

Report
Submitted to the Special Rapporteur on the human rights of migrants
on human rights violations at international borders: trends, prevention and
accountability

I. Introduction

The “**Human Rights Legal Project**” (hereinafter HRLP) was established at the end of 2020 by human rights defenders already working on the Greek island of Samos, supporting refugees and aiming at establishing a legal referral pathway for asylum seekers and refugees who wish to make a complaint, or seek legal assistance, when they have been victim of a human rights violation. The main areas of intervention of the project are: denial of access to essential health care services, unlawful detention, detention in substandard conditions, denial of access to the asylum procedure, and violence on behalf of public authorities. HRLP is a registered NGO in France.

Pursuant to Human Rights Council Resolution 43/6, HRLP would like to provide the Special Rapporteur on Human Rights of Migrants with its input concerning the Questions suggested in his call and with a particular view on Samos Island in the E. Aegean (Greece).

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

Even though, there have been no – at least officially announced – substantial changes in Greece’s cemented “closed border policy”, in HRLP’s view there have been some substantial changes in terms of *practices*.

Both with regard to the use and the extent of violence allegedly exercised by law enforcement officers involved in the pushback operations and to the targeting and criminalization of the (few) human rights actors and defenders present on the island of Samos.

To this extent and to better frame the “closed border policy” it is worth mentioning, that immediately after the fall of Kabul into Taliban’s hands and while the rest of the world was creating ad hoc humanitarian corridors for those more at risk by the Taliban regime, the Greek Minister of Migration and Asylum, Mr. Mitarakis stated (16/08/2021): “(...) Europe must reinforce the 2016 EU – Turkey Statement and

also support Turkey, which will be confronted with the pressure by the rest of Europe. Greece though, cannot be an entry gate and this is a very clear message”¹.

Some days later (27/08/2021) the Ministry of Migration and Asylum, proceeded with the direct assignment of a public procurement of approximately 74.000€ to a company, in order to create viber and Facebook videos and messages in Afghanistan, so that they do not come to Greece².

(a) Use of violence towards refugees having landed on the island of Samos

Since August 2021, the HRLP has intervened in 16 “distress alert” incidents or other alarms launched by boat refugees, concerning a total of 403 persons, mainly the so called “prima facie refugees” (i.e. Syria, Afghanistan, Somalia etc.).

Refugees usually contact the HRLP either directly (through the work number that has widely circulated among their communities) or upon referral by other human rights actors or sea border watchdogs.

It should be noted, that through HRLP’s intervention to the authorities, 167 out of the 403 persons that reached out to the organization, managed to safely stay on the island and seek international protection.

Those who have either managed to stay on the island or were pushed back to Turkey shared the following patterns, some of which constitute and upgrade in relation to the previous months:

- i. There were reports of alleged gunshots from the Hellenic Coastguard vessels, upon detection of asylum seekers;
- ii. Refugees reported that they were detained incommunicado for several hours on the HCG vessels, before being pushed back;
- iii. There was a report a female refugee whose hair was cut, because money was hidden in it, while others reported being strip searched and female refugees intimately searched, such as vaginal and anal searches, for money or mobiles;
- iv. Baby diapers were torn apart in search for money, before being pushed back (usually left adrift on life rafts);
- v. While others reported that they were thrown in the sea, from the HCG vessels, causing the death of people who did not know how to swim³.

¹ **ProtoThema**: “Mitarakis: Greece is no longer experiencing a migration crisis – We will not be an entry gate for a new wave of refugees”, available in Greek at: <https://bit.ly/33GythW>

² **Public Procurement direct assignment**, available in Greek at: <https://bit.ly/35hVRD4>

³ **The Guardian**: ‘It’s an atrocity against humankind’: Greek pushback blamed for double drowning, available at: <https://bit.ly/3If4ug3> ; **Lighthouse Reports**: AEGEAN PUSHBACKS LEAD TO DROWNING, available at: <https://bit.ly/3h6wHd1> ; **Mediapart**: Révélations sur la mort de migrants repoussés en mer par des gardes-côtes grecs, available at: <https://bit.ly/3LOGXVH> ; **Spiegel**: EU-Grenzschtützer sollen Flüchtlinge ins Meer geworfen haben, available at: <https://bit.ly/33GkeK2>

One of the additionally worrying changes noted on the ground, is that refugees who safely manage to reach Samos Island after having undertaken this perilous journey on unseaworthy dinghies, have to hide for several days in the woods, without access to food or water or even seriously injured, to avoid the risk of being pushed back. From the cases in which the HRLP was involved, it emerges that when in despair, and without further options, they contact the authorities (after having spent –as mentioned earlier- days without access to food, water and/or medicines) or a legal aid actor such as HRLP and, if they are then detected by public authorities, they are equally pushed back to Turkey, and their traces (and mobile contact) are lost.

It has also been observed that new arrivals in hiding may contact members of their community that are already living in the camp or in Samos town and ask for their assistance. There have been two cases, so far, in which the HRLP has been involved, where refugees residing in Samos have tried to find a way to assist in the transfer of the newly arrived persons in distress, by using a taxi or driving to the area themselves. As a result of their assistance, they have been charged with illegal transfer or facilitation of the illegal transfer. Furthermore, there was a case of newly arrived refugees, who were also hiding in Samos town, until they finally contacted HRLP seeking legal assistance for their registration. Subsequent to their registration, a preliminary investigation was carried out by the police authorities for the offence of facilitating their illegal residence; for which, however, no prosecution was brought.

The Minister of Migration and Asylum, Mr. Mitarakis, when confronted with the fact that refugees hide in the woods to avoid being detected and pushed back, during a visit of a LIBE Committee delegation on Samos, amongst other things, commented “But if you ask me why people may be hiding and I conclude with that, under the current Dublin Regulation, countries of first registration bear responsibility for this asylum seeker. This is not always to the benefit of the asylum seeker, who prefers to be in Greece undetected through the same smugglers go to the Western Balkan route and then end up to Central Europe and apply for the first time for asylum in countries like Belgium, German, Holland or Sweden; countries that provide maybe, a better benefit environment for him. So, people have a big incentive, not to be identified by the Greek authorities, so they are not registered, so they can seek asylum to another country”.

The extent of the violence used against refugees, when on land but also in the sea, is also reflected in the official statistics as presented by the Greek Minister of Migration and Asylum Mr. Mitarakis, stating that the arrival on the islands is reduced by 84% and on the mainland by 64%⁴.

⁴ See footnote 3, above (16/08/2021) and the **MoMA’s press release** (17/02/2022) “N. Mitarachi: "In 2022 we continue the strict, but fair migration policy that we have been pursuing for the past two years- Flows remain consistently low and decongestion is actualized, both in the islands as well as in mainland", available at: <https://bit.ly/3h7GJux>

**(b) The institutional targeting and criminalization of human rights defenders.
The case of HRLP staff.**

Since August 2021, in all cases in which the HRLP was actively and physically involved (i.e by providing refugees with food or water and/or by being in close proximity to their GPS location making sure they will be properly registered and taken to the camp), the local law enforcement authorities, used the following approach:

- i. HRLP members were warned that they will be taken to the police station, for obstructing/preventing an ongoing investigation⁵;
- ii. HRLP members, following an electronic message shared with the authorities alerting them on a distress alert launched by “boat refugees”, were informed by email that no refugees were intercepted and HRLP was wrongly accused of not having shared all available information (GPS location which was promptly shared) and this way, endangering human lives at sea.⁶
- iii. An HRLP member was called to give a testimony to the investigative magistrate as a person who has knowledge about a case, for which there was an ongoing investigation, as well as to the local Port Authority⁷.
- iv. On November 3, 2021 during the official statements following a visit by a LIBE Committee’s delegation, a member of which (Mrs. Ernest) went together with a lawyer, member of the HRLP to the place where refugees had informed about their arrival, the minister Mr. Mitarakis stated that is very peculiar that a local person (i.e. the HRLP member) is aware of the whereabouts of refugees and asked for a judicial investigation about that case⁸.
- v. Another member of the HRLP was held in a police station - following her presence to a location where refugees had arrived and had shared with HRLP their GPS location – from 14:15 to 18:20 where she was interrogated by the security officers, was asked to provide information about her work contract, to forward all whatsapp communications with different groups of refugees, asked about photos taken and stored in her mobile, was asked to explain how refugees get in touch with the organization and was even asked to provide them with information and explanation concerning a journalist that visited the island (where he stayed, slept, which flight he took etc.)⁹ and with whom HRLP talked.

⁵ HRLP intervention in Monastery, Samos on 13.08.2021

⁶ HRLP intervention in an arrival at Monastery, Samos on 29/09/2021

⁷ HRLP intervention in an arrival at Monastery, Samos on 27/10/2021 & 3/11/2021

⁸ On 03.11.2021, during a meeting held with the LIBE Committee’s delegation in Pythagorio, HRLP was informed about an arrival and consequently informed the delegation that after the meeting MSF and HRLP would visit the place. The German MEP and member of the LIBE Committee Mrs. Cornelia Ernst decided to join the intervention.

⁹ HRLP intervention in Kamara, Samos

That being said, it should be also noted that the Security Police Department officers, did not identify themselves, the HRLP member was not informed about her rights and no copy of the procedure followed was given to her.

III. Conclusion

HRLP strongly believes that these are “both sides of the same coin” (i.e. national policies) on which particular attention should be paid. Taking into consideration that Samos is an island where no many NGOs are active or proactively involved in new arrivals and in cases concerning boat refugees in distress. And the local community is less tolerant with migrants and their defenders. And for this reason less reactive to this worrying and well-established context, described in this report.

Therefore, and in HRLP’s view, Samos constitutes a fertile terrain not only for adopting and implementing harsher policies and practices concerning the processing of asylum claims (for those few lucky, present in the closed Multifunctional Camp) depriving them of all their procedural guarantees and safeguards. But also for those planning to arrive on the island in order to seek international protection and/or for human rights defenders, who try to protect refugees’ lives and rights; to shed a light on the human rights violations documented daily off its coasts and on its mainland and hold the local and national authorities accountable.

By setting high the example of the inhumane practices followed by law enforcement bodies and officers, the bar of refugees and human rights defenders role is set lower.

On behalf of Human Rights Legal Project,

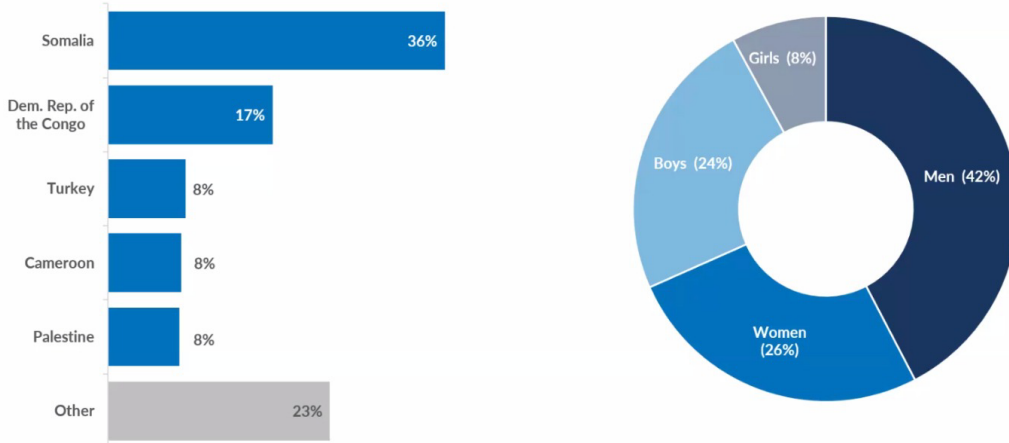
Respectfully,

Richard Vyse
Project Manager

ANNEX

UNHCR's statistics concerning the island of Samos, as presented during a PWG

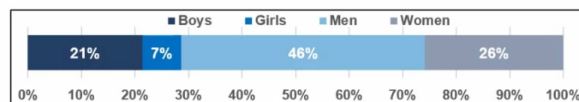
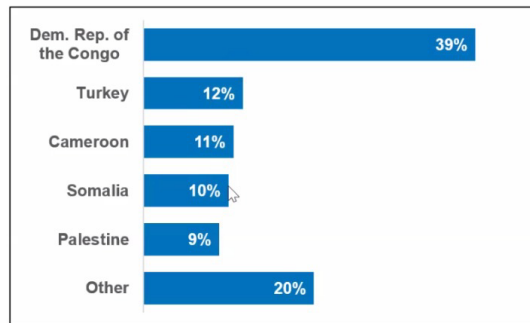
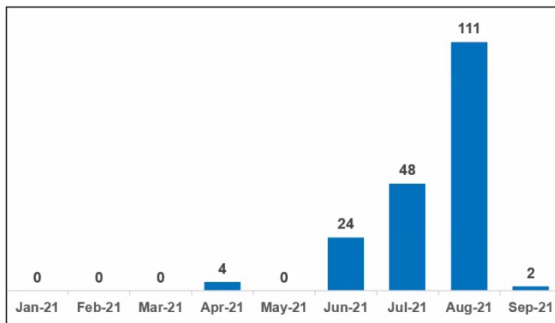
Arrivals 2021: 477 **76% decrease in 2021 compared to 2020**



*Source: Hellenic Police registration lists, as of October 2021
UNHCR Field Office Samos



Breakdown of Arrivals in 2021

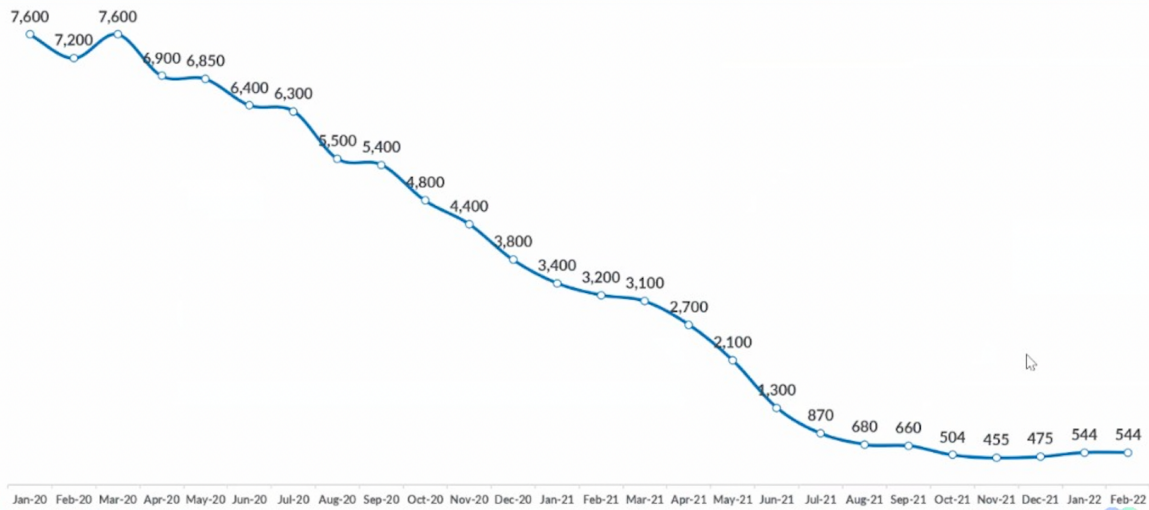


UNHCR Field Office Samos
16 Sep 2021



Population changes

93% Decrease in population since January 2020



UNHCR Field Office Samos
17/02/2022



Departures

During 2021, 1,991 people departed from Samos to the mainland. Of those, 1,129 people were transferred by the Reception and Identification Service to ESTIA apartments and sites on the mainland, while 862 persons departed on their own.

Source: Hellenic Coast Guard

UNHCR Field Office Samos

16/09/2021



More options