**Input by the International Rescue Committee for the**

**Report of the Special Rapporteur on the human rights of migrants**

**Human rights violations at international borders: trends, prevention and accountability**

**Input on Greece**

**1. Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021. Grateful if you could kindly submit the original text of the relevant provisions of the legislation or policy(ies), accompanied by an English translation if it is in a language other than English, French or Spanish.**

* On 7 June 2021, Greece issued a [Joint Ministerial Decision (JMD 42799/2021)](https://eu.rescue.org/press-release/joint-ngo-statement-greek-governments-decision-deem-turkey-safe-country), unilaterally designating Turkey as a ‘safe third country’ for nationals from Syria, Afghanistan, Somalia, Pakistan and Bangladesh.[[1]](#footnote-1)
* On 20 December 2021, [Greece added Albania and North Macedonia in the list of safe third countries](https://migration.gov.gr/en/albania-north-macedonia-safe-countries/) for people coming irregularly to Greece, seeking protection.[[2]](#footnote-2)
* On 21 February 2022, the list of safe countries of origin [was updated](https://urldefense.com/v3/__https%3A/eur02.safelinks.protection.outlook.com/?url=https*3A*2F*2Fmigration.gov.gr*2Fen*2Fasfaleis-chores-katagogis-i-aigyptos-to-nepal-kai-to-mpenin-17-oi-chores-toy-katalogoy-asfalon-choron-katagogis*2F&data=04*7C01*7Cgreatpi*40unhcr.org*7C8dbf42a651f14af9616108d9f62c1f18*7Ce5c37981666441348a0c6543d2af80be*7C0*7C0*7C637811491634422721*7CUnknown*7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0*3D*7C3000&sdata=Oyqg2KOA8cF4MVhBOmo0IGeqyqQStZNbA7sx80w9QS4*3D&reserved=0__;JSUlJSUlJSUlJSUlJSUlJSUlJQ!!IDEMUsA!UgsVz3JvNxlkL9FxflKL6qPhKlzdRFY7oi990ZxJ5DQzBjemyipHu1VkzCvVAOR9Lb0$) by a Joint Ministerial Decision. Egypt, Nepal and Benin were added to the list that previously included Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India, Armenia, Pakistan, and Bangladesh maintain their status as safe countries of origin. The total number of safe countries of origin included in the list now stands at seventeen (17).[[3]](#footnote-3)

(Apologies, we do not have the relevant decisions in English)

**2. 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.**

No further input

**3. Please provide information on how the “safe third country” concept is applied and if there is any “safe third country” list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.**

March 2022 marks six years since the signing of the EU-Turkey Statement, and two years since Turkey stopped accepting returns of people from the Greek Islands. Despite this, the Greek Joint Ministerial Declaration (JMD) of 7 June 2021, designated Turkey as a ‘safe third country’ for nationals from Syria, Afghanistan, Somalia, Pakistan and Bangladesh. This has forced thousands of people in legal limbo, as their claims are not examined in Greece, but they cannot be returned to Turkey.[[4]](#footnote-4)

Extending the impact of the EU-Turkey Statement, which was confined to the Greek islands, the June JMD applies to people across the Greek territory. The JMD is clearly an attempt to limit the right to seek asylum, as it targets the 5 nationalities that made up 67% of asylum applicants in Greece in 2020. This, despite the fact that in 2020, 92% of Syrians, 94% of Somalis and 66% of Afghans (even before the latest humanitarian crisis), received refugee or subsidiary status at first instance when their applications were examined on merits – a clear indicator of their protection needs.[[5]](#footnote-5)

Following the JMD, rejections on the grounds of inadmissibility have risen sharply. In 2021, there were 6,424 inadmissibility decisions at first instance – this is an 126% increase on 2020. Out of the 12,570 decisions of admissibility on the basis of the JMD in 2021 (from 7 June to 31 December 2021) of the five nationalities, 47% (5,907) were found inadmissible (see table 1 below).[[6]](#footnote-6)

Table 1

|  |
| --- |
| **Application of JMD 42799/2021 at first instance: 7 Jun – 31 Dec 2021** |
| Nationality | Admissible | Inadmissible | Total |
| Syria | 1,604 | 902 | 2,506 |
| Afghanistan | 3,006 | 2,167 | 5,173 |
| Somalia | 340 | 256 | 596 |
| Pakistan | 909 | 1,847 | 2,756 |
| Bangladesh | 804 | 735 | 1,539 |
| **Total** | **6,663** | **5,907** | **12,570** |

Source: Ministry of Migration and Asylum reply to Parliamentary question 2608/24-1-2022, 17 February 2021 (in Greek)

On 25 January, [in response](https://www.europarl.europa.eu/doceo/document/E-9-2021-005103-ASW_EN.html) to Green MEP Erik Marquardt, Commissioner Ylva Johansson stated that the asylum applications rejected as inadmissible in Greece must be examined on their merits, in accordance with Article 38(4) of the Asylum Procedures Directive. Greek asylum law likewise states that applications rejected as inadmissible must be examined on merits when a safe third country refuses to accept returns. This makes the JMD incompatible with EU as well as national law.

The JMD reinforces the EU policy of externalisation first established six years ago with the EU-Turkey Statement. It is part of a larger, Europe-wide drive to [shift the responsibility to protect refugees](https://eu.rescue.org/press-release/joint-ngo-statement-greek-governments-decision-deem-turkey-safe-country) in Europe to third countries, such as Turkey. Moreover, the practice exposes applicants for international protection to a legal limbo whereby they are never granted access to an examination of their applications on their merits, contrary to the purpose of the Geneva Convention and of the Asylum Procedures Directive. It also leads to exclusion of people from reception conditions, resulting in inability to have access to dignified living standards and to cater for their basic subsistence needs, including health care and [food](https://eu.rescue.org/press-release/people-greece-are-going-hungry-over-one-third-those-living-refugee-camps-are-denied).

**4. Please provide information on any progress made in developing independent border monitoring mechanism(s) at the national level.**

While the [UNHCR](https://www.unhcr.org/news/press/2022/2/62137a284/news-comment-unhcr-warns-increasing-violence-human-rights-violations-european.html) has recorded almost 540 reported incidents of ‘informal returns’ by Greece since the beginning of 2020, the [Greek Ministry of Migration and Asylum](https://migration.gov.gr/en/deltio-typoy-dilosi-toy-ypoyrgoy-metanasteysis-kai-asyloy-k-noti-mitaraki/) is denying the allegations. According to [statistics](https://data2.unhcr.org/en/situations/mediterranean/location/5179) released by the UNHCR, there were 4,331 sea arrivals in 2021, yet the Greek Ministry for Maritime Affairs [reported](https://www.ynanp.gr/en/press-and-communications-office/minister-plakiotakis-greece-saves-lives-that-others-put-in-danger-in-the-aegean/) more than 29,000 rescues by the Hellenic Coast Guard in Eastern Mediterranean in the same period. This leaves at least 25,000 people unaccounted for and gives further evidence to long-standing concerns that systematic pushbacks are taking place.

Following pressure from the European Commission, in September 2021, [Greece](https://www.europarl.europa.eu/doceo/document/E-9-2021-004642-ASW_EN.pdf) agreed to task the National Transparency Authority (EAD) with investigating pushback allegations. Almost [half a year](https://www.efsyn.gr/ellada/dikaiomata/310350_anexartitos-mihanismos-gia-toys-prosfyges-en-krypto) later, no progress reports or findings have been published.

The IRC does not believe that EAD is the best-placed entity to take on the role of an Independent Border Monitoring Mechanism (IBMM). As a public authority, the EAD is not sufficiently independent. Furthermore, according [to media reports](https://www.ekathimerini.com/news/1169960/transparency-authority-may-probe-pushback-claims/), an IBMM under the EAD would be staffed by representatives of the Ministry on Migration and Asylum, court officials and academics, but would not include UNHCR or civil society representatives. Moreover, the EAD does not have in-house expertise or previous experience in the areas of asylum, migration, and monitoring violations at the borders. Finally, it is not sufficiently transparent, with its track record including participating in inspections of NGOs supporting migrants, without ever publicly communicating its findings.

Following an extensive mapping of available actors to take on the role, the IRC firmly believes that the Greek Ombudsman would be the most competent authority to carry out the duties of an IBMM in Greece (Please see Annex for full report). The Ombudsman is an Independent Authority as safeguarded by the Greek Constitution; it already holds a broad legal mandate with few geographical or procedural limitations to what it can investigate[[7]](#footnote-7); its officials have extensive prior experience in the field; and the Ombudsman has already launched several investigations into pushbacks – [most recently](https://www.synigoros.gr/resources/press-release-211201-pushback-frontex.pdf) on the complaint of a reported violent pushback by Greek border guards of a Frontex interpreter.

While Greece continues to [dismiss allegations](https://migration.gov.gr/en/deltio-typoy-dilosi-toy-ypoyrgoy-metanasteysis-kai-asyloy-k-noti-mitaraki/) as Turkish propaganda and fake news, and while the Commission continues to ‘express concern’ over the situation, people are dying at EU borders. The only way to stop the violence and hold those committing these crimes accountable, is to put in place a truly independent border monitoring mechanism – as repeatedly stressed by [UNHCR](https://www.unhcr.org/gr/en/16207-unhcr-concerned-by-pushback-reports-calls-for-protection-of-refugees-and-asylum-seekers.html), the [European Commission](https://www.euractiv.com/section/justice-home-affairs/news/eu-commission-urges-probe-after-report-on-migrant-pushbacks-in-greece-croatia/), [the Council of Europe](https://www.coe.int/en/web/commissioner/-/european-states-must-stand-up-against-pushbacks-and-the-attempt-to-legalise-them), and [NGOs](https://ecre.org/turning-rhetoric-into-reality-new-monitoring-mechanism-at-european-borders-should-ensure-fundamental-rights-and-accountability/). Failure to do so undermines refugee protection, the right to asylum and the rule of law across Europe, with repercussions far beyond Greece as other countries commit similar abuses and evade accountability.

1. <https://migration.gov.gr/wp-content/uploads/2021/06/%CE%9A%CE%A5%CE%91-%CE%91%CE%A3%CE%A6%CE%91%CE%9B%CE%97%CE%A3-%CE%A4%CE%A1%CE%99%CE%A4%CE%97-%CE%A7%CE%A9%CE%A1%CE%91-1.pdf> [↑](#footnote-ref-1)
2. <http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wEzH9d6xfVpRXdtvSoClrL8E87KtlIG1BVp6k5uE6xNduJInJ48_97uHrMts-zFzeyCiBSQOpYnTy36MacmUFCx2ppFvBej56Mmc8Qdb8ZfRJqZnsIAdk8Lv_e6czmhEembNmZCMxLMtV8guC63PXwReR9dEc4fNELyMzzFSXxpLIv9ZQRXG32r> [↑](#footnote-ref-2)
3. <http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wGGrezhDLcpZ3dtvSoClrL8bBf5uDmwydd5MXD0LzQTLf7MGgcO23N88knBzLCmTXKaO6fpVZ6Lx3UnKl3nP8NxdnJ5r9cmWyJWelDvWS_18kAEhATUkJb0x1LIdQ163nV9K--td6SIuetkTc9O6ngNqhckGRii7E4-Ilah-yZRoxk3JQ47bLdA> [↑](#footnote-ref-3)
4. <https://eu.rescue.org/press-release/joint-ngo-statement-greek-governments-decision-deem-turkey-safe-country> [↑](#footnote-ref-4)
5. <https://rsaegean.org/en/asylum-statistics-for-2020-a-need-for-regular-and-transparent-official-information/> [↑](#footnote-ref-5)
6. Ministry of Migration and Asylum reply to Parliamentary question, 17 February 2021 (in Greek): <https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11873945.pdf> [↑](#footnote-ref-6)
7. It can be noted, however, that the Greek Ombudsman unsuccessfully requested an expanded mandate in 2020 to give him security clearance during monitoring missions. His position on the issue is that a functional IBMM should be empowered with a legal safeguard providing an adequate security clearance. This is considered necessary for the mechanism to be able to conduct effective monitoring, especially when police, coast guard and other national security officials may invoke “national security reasons” for denying access to sites or evidence. [↑](#footnote-ref-7)