

**Mandates of the Working Group of Experts on People of African Descent; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

Ref.: AL GRC 2/2023  
(Please use this reference in your reply)

7 August 2023

Excellency,

We have the honour to address you in our capacities as Working Group of Experts on People of African Descent; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the human rights of migrants and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 45/24, 44/5, 52/20 and 52/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **extrajudicial, arbitrary and collective expulsion of asylum seekers from Greece**. We wish to bring to your attention concerns about violations of their human rights in relation to Greece's obligations under international human rights and refugee law, regional E.U. human rights law, and other established standards in relation to human rights.

According to the information received:

On 11 April 2023, 12 asylum seekers from Somalia, Eritrea and Ethiopia, among them men, women, and young children including a 6-month-old infant, who escaped war and repression and had already reached Greek territory on the island of Lesbos to seek refuge and start new lives, were rounded up by masked men, stripped of their belongings and forcibly transported to the port of Mytilene in an unmarked van. Some of the of the asylum seekers reported that they had arrived on the island of Lesbos a day earlier on a smuggler's dinghy.

In addition to being stripped of their belongings, the women and some of the older children in the group recounted having their hijabs torn off by the masked men.

The asylum seekers were then transferred from the van and onto a speedboat and taken out to sea in the Aegean, where they were once again transferred onto a vessel clearly marked as Hellenic Coast Guard (Coast Guard vessel 617). The asylum seekers were escorted to the rear of the vessel by six unmasked individuals. According to Marine Traffic, the vessel was not sending out its location as it got underway towards Turkey.

The vessel stopped as it neared the edge of Greece's territorial waters, from where the asylum seekers were then transferred onto an inflatable emergency raft and set adrift in the Aegean Sea.

The asylum seekers are reported to have feared for their lives as they were set adrift on the raft by the Greek Coast Guard.

Approximately an hour after the asylum seekers were set adrift, two Turkish Coast Guard vessels approached and rescued the group off the coast of Dikili. On the same day, 11 April 2023, the Turkish Coast Guard reported having rescued, at 14:30 local time, “12 irregular migrants on the lifeboat that was pushed back to Turkish territorial waters by Greek assets.” After arriving at the port of Dikili in Turkey, the asylum seekers were then taken to a detention facility in Izmir, Turkey.

Finally, the ordeal endured by the asylum seekers is documented on video footage shot by an Austrian aid worker who was working on the island of Lesbos documenting abuses against refugees and asylum seekers.

Without prejudging the accuracy of these allegations, we are deeply concerned about possible human rights violations, including violations of the right to life, and abuses in contravention of multiple international instruments to which Greece is a party. In this regard, serious concern is expressed regarding the above-mentioned allegations. Further in this regard, we call your Excellency’s attention to the views expressed on 6 April 2022 in the European Parliament by the European Commissioner for Equality, that the right to seek asylum and the principle of non-refoulement are core principles of the European Union. Our concerns are underpinned by regard to the human rights provisions under instruments of international and regional EU law to which Greece is a party, including in particular those that prohibit discrimination. We therefore express our concerns regarding the alleged contravening pattern of the practice of “pushbacks” of refugees and asylum seekers by your Excellency’s Government under which the above-mentioned allegations are reported to have taken place. In this regard, we highly recommend to your Excellency’s Government consultation of OHCHR’s Recommended Principles and Guidelines on Human Rights at International Borders<sup>1</sup> and UNHCR’s 10-Point Plan of Action on Refugee Protection and Mixed Migration.<sup>2</sup>

Additionally, we are particularly concerned by the alleged extrajudicial, arbitrary and collective expulsion of the asylum seekers from Greece in the above-mentioned allegations in the light of their reported circumstance of having already arrived on Greek territory on the island of Lesbos at the time of their forced removal, without any individual assessment of their protection needs, including in relation to their safety and lives, including in accordance with Article 6 of the International Covenant on Civil and Political Rights (ICCPR) An act in direct contravention of due process and the protections provided in the International Covenant on Civil and Political Rights, ratified by Greece on 5 May 1997, the International Covenant on Civil and Political Rights, ratified by Greece on 11 May 1993, the United Nations 1951 Convention relating to the status of refugees (Refugee Convention) and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), and against ICERD’s prohibition of discrimination against, and expulsion and deportation of, non-citizens including collectively regardless of their immigration status, without examining the personal

<sup>1</sup> See OHCHR Recommended Principles and Guidelines on Human Rights at International Borders, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf)

<sup>2</sup> See Refugee Protection and Mixed Migration: A 10-Point Plan of Action, available at <https://www.unhcr.org/media/refugee-protection-and-mixed-migration-10-point-plan-action>

circumstances and guarantees of due process, as well as the prohibition of collective expulsion of non-citizens under Article 4 of Protocol No. 4 to the European Convention on Human Rights.

The precarious situation at the Greece-Turkey border puts refugees and asylum seekers at increased risk of human rights violations and abuses. The alleged de-facto “pushback” policy and non-respect by Greece of international human rights and refugee law and duty of care in the above-mentioned allegations are of grave concern, particularly in the wake of the recent tragedy off the Greek coast on 14 June 2023 of the death of 80 people in the sinking of a fishing boat carrying an estimated 750-800 people seeking refuge.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comments you may have on the above-mentioned allegations.
2. Please provide information about relevant safeguards taken to respect and protect the right to life, as protected under the International Covenant on Civil and Political Rights (ICCPR).
3. Please provide information about what measures are in place to ensure access to the asylum procedure as required by international law and EU rules governing the treatment of migrants.
4. Please indicate what measures have been taken by your Excellency’s Government to protect the human rights of refugees and asylum seekers at international borders, including to ensure their access to relevant procedures for persons in need of protection under international human rights and refugee law. These also include measures taken or to be taken by your Excellency’s Government to ensure border management measures are in accordance with the principle of non-refoulement, non-discrimination and the prohibition of collective, arbitrary and extrajudicial expulsion and deportation of migrants.
5. Please provide information about what special care and assistance was provided to ensure the rights and the principle of the best interests of the child as protected under the Convention on the Rights of the Child (CRC), in particular in the context of non-refoulement.
6. Please provide information about measures taken to protect migrants, including women and children, from violations and abuses of their right to freedom of thought, conscience, religion or belief (freedom of religion or belief).

7. Please provide information about steps taken to ensure a transparent and impartial investigation into allegations involving Greek law enforcement personnel and violence at the borders, including information about the investigation ordered by the European Union Home Affairs Commissioner, as well as requested by the head of the European Commission's Directorate-General for Migration and Home Affairs, directed to the National Transparency Authority (NTA). Please provide information about their outcomes, including identification of perpetrators and effective access to justice and effective remedy for victims.
8. Please provide information on the current search and rescue capacity at sea. Please also include detailed information on search and rescue procedures in the territorial waters of Greece, and how these procedures are in compliance with international obligations.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their reoccurrence and, in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

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Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Felipe González Morales  
Special Rapporteur on the human rights of migrants

K.P. Ashwini  
Special Rapporteur on contemporary forms of racism, racial discrimination,  
xenophobia and related intolerance

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to international human rights and refugee law, and other established standards in relation to human rights, as well as authoritative guidance on their interpretation from supervisory mechanisms, applicable within the jurisdiction of Greece.

#### *Principles of equality and non-discrimination*

In relation to the above allegations, we would like to draw the attention of your Excellency's Government to the Universal Declaration of Human Rights (UDHR), in which article 1 affirms equality in dignity and rights for all human beings. These principles of equality and non-discrimination<sup>3</sup> are among the core elements of international law and international human rights law, as reaffirmed in article 3 of the 1951 refugee Convention; article 2 (1) of the ICCPR, acceded to by Greece on 5 May 1997; in article 2 (2) of the ICESCR, acceded to by Greece on 16 May 1985; in article 2 of the ICERD, ratified by Greece on 18 June 1970. We remind your Excellency's Government that adherence to and full implementation of the ICERD are of paramount importance for promoting equality and non-discrimination and fulfilling Greece's obligations under the Convention. The principles of equality and non-discrimination are equally enshrined in the European Convention on Human Rights under article 14, obligating Member States to discharge their obligations in this regard.

#### *The right to life*

Article 6 of the ICCPR protects the right to life. Paragraph 1 of article 6 of the ICCPR provides that no one shall be arbitrarily deprived of life and that this right shall be protected by law. Accordingly, States parties have a duty to refrain from engaging in conduct resulting in arbitrary deprivation of life; and must also exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. We remind your Excellency's Government that the right to life is non-derogable and constitutes a international customary and jus cogens norm ([CCPR/C/GC/36](#), paragraph 2). We recall that States must prevent the arbitrary deprivation of life, in particular by establishing an appropriate framework of laws, institutions and procedures. States must respect the right to life by ensuring that their organs and agents do not arbitrarily deprive anyone of their life (A/73/314, paragraph 16). In this respect, we recall that arbitrariness can be inferred from laws and practices that violate the principle of non-discrimination, and which may be unnecessary and disproportionate (see A/HRC/35/23, paragraph 33). Any deprivation of life based on discrimination in law or practice is ipso facto arbitrary in nature. We also emphasize that deliberate intent on the part of the State is not necessary for a killing or deprivation of life to be considered arbitrary (ibid., paragraph 34). The Human Rights Committee in its General Comment No. 36 further clarifies that the State's duty to protect applies to all persons within its jurisdiction, that is, all persons whose enjoyment of the right to life depends on its power or effective control. States parties are obliged to respect and protect the lives of all

<sup>3</sup> For a definition of non-discrimination, see article 1(1) of the ICERD

persons on board ships carrying their flag, as well as those of persons in distress at sea, in accordance with their international obligations regarding rescue at sea (paragraph 63).

In paragraph 7 of General Comment No. 36 (CCPR/C/GC/36), the Human Rights Committee clarifies that “the obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life”. The Committee further clarifies that “States parties may be in violation of article 6 even if such threats and situations do not result in loss of life”. Similarly, the right to life is enshrined in the European Convention on Human Rights under article 2.

### *Principle of non-refoulement*

We call your Excellency’s attention to the State’s obligation of non-refoulement, as protected under international human rights and international refugee law, including as stipulated in article 33 (1) of the 1951 Refugee Convention, to which Greece is a signatory, as well as to the Convention’s 1967 protocol; article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Greece on 06 Oct 1988. the Working Group on Arbitrary Detention on deprivation of liberty of migrants clarifies the non-derogability of non-refoulement in Revised Deliberation No. 5, which states in para. 43 that “[t]he principle of non-refoulement must always be respected, and the expulsion of nonnationals in need of international protection, including migrants regardless of their status, asylum seekers, refugees and stateless persons, is prohibited by international law.”<sup>4</sup>

The obligation not to extradite, expel or otherwise transfer in article 6 of the ICCPR is broader in scope than the principle of non-refoulement in international refugee law, as it may also require the protection of aliens not entitled to refugee status. Therefore, the principle of non-refoulement under international human rights law applies to any form of removal or transfer of persons regardless of their legal status. In addition, principle 5 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions establishes that no one shall be returned or extradited against his or her will to a country where there are substantial grounds for believing that he or she may be subjected to extra-legal, arbitrary or summary execution in that country.

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<sup>4</sup> See Revised Deliberation No. 5 on deprivation of liberty of migrants, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/RevisedDeliberation\\_AdvanceEditedVersion.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/RevisedDeliberation_AdvanceEditedVersion.pdf)

We draw the attention of your Excellency's Government to OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders. In particular guideline 9, which states that returns or removals should not violate the principle of non-refoulement and/or the prohibition of collective expulsion. In the case of forced returns, the Guideline calls on States to ensure that return procedures are not carried out at all costs, but are interrupted where the human rights of the migrant are compromised, and that migrants whose rights are violated during return processes can file complaints.

With regards to search and rescue operations, we would also like to refer to principle 4 of OHCHR Principles and Guidelines on the human rights protection of migrants in vulnerable situations, according to which States should protect the lives and safety of migrants and ensure that all migrants facing risks to life or safety are rescued and offered immediate assistance. This includes, among others, to (1) ensure that relevant national legal frameworks as well as arrangements for cooperation and coordination between States uphold and strengthen the effectiveness of the search and rescue regime, in accordance with international human rights and refugee law, the international law of the sea, and other relevant standards; (2) to establish, operate and maintain adequate and effective services for search and rescue at sea regardless of presumed nationality or legal status of migrants who are in distress at sea or the circumstances in which they are found; (3) to ensure that search and rescue services and coordinating authorities operate under a broad understanding of distress, so that timely and necessary assistance is provided to migrants in unseaworthy vessels even if they are not in immediate danger of sinking; (4) to ensure that all possible State and other resources are mobilized, including by means of cooperation between States where appropriate, for search and rescue responses including proactive patrolling when informed risk assessments suggest that migrants who may require assistance are likely to be present along a particular sea route; (5) to make every effort to protect migrants' right to life, wherever they are at risk on water or on land; (6) to ensure that rescue services are adequately resourced and provided with all necessary equipment such as rescue beacons; and (7) to avoid acts and inaction that are likely or expected to cause the unnatural or premature death of migrants, or deny them a dignified existence.

#### *Right to seek asylum and human rights protection*

We remind your Excellency's Government of the obligation to ensure the rights of migrants to seek and enjoy asylum, without discrimination. As stated under article 14 (1) of the Universal Declaration of Human Rights (UDHR), everyone has the right to seek and enjoy in other countries asylum from persecution. Greece has the obligation to individually assess the needs to protect the rights of migrants, refugees and asylum seekers in accordance with article 32 (1) of the 1951 Refugee Convention, article 13 of the ICCPR and E.U. asylum rules; and to ensure access to the asylum procedure, including under the protections of refugee status and the status of subsidiary protection as stipulated in "Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted", as well as under Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards

for the reception of applicants for international protection.

We wish to refer to the Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195), in particular to Objective 7, according to which States commit to respond to the needs of migrants who face situations of vulnerability, which may arise from the circumstances in which they travel or the conditions they face in countries of origin, transit and destination, by assisting them and protecting their human rights, in accordance with obligations under international law. In addition, Objective 7 (g) refers to the commitment of States to “ensure that migrants have access to public or affordable independent legal assistance and representation in legal proceedings that affect them, including during any related judicial or administrative hearing, in order to safeguard that all migrants, everywhere, are recognized as persons before the law and that the delivery of justice is impartial and non-discriminatory”.

We also wish to draw your attention to Objective 8 (principle 24) according to which States should cooperate to save lives and prevent migrant deaths and injuries through individual and joint search and rescue operations, standardised collection and exchange of relevant information, assuming collective responsibility to preserve the lives of migrants, in accordance with international law. Commitment by Member States to use immigration detention only as a measure of last resort and work towards alternatives to detention was reaffirmed through Objective 13.

Furthermore, we would like to bring to your attention the Special Rapporteur on the human rights of migrants’ report on “Means to address the human rights impact of pushbacks of migrants on land and at sea” which notes “[O]n top of an increased militarization of the Evros land border region since March 2020, which has effectively resulted in preventing entry and in the summary and collective expulsion of tens of thousands of migrants and asylum seekers, the Special Rapporteur has received allegations that pushbacks over the land border are also reportedly carried out from urban areas, including reception and detention centres. An increase in pushbacks in the Aegean Sea, from Greek territorial waters, as well as from the islands of Rhodes, Samos and Symi, has also been documented, with one stakeholder recording 321 incidents involving 9,798 migrants between March and December 2020 (A/HRC/47/30, para. 55).”

In his 2022 report on “Human rights violations at international borders: trends, prevention and accountability” (A/HRC/50/31), the Special Rapporteur on the human rights of migrants stated that “[I]n Greece, Law 4825/2021 of 4 September 2021 imposes limitations and conditions on private and non-governmental organizations (NGOs) willing to engage in search and rescue voluntarily. New terms of cooperation limit the involvement of civilian search and rescue and prescribe registration and authorization with the Hellenic Coast Guard (para. 26). In Greece, pushbacks at land and sea borders have become de facto general policy. UNHCR has recorded almost 540 separate incidents during the period 2020–2021, involving at least 17,000 people who were reportedly returned by force, informally, to Turkey. The Special Rapporteur is concerned about the significant increase in the number of people prevented from entering Greek territory, as part of the declared strategy of the authorities. Greece reportedly deterred over 140,000 people from entering the country between April and November 2021, and has announced an extension to a fence in the Evros region. In the Aegean Sea, NGOs have documented at least 147 incidents of the forcible return of 7,000 migrants, including children, to Turkey by the Hellenic Coast

Guard, without due process. (para. 32).” In addition, “several submissions to the Special Rapporteur indicate that Turkey has not agreed to readmit any asylum seekers from Greece since 2020. Therefore, the designation of Turkey as a safe third country resulted in legal uncertainty for asylum seekers, most of whom will remain in Greece without any legal status or access to any protection and related services and benefits. (para. 52).

### *The rights of the child*

Childhood is entitled to special care and assistance in article 25 (2) of the Universal Declaration of Human Rights; article 2 (1) of the Convention on the Rights of the Child (CRC), ratified by Greece on 11 May 1993, stipulates that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” We wish to refer your Excellency’s Government to the report of the Special Rapporteur on the human rights of migrants on “Ending immigration detention of children and providing adequate care and reception for them” (A/75/183), where the Special Rapporteur provides a set of recommendations to Member States in this regard.

We further note that the General Comment indicates the obligation of the State to provide **specific protection for children**. In its paragraph 23, it states that “The duty to protect the right to life requires States parties to take special measures of protection towards persons in situation of vulnerability whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence”, including children. We would also like to specifically refer to Article 24 (1) of the ICCPR, which states that “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.” We also refer to article 6 of the aforementioned CRC.

### *The right to freedom of thought, conscience, religion or belief*

We remind your Excellency’s Government that the right to freedom of thought, conscience, religion or belief (freedom of religion) is protected under international law, specifically under article 4 of the 1951 Refugee Convention to which Greece is a signatory, which stipulates that “[t]he Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion...”, as well as article 18 of the International Covenant on Civil and Political Rights and article 14 of the Convention on the Rights of the Child. Freedom of religion is equally protected under article 9 of the European Convention on Human Rights. In this regard, refugees and migrants are provided equal protections as nationals, without discrimination, to practice and manifest their religion.