that are characterized as safe and the compilation of a national list, as defined in article 86 of law 4636/2019 (A '169).

The only article provides for the compilation of a national list of safe third countries, with the inclusion in it of Turkey as a safe third country, in accordance with the provisions of Article 86 of Law 4636/2019, for applicants for international protection coming from Syria, Afghanistan, Pakistan, Bangladesh and Somalia.

The new JMC was implemented immediately by both AKA Fylakiou and RIC, on the same day it entered into force. Therefore, now, when registering the request for international protection at the RIC, the applicants from the above countries must identify the reasons why Turkey is not a safe third country for them.

Following the additional registration by the AKA of Fylakio, an interview follows, within a very short period of a few days, in order to examine the admissibility of the request for international protection. In case it is judged that the applicant enjoys adequate protection from the third country (in this case Turkey) the Asylum Service 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 to the Appeals Authority.

Otherwise, the application is accepted, and it is decided to continue the process of examination of the substance of the case by conducting a new interview. In case the applicant for any reason is not accepted in Turkey, his application for international protection will be examined by the Greek authorities.

According to the instructions of the Asylum Service, the cases of family reunification and relocation, unaccompanied minors under 15 years of age and minor victims of torture are excluded from its application. However, stateless persons are normally included in the application of the JMC, as it does not refer to citizenship or citizens but to applicants from a country of origin.

To date, a small number of decisions have been issued on the admissibility of applications, most of them deemed inadmissible, referring the applicants to the free legal aid of the Asylum Service Register of lawyers, in order to file appeals before the Appeals Authority. So far, the small number of applicants who have lodged an appeal are being released on a release note, and there is reasonable concern as to the fate of these people when the number of rejection decisions increases significantly, as it is very likely that are taken for further detention to Pre-removal Detention Centers. Moreover, the transfer from the RIC to detention in PRO.KE.KA of the same area is a reality, with the latest example of a minor who, although placed by prosecutorial order in an accommodation structure, became an adult and instead of being released or transferred to another structure, was taken as a detainee to PRO.KE.KA Xanthi. After the intervention of Human Rights 360, due to his vulnerability and as newly turned adult but also due to other serious issues, he was placed by the Reception and Identification Service in an accommodation facility in Athens.

The police and judicial practice of the charge and conviction for the offense of illegal entry: Unfortunately, the Public Prosecutor continues not to abstain from the prosecution and the Single Judge Criminal Court of Orestiada continues to issue convictions for the crime of illegal entry, with particularly high fines resulting in the imprisonment of convicts.

According to HumanRights360 sources, the usual sentence is three years and one month imprisonment plus a fine. An additional one month is imposed in order the appeal has no suspensive effect and the convict to be sent to prison until the hearing of his/her appeal. In

practice, many of the convicts are Turkish nationals who fled political persecution in the neighboring country.

What can we do to deconstruct this construction and disinformation of the public about the population entering Europe 's borders seeking international protection?

HumanRights360 is member of a broader partnership #EndPushbackshs <https://endpushbacks.com/> and participated in the campaign #EndPushbacks.

Through the #EndPushbacks campaign we tried to re-introduce to the civilians the refugees and the concept of the individualized assessment of his / her asylum application, to inform the public about the illegal acts that taking place at the border (illegal detention, torture, massive expulsions, pushbacks), to explain what the term pushbacks means and why it violates the rights of these population and finally to deconstruct the distorted border guard rhetoric against of an "invisible threat".

Based on the rhetoric developed by the authorities, illegal detention, torture, massive expulsions, pushbacks and other illegal practices in accordance with international law, can go unpunished in the name of border guarding; the latter this is something that people should be aware of and fight against it. Whatever the decision on an individual's asylum application is, defending and respecting his or her rights as long as he or she remains on the European territory is responsibility of all citizens.

This is the only way to ensure fair and cohesive societies and avoid an explosion of far-right elements while at the same time investing in an integration policy.



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III. Implementation of the Common Ministerial Decision 9889/2020 regarding the determination of the minority in the RIC of Fylakio, Orestiada

A new challenge that has arisen recently, both for the bodies active in the field of child protection within the RIC of Fylakio, and for the administration of the RIC itself, is the implementation of the new JM 9889/2020 Government Gazette 3390 / B / 13- 8-2020 concerning the determination of the minority of third-country nationals or stateless persons entering the country without meeting the legal formalities.

According to article 1 par. 5 of the new JM 9889/2020, the assessment of the age of the person is done once in the following successive steps:

- a) Evaluation of the physical development of macroscopic features, such as height, weight, body mass index, voice and hair growth after clinical examination and obtaining a medical history based on reference values or somatometric data. This clinical examination is performed by a properly trained health professional (physician, pediatrician, etc.).
- b) In case of justified inability to assess age based on the above examination, a psychosocial assessment is followed by a trained psychologist and social worker, who examine the cognitive, behavioral and psychological development of the individual and compile a report.

If a psychologist is not employed or there is no social service in the nearest structure of the public health system, the above psychosocial assessment can be performed by a trained psychologist and social worker of a certified civil society institution registered in the Register of Greek and Foreign Non-Governmental Organizations provided in Article 58 of law 4686/2020 (A'96). It is excluded from the conduct of the above psychosocial assessment any actor in charge of the care or accommodation of persons whose age is disputed. The above psychosocial assessment includes at least one semi-structured interview, during which the personal history of the individual is investigated, taking into account all the necessary elements related to the psychological maturation of the individual. The result of determining age at this stage results from the combination of psychosocial assessment, but also the examination of the physical development of macroscopic features.

c) If, following the above examinations, there is still a reasonable doubt, then the assessment of age will be made either by a x-ray of the left wrist and extremity of the hand to determine the bone age, or dental examination, or dental radiography, or, finally, with any other an appropriate instrument, which, based on international literature and practice can give a valid conclusion.

Exhaustion of each of the above stages is mandatory before the implementation of the next and must be adequately justified and notified to the referring body for further referral actions in cases of justified inability to ascertain the minority.

Within the RIC of Fylakio, this process is carried out in a compulsory way by the competent body of EODY, while the bodies active in the field, including the HumanRights360 team in Evros, are called to evaluate those cases in which it is deemed necessary and in the best interest of beneficiaries to file an administrative appeal against the acts determining the age. These acts are issued by the Management of the RIC and within fifteen (15) days from the notification of the act to the beneficiaries, there is a right to file the above appeal, according to article 25 of the Code of Administrative Procedure (Law 2690/1999, A'45), before the body that issued the contested act (article 1 par. 9 of Joint Ministerial Decision 9889/2020).

In order for the above appeal to be successful, it is necessary to provide official identification documents or legally issued travel documents by the countries of origin, as according to par. 12 of article 1 of the Joint Ministerial Decision, the submission of such documents eliminates the doubt on minority. In this case, however, the issue of the extreme difficulty of collecting and presenting official documents from the country of origin, within such a short time limit

provided by law for lodging an appeal, arises. The fact that there is a restriction of freedom inside the KYT of Fylakio, as it is the only closed center in Greece, makes it difficult to collect any documents from the country of origin and consequently to ensure the best interests of the beneficiaries, whose minority is disputed.

From the beginning of the implementation of the Joint Ministerial Decision, HumanRights360 filed four administrative appeals against the age assessment acts, in accordance with article 25 of the Code of Administrative Procedure and article 1 par. 9 of the JMC 9889/2020. The appeals were found by the Administration of the RIC to be both admissible and well founded, the age assessment decisions were revoked, with the result that the beneficiaries are now considered minors. In the majority of our cases, official identification documents were provided by the countries of origin. Pursuant to paragraph 12 of JMC No. 9890/2020, the provision of identification documents or legally issued and officially translated travel documents from the countries of origin interrupts the pending process of determining the minority and eliminates the ambiguity. In addition, the common ground of all the appeals was the arbitrary raising of doubts about the minority, the lack of training of the health professionals, the non-exhaustion of the mandatory successive stages provided by law and the lack of reasoning for the decision ascertaining the age.

The urgent need for the strict application of the new JMC, has already been apparent in recent decisions of the Appeals committees, during the examination of requests in the second instance of applicants who invoke their minority in the exercise of the appeal. A competent committee found that there was a doubt about the minority of the applicant, who received a decision rejecting his asylum claim, after determining his age at the Lesvos Health Center by performing a wrist x-ray and an age assessment, which did not provide an age range, but simply judged him as 18 years old. With a reasoned view that it did not result whether the examinations took place in the order provided by law (Article 1, JM 9889/2020) and the fact that the referral of the applicant to the next stage was not sufficiently justified, the committee considered necessary to postpone the issuance of a final decision and to forward the file to the Regional Asylum Office of Lesvos, in order to carry out the age assessment procedure, according to the steps defined in JM 9889/2020.

IV. The institution of Guardianship in the RIC of Fylakio, Orestiada

Following the discontinuation of METAdrasi's guardianship network for unaccompanied minors in 2020, important issues arose regarding their representation. The issue that was of

particular importance was the lack of legal representation of unaccompanied minors under the age of 15 during the registration procedures. In view of the serious gap that was created, in January 2021 it was announced the resumption of the program and the placement of two guardians in the RIC of Fylakio for six months, with the possibility of a single extension of three additional months. On March 23, 2021, the first female authorized representative of unaccompanied minors arrived at the RIC of Fylakio, with the authorization of the Prosecutor of the Court of First Instance, to take care of the best interests of the unaccompanied minors and on July 5, 2021 the second female authorized representative arrived. Now, being the reference persons of the unaccompanied and separated minors, they cooperate daily with the child protection bodies, to whom they refer the cases, so that the minors receive the necessary legal and psychosocial support from specialized personnel.

V. Reception and Identification Center's (RIC) of Fylakio, Orestiada operation amidst of the continued pandemic

Almost a year after the first detection of a positive case inside the Orestiada RIC of Fylakio, the risk of spread of COVID-19 continues to affect its function. All new entrants undergo COVID-19 rapid tests by an EODY unit and are then placed in a 14-day quarantine for precautionary reasons. However, the risk of proliferation remains high, as new arrivals remain for a few hours in public areas before being quarantined. In addition, due to limited space, the quarantine is carried out in wards together with people who have already completed their quarantine. Although efforts are being made to separate them, there have been several cases in which newcomers under quarantine have teamed up with older residents. The lack of space, in addition to the problems it creates inside the RIC, does not cease to affect situations outside the KYT. According to recent information, there is a lot of pressure on the local Border Guard Police Departments which are constantly sending requests to the RIC for the reception of new entrants, however the RIC only partially satisfies the requests due to the lack of space for quarantine (see the chapter on arrivals).

The reception and identification procedures in the midst of the pandemic continue unhindered and the AKA of Fylakio continues to record requests for international protection and conduct interviews. The actors that are active in the RIC have a daily presence, however they implement a circular program in combination with teleworking in the context of preventing the spread of the virus. The 14-day quarantine in combination with the abolition of protective custody and the acceleration of the procedures for placing unaccompanied minors in

accommodation structures, as well as the implementation of the new JMC that requires speedy procedures, is a major challenge for child protection organizations operating in the RIC. The few days left from the end of the quarantine until the departure of the unaccompanied minors leave very narrow margins for the actors, who try to complete procedures related to their legal and psychosocial assistance in a very short period of time. As part of the acceleration of the procedures, the Management of the RIC of Fylakio discusses with the relevant actors the possibility of reducing the quarantine to seven days, which raises questions about the safety of the employees and the beneficiaries themselves.

In January, it was officially announced by the EODY team that within the next period of time, the vaccination of the beneficiaries will follow, as well as of the employees of the RIC of Fylakio. The vaccination has not been carried out until today, however, since April, the EODY team has started to record the requests of the interested parties. Vaccination requests since the start of the registration amount to about one hundred (100) and the majority of applicants are Turkish nationals. The requests that are recorded follow the beneficiaries even after their departure from the RIC, as they are stored in an electronic database. The majority of applicants have left the RIC and the current number of requests is fifteen (15). In addition, the phenomenon has been observed, that several Turkish nationals entering the RIC have already been vaccinated in Turkey.

Since the beginning of the year, 48 cases of COVID-19 have been recorded among the beneficiaries and three cases among police officers. The largest increase in cases was observed in April with 29 recorded cases, while during the summer only 1 case was recorded.

Although there has been a decrease in COVID-19 cases during the summer months, there has been a rapid increase in skin diseases in unaccompanied and separated minors inside the RIC of Fylakio. The most common diseases are scabies and infectious warts, diseases that delay their departure for accommodation facilities, as they must be cured before leaving the RIC. Due to serious shortages of medication in the EODY unit, the child protection actors HumanRights360 and Arsis, ensure the provision of medicines for the recovery of minors, upon request by the EODY unit, which admits its lack of capacity to cover all cases. Currently, there are about thirty (30) minors with skin conditions inside the RIC of Fylakio, many of whom suffer from two different skin diseases at the same time.



Photo: © Marios Constantinides

VI. Reception and Identification Center's (RIC) of Fylakio, Orestiada expansion plans

On 29-12-2020, through the publication of a call for proposals, the government's intention [to expand the existing structure of the RIC of Fylakio](#) became known. The design included the expansion of the structure by 72,500 square meters and the conversion of part of it into a closed facility, reaching a capacity of 1250 people, while together with the 250 residents of the neighboring PRO.KE.KA, the total number would reach up to 1500 people.

In the days following the publication of the invitation, the Minister of Migration and Asylum, Mr. Notis Mitarakis sent a letter to the President of the Regional Association of Municipalities AM-Θ, Mayor of Orestiada, Mr. Vassilios Mavridis, emphasizing that the creation of closed / controlled structures will contribute to the substantial reduction of the flows and in combination with the recent works of expansion and upgrade of the fence in Evros as well as the recruitment of the border guards, to the further cultivation of the feeling of security in the area. In fact, the Minister announced in his letter the intention to inform the members of PED AM-Θ about the upcoming upgrade of the RIC of Fylakio, [while he announced that he will visit the area on January 16-18 following a relevant invitation.](#)

The announcements of the Minister regarding the feasibility of the expansion did not seem to convince the institutions in Evros, who immediately issued a statement which was co-signed

by all the actors of the local authorities, the deputies of the Prefecture and the local Church. They made it clear that they would not accept the expansion, while reference was made to the need to improve living conditions in the existing structures. In addition, the local community and institutions expressed their strong opposition to the government's aspirations for expansion, responding with dynamic mobilizations, [culminating in the intense protest during the visit of Minister Notis Mitarakis to Orestiada.](#)

The categorical opposition and the outcry caused by the government plans regarding the RIC, took the form of widespread demonstrations even outside the structure itself. It was mainly attended [by residents and local actors](#), while the Strike Committee of the Municipal Council of Orestiada [called on the citizens to be vigilant in order to escalate the struggle for the overthrow of government decisions.](#)

On 1-3-2021, following a statement by the Government Spokesperson, it was finally announced that following consultations of the government with the local community, [it was decided not to proceed with the expansion and increase of the capacity of the RIC of Fylakio.](#) Instead, the intention of the competent Ministries of Citizen Protection, Defense and Migration and Asylum is to upgrade the facilities and increase the capacity by 240 seats of PRO.KE.KA Orestiada. This resulted in the resumption of mobilizations by the local and wider community in Thrace, reaffirming their opposition to any intention to expand the existing structures.

Today, after the events described above, the operation of the RIC of Fylakio continues to be carried out without any addition, change or upgrade to its facilities. In June 2021, the neighboring PRO.KE.KA of Orestiada was again made available to the Police with a capacity of 240 people and a specially configured space adapted to the needs of quarantine. Further information on how it operates, or its quality upgrade has not been made public.

4. Constructing the notion of refugees and migrants as an "asymmetric or hybrid threat."

The militarization of refugee and migration management and the emergence of the notion of refugee/migrant as a "hybrid threat" continue to dominate public discourse, albeit with less intensity since March 2020. At [an online event](#) under the auspices of AHEPA Hellas District 25 on the topic "The defense shield of Greece as a pillar of stability and development", the Minister of National Defense, Nikos Panagiotopoulos was present. In his speech at the event, referring to the events of March 2020 in Evros, he spoke in war terms, where the attempt of

refugees and migrants to enter Greek territory was characterized as a "massive attempted invasion" and as the "absolute example of hybrid or asymmetric threat ". The concept of "hybrid threat" is used by [local electronic media](#) when they refer to refugees and migrants trying to cross the border, stressing the importance of deterrents such as fencing, thermal cameras and the acquisition of Coast Guard vessels. The purchase [of the Long Range Acoustic Device \(LRAD\)](#) that was mentioned in our previous report and which has now reached Greece has provoked [domestic](#) and European reactions.

The importance of the land borders in Evros as Europe's land borders is also highlighted by the participation of the Minister of Migration and Asylum in the [special ceremony](#) in honor of the members of the Austrian selected special forces group EKO COBRA, who were sent in March-April 2020 to support the Greek forces during the attempt of thousands of migrants to cross to Evros ". The visits to Evros, and in particular to the fence, are a symbolic and stable communication approach which is joined, unfortunately, by more widely accepted persons such as [the President of the Republic](#) who spoke about the "instrumentalization of the suffering of persecuted people" by the Turkish side.

The role of Frontex through acts or omissions in expulsion cases has been widely discussed and criticized in recent times, but without being held accountable. Instead, it is discussing increasing its funding in order to carry out its tasks more consistently. Indicative of the general climate within the institutions of the European Union is the [Report of the European Court of Auditors](#), which ignores all allegations against FRONTEX for its involvement in expulsion incidents and, on the contrary, assesses its role as ineffective in the management of external borders of the European Union. The report also says its budget is set to double to around [900 million](#) a year. On July 14, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs issued its [report](#) on the fact-finding investigation on Frontex concerning alleged fundamental rights violations (pushbacks), which according to [press](#) is a result of a compromise between the European People's Party and the far right and the Liberals. Despite the compromise, the finding states, evidence of FRONTEX that "the Agency found evidence in support of allegations of fundamental rights violations in Member States with which it had a joint operation but failed to address and follow-up on these violations promptly, vigilantly and effectively. As a result, Frontex did not prevent these violations, nor reduced the risk of future fundamental rights violations".

[In local media](#), FRONTEX seems to be declaring that "in Evros one discovers the starting point of a European fortress", reproducing far-right rhetoric on migrants as "weapons of mass destabilization of European views and governments". In fact, the statement of FRONTEX executives that the fence in Evros is "proof that the European Union can do better than Trump" is of interest for the evaluation of the European policy.

FRONTEX through the EU Pact on Migration and Asylum is upgraded operationally in the implementation of returns, forced and voluntary. Margaritis Schinas [in a statement](#) on the official website of the European Commission, referring to the returns, points out that FRONTEX has taken over the operational competency for the execution of the returns, providing support to the national authorities and assistance in identifying the persons to be returned, the organization of the returns' operations and support for voluntary return and reintegration. In the context of his emphasis on external border management, M. Schoinas [visited Evros](#) and especially the FRONTEX units in the region, announcing that "the European Union will soon have the most perfect external border management system in the world, not only in terms of guarding, but also in terms of a database interface"

Finally, on the same line of the external dimension of asylum and migration, the Minister of Migration and Asylum at the [Lisbon ministerial meeting](#) proposed on behalf of Greece the "operation of FRONTEX outside the territorial waters of Europe to effectively stop the movement of illegal migrants."

The ideological use of the so-called "crisis" of March 2020 in order to construct the notion of refugee and migrant as an "invader" and a "threat to national and European security" is also evident from the report "The networks and narratives of anti-refugee disinformation in Europe". Far-right networks reproduced statements by Greek politicians and the prime minister in Greece to shape political opinion against refugees and migrants at European level.

5. A hope for the future



Painting of the refugee reception class of the 1st daily technical high school Chalkida, under the guidance of the teacher Gouvousi Marina - Kalliopi

As Human Rights 360, we decided to close this report with a hope for the future. Our concerns for the future are present, with already serious consequences for people's lives, for access to the right to international protection and, as expected, for the human rights situation in Europe in general. The present is characterized by the continuous pushbacks in public view, the deterrents, the detention, the construction of closed centers either controlled or detention centers, the police to undertake the guarding (!) of the accommodation structures, ie the closed structures, the removal of the right to international protection of about 80% of the country's refugee population, the organization of returns, the investment of billions in deterrence, surveillance and not inclusion and integration.

But there is hope for the future and one can find it where people decide to get to know each other and learn from this encounter. There is hope when you see teachers, classmates welcoming children to school after a year and four months of absence and [exclusion from public education](#). There is hope when you see the mobilizations of the refugee students themselves and their willingness to go to school with the other children, the children of the

local community. There is hope when you see them and the education coordinators of the Ritsona Hospitality Structure fighting for equal access of refugee children to public education. The right of children to public education was completely violated last year on the occasion of the pandemic.

In Ritsona, where we, HumanRights 360, monitor the efforts of the education coordinators and teachers to include children in schools, despite the constant obstacles posed and continue to be posed by the Administration, we see the need for and importance of integrating refugees into the social fabric. This is wealth for everyone. In the honorary invitation for us to the event of the 2nd High School of Chalkida for the ["World Day of Cultural Diversity for Dialogue and Development"](#) we saw exactly how the meeting of these children can be creative and productive for everyone.

Letting the photos, the poems and the contributors themselves speak:

"We teachers will always try to honor the oath we took when we were appointed. That we will strive to provide the education that all children are entitled to, regardless of color, race, nationality, religion, even if we need to go against anti-educational proclamations. And we will definitely succeed! "

Katerina Pishina, Principal of the 2nd High School of Chalkida.

For the event for the "World Day for Cultural Diversity for Dialogue and Development", Christina Tsomokou, teacher at the 2nd High School of Chalkida and Coordinator of the UNESCO Connected Schools program.

"The students of the collaborating schools talked about their poetic works and generously revealed themselves to us. They offered us emotions, selflessly, because they wrote their works using values such as: kindness, solidarity, respect, love, friendship and mainly because they built relationships with each other that were based on these values. We thank them and continue. "

"Both the Ombudsman's findings and the action of HumanRights360 have demonstrated in various ways that the fundamental right of access to public education for children residing in the Ritsona Hospitality Center is being suspended and violated. Until when will government policies instrumentalize the covid 19 pandemic in a way that "legitimizes" the suspension of law enforcement? However, even in the most difficult conditions of inclusion and forced abstention from the educational process, the students of Ritsona, both with their daily and

persistent request for access to education and having each other, as well as with their peaceful protests, they are calling us to reconsider the concept of democracy and the citizen. "

Raya Lignou, social anthropologist

"In our work, as Refugee Education Coordinators, we encounter many obstacles and the conditions, the circumstances as well as the decisions that are made centrally for the lives of these children make it more and more difficult. The insecurity for the future is constantly growing and we try, in the storm of their lives, bypassing all these reefs, to offer them a port, the school, where they will finally feel safe and enjoy, even temporarily, the precious feeling of belonging somewhere.

Education works like a beacon because it shows them a way and paves a path that they can follow from as many countries as they need to cross. It helps them to dream again and believe in themselves and, with the integration achieved through it, as well as with the relationships that are created with their teachers and classmates, the wounds of separation and uprooting slowly close and their faces begin to be illuminated again. We know this because we see it happening. And when we manage to send the children to school, it is as if the sun is shining again after a long period of heavy gloom.

There's hope. And fortunately, it is never lost. It only needs a light on the surface of the arch where it hides disoriented to help it emerge. And against all odds, and of all kinds of viruses, there are many of us, more than those who seek the darkness, who always keep it lit. "

Pepi Papadimitriou,

Coordinator of Refugee Education of the Hospitality Structure in Ritsona

Bird

I am a bird with big wings

I wish to achieve my best dreams

I want to see you all happy and healthy

But sometimes there is no safety

I wish to travel around the world

To discover more and more

Wherever I go I find new friends

They help me when something happens to me

We help each other

We are always strong when we are together

If you want to be my friend, let's fly together

Mouzda Asrafi, student at the 2nd High School of Chalkida

She wrote the poem in the context of the actions for the "World Day for Cultural Diversity for Dialogue and Development" of the Network of Associated Schools (ASPnet Schools) of Unesco.



(Photo by Ch. Tsomokou from the 2nd High School of Chalkida, the reception of refugee children by their classmates)

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