

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

16 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 44/5, 51/8, 45/3, 52/20, 52/36 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the death of at least 82 persons on the move and probably up to 600 persons reportedly disappeared following the sinking of the fishing boat "Adriana" off the Greek coast on 14 June 2023.**

This tragedy occurred in a context characterized by the urgent need for a rigorous review by the Greek Government and other States in the region of existing emergency rescue procedures; for allocating adequate resources and expertise to their rescue efforts; and for stepping up efforts to fulfil their state obligation in terms of regional cooperation between States and to investigate shipwrecks, identify all the victims, and clarify the circumstances in which these persons - migrants, refugees and asylum seekers – have lost their life.

According to information received:

Circumstances of the shipwreck off Pylos

On 9 June 2023, the unseaworthy and overcrowded fishing vessel "Adriana" left Libya for Italy with about 750 passengers on board. The individuals on board the vessel were fleeing their countries of origin in order to seek asylum in European countries.

According to the survivors' accounts, the conditions on the fishing vessel were extremely precarious, as the passengers had already run out of food and water by the time the journey began.

In the afternoon of 13 June 2023, Italian, Maltese and Greek authorities, including the Hellenic Coast Guard (HCG) and the Hellenic Police, as well as the European Border and Coast Guard Agency Frontex, were informed by civil society organisations of a vessel in distress off Kalamata, a port in the Peloponnese. These authorities were informed that several individuals on

board, including women and children were sick. Subsequently, a UN agency inquired with the central authorities of the HCG, the Joint Search and Rescue Coordination Center and the Coast Guard branches in Pylos and Kalamata, as well as the National Coordination Center and Frontex based in Greece, about coordinating a search and rescue operation in the area, noting that there would be a large number of persons on board, including women and children.

On the same day, Frontex informed Italian and Greek authorities about the conditions of the vessel, after one of its planes spotted the vessel inside the Greek Search and Rescue (SAR) zone.

In the night between 13 and 14 June 2023, a search and rescue operation was initiated by the HCG through the deployment of the HCG small patrol vessel number ΠΠΙΛΣ 920 in international waters within the Greek SAR zone in sea area 47 n.m. southwest of Pylos. Nearby merchant vessels, initially requested by the HCG for assistance, were reportedly ordered to leave the area after the ΠΠΙΛΣ 920 arrived. None of the cameras on board the ΠΠΙΛΣ 920, nor its Automatic Identification System (AIS) tracking system, were activated on the night of the shipwreck.

The HCG provided a timeline of events that would have been recorded by the Operations Centre of the Ministry of Maritime Affairs. However, civil society organizations allege inconsistencies in the HCG's account of the disaster and its involvement in the shipwreck of the Adriana. The HCG claimed that the passengers resisted offers of help and that the boat capsized due to a sudden shift in weight. However, survivors reported that they were told by the HCG to follow their boat into Italian waters where they would be handed over to the Italian coastguard. When their boat's engine failed, the HCG vessel approached their boat and tried to pull the boat with a rope but failed several times. In the last attempt to tow the boat, the HCG pulled away faster, causing the boat to sway and eventually capsize to the right.

On 14 June 2023, at 2 a.m. local time, the vessel began to sink rapidly into the Mediterranean Sea off Pylos.

At the time of the capsize, the ΠΠΙΛΣ 920 was moving away from the scene, causing large waves in its wake which made swimming difficult and, according to survivors, further accelerated the sinking of the boat. When the boat sank completely after approximately 20-30 minutes, the HCG sent a small inflatable rigid hull boat (RHIB) and began searching for survivors.

The information available to us indicates that 104 persons survived the shipwreck, 82 bodies were recovered so far, and about 600 persons are still unaccounted for, most of them from Pakistan, Egypt and Syria. Most of the passengers were young men. However, at least 100 children and an undetermined number of women were also among those disappeared.

The survivors of the shipwreck, who were of Syrian, Egyptian, Pakistani and Palestinian nationality, including eight unaccompanied boys (five Egyptian nationals, three Syrian nationals) were temporarily accommodated in the port of Kalamata and some were hospitalized upon their arrival on land.

Immediately after the shipwreck, the survivors were held in detention-like conditions in a warehouse in Kalamata, without being able to leave, contact any persons associated with them or receive adequate medical care and legal counselling.

On 16 June 2023, the survivors were taken from Kalamata to the Malakasa Reception and Identification Centre (RIC), in Malakasa, Attica, to undergo reception and identification procedures. Their phones were confiscated by the HCG ~~and have not yet been returned~~. The phones contained videos that the passengers recorded in the moments before the boat capsized. They went through asylum hearings, allegedly discriminatory, without sufficient preparation time while still under the shock of having survived the shipwreck, with no legal or psychological support provided. During these hearings survivors were not considered as in need of protection.

Gaps in psychosocial support have reportedly been identified at the RIC in Malakasa.

Ongoing investigations

On 15 June 2023, Special Police Units for Disaster Victim Identification of the Ministry of Citizen Protection were deployed in Kalamata, and initiated on the spot the procedures for the management of the dead and missing, following the activation of the Special Civil Protection Plan for Mass Disasters. The search and rescue operation reportedly lasted until 29 June 2023.

On the same day, nine Egyptian nationals among those rescued were charged for their alleged participation in a criminal organisation, manslaughter and causing a shipwreck. Investigations into these charges were launched in Kalamata. Concerns have been raised that the investigation was conducted using coercively obtained testimony from other survivors as well as tampered evidence.

The Supreme Court Prosecutor of Greece reportedly appointed a Supreme Criminal Court deputy prosecutor to lead the investigation, while the Kalamata Coast Guard has launched an investigation into the circumstances of the shipwreck. However, there is no clear indication of the scope of this investigation.

Lawyers of the relatives of those who disappeared submitted before the Office of the Prosecutor of Kalamata a request for the recovery of the boat and the bodies, and the material that would support as evidence the investigation process.

On 20 June 2023, all 82 recovered bodies were transferred from Kalamata to Athens for forensic examination and identification. The identification of the dead and missing by the Forensic Department and the Special Police Unit for Disaster Victim Identification includes the recording of DNA from survivors and relatives abroad, as well as cooperation with the embassies of the countries of origin of the deceased. The Ministry of Migration and Asylum has reportedly launched an information campaign and set up special hotlines for relatives of disappeared persons to contact the relevant Greek authorities.

Concerns were raised regarding the actions and omissions of Greek authorities after being alerted to the ship in distress and the series of inconsistencies in the investigation, including the lack of information and investigation one month after the shipwreck near Pylos; the delay in the intervention of the HCG and Frontex until 15 hours after they were alerted to the ship in distress; the non-involvement of other rescue operators, including the rescue boat Aigaion Pelagos, even though it was stationed in the port of Gytheion near the site of the accident; ignoring SOS notifications prior to the shipwreck; and the lack of impartiality in investigations by Greek authorities of maritime accidents in the context of migration. In addition, the Hellenic Coast Guard indicated that the *Adriana* sank only minutes after the engine stopped. However, independent reports suggest that the ship was not moving for at least seven hours before it capsized.

The shipwreck is considered one of the deadliest in recent years in the Mediterranean. It follows the shipwreck of an unidentified fishing vessel on 18 April 2015, which was reportedly on its way from Libya to Italy and sank in international waters approximately 20 nautical miles off the Libyan coast with nearly 900 persons on board, including migrants, refugees and asylum seekers, on board. In this case the Italian Government refloated the vessel months later in order to recover and try to identify all the victims of the disaster.

While we do not wish to prejudge the accuracy of these allegations, we express our most profound concern at the deaths and disappearances of several hundred persons fleeing their countries, including migrants, refugees and asylum seekers, as a result of the sinking of the fishing boat *Adriana* on 14 June 2023. We are also seriously concerned by reports of failure to assist and/or engage in coordinated emergency assistance for people in distress at sea by Greek authorities, which may have put human the passengers' lives at risk and contributed to the tragedy. More specifically, we note the divergent accounts of the events on the night of the shipwreck and underscore that State authorities have an obligation under international human rights law to prevent violations of the right to life and to conduct prompt, effective, thorough, independent and impartial, and transparent investigations into potentially unlawful deaths and disappearances.

Should they be confirmed, these reported incidents would amount to violations of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention for the Protection of All Persons from Enforced Disappearance (ICPED) and the International Convention on the Elimination of Racial Discrimination (ICERD), ratified by Greece on 5 May 1997, on 11 May 1993, on 7 June 1983, on 9 July 2016 and on 18 June 1970, respectively. The enjoyment of these rights is not limited to the citizens of State parties to the ICCPR but “must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party” (CCPR/C/21/Rev.1/Add.13 (2004), para. 10). We also refer to the Declaration on the Protection of all Persons from Enforced Disappearance and the 2019 Guiding

principles for the search for disappeared persons.¹

During its visit in 2019, the Working Group on discrimination against women and girls recognized numerous challenges your Excellency Government faces with the arrival of unprecedented numbers of migrants and refugees. They also noted the deterioration of the situation and called for prevention efforts in combating violence against women. Migrant women were in a particular vulnerable situation as the overwhelming majority had been victim of human rights violations in their countries of origin and endured further suffering on their journeys, including at the hands of human traffickers and smugglers (A/HRC/44/51/Add.1).

We urge your Excellency's Government and all States of the region to cooperate with each other and deploy all measures to protect the right to life, which is an international customary and *jus cogens* norm, which as such, cannot be derogated from under any circumstances. We further reiterate that the duty to rescue persons on ships in distress at sea without delay, including in the absence of a request for help from individuals on the boat, is a fundamental principle of international maritime law, which is to be applied without any discrimination, regardless of the nationality, status or the circumstances in which they are found, including on unseaworthy vessels and irrespective of the intentions of those on board. Your Excellency's Government must also ensure that all policies and practices on the high seas and in territorial waters effectively comply with their human rights obligations and must guarantee the right to life, dignity, safety and physical integrity of persons on the move, including migrants, refugees and asylum seekers, in all circumstances. We also stress that boats in distress should be allowed to dock at the nearest safe port.

While we welcome the recent announcement by the European Union's ombudsman to launch an investigation into the role of the European Border and Coast Guard Agency Frontex in relation to the shipwreck of 14 June 2023, we look forward to the further determination of all the circumstances surrounding this tragic shipwreck and underscore the importance of conducting investigations into all suspected unlawful deaths in line with international standards, particularly the *Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* and the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the *Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)*).² We urge your Excellency's Government to recover the bodies of the deceased, identify them and inform their families, and provide the necessary support for the transfer of the bodies to return them in due course to their countries of origin. We also call on your Excellency's Government to make counselling services, medical and mental care available to the survivors for their prompt recovery.

In light of the recent sinking of the vessel *Adriana*, we further urge the European Union, the African Union and the League of Arab States to work together to establish safe and regular migration routes in accordance with [the Global Compact for Safe, Orderly and Regular Migration](#). While we welcome the aforementioned measures taken by the Greek Ministry of Migration and Asylum and the Forensic Department and the Special Police Unit for Disaster Victim Identification, we call upon your Excellency's Government, the countries of origin, transit and destination,

¹ CED/C/7.

² <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

to effectively and promptly collaborate to find lasting and durable solutions to the most perilous and deadly migration routes through coordinated search and sea rescue, quick disembarkation and, most importantly, safe and regular pathways, in order to prevent such deaths and disappearances in the first place. We also refer to the [Recommended Principles and Guidelines on Human Rights at International Borders](#).

Such tragic deaths and disappearances at sea are avoidable. We express our grave concern and deep sorrow at this shipwreck, which appears not to be disconnected but one in a series of similar patterns and incidents in the context of migration protection in the Mediterranean Sea, resulting in unbearable grief for family members at the loss of their loved ones. We offer the expertise of our mandate holders to assist in the investigation of these events. We urge your Excellency's Government to take all possible measures to prevent similar incidents from happening again in the future.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide any information on the search and rescue operation undertaken by the HCG on 14 June 2023 and the measures taken to adequately and promptly cooperate with the Joint Search and Rescue Coordination Center and the Coast Guard branches in Pylos and Kalamata, the National Coordination Center and Frontex based in Greece. Please further provide information on the circumstances of the failed towing of the vessel *Adriana* including allegations of intentionally bringing it to capsise.
3. Please provide information on any impartial investigation conducted into, investigative steps planned to be implemented, and search operations in relation to the deaths of 82 individuals and the disappearances of up to 550 persons and the extent to which the investigations complied with Greece's international human rights obligations, including the aforementioned United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989), the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), as well as the Guiding principles for the search for disappeared persons (2019).
4. Please provide detailed information on the steps taken to carry out forensic examinations to identify the recovered human remains of those deceased, to cooperate with embassies of the countries of origin of those deceased to that effect and to, in case their family members can be located, return the human remains to them in a dignified way. In this regard, please provide detailed information on what steps have been

taken or are envisaged to coordinate with the countries of origin in order to obtain further information on the identity of the possible victims and to locate their family members.

5. Please provide detailed information about the reparations, including compensation, provided to victims, as an outcome of these investigations, as well as any administrative and/or criminal sanctions applied to perpetrators.
6. Please provide details of any preventive measures that have been taken or are planned to be implemented to prevent the recurrence of similar incidents in the future. In this context, please further provide information on any measures, including precautionary measures, to ensure and protect the inviolable right to life and security in the context of any type of vessel in distress in international waters within the Greek SAR zone. Please also indicate how these safeguards provide special protection for women and children on board of such vessels and 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) for unaccompanied minors, who survived the shipwreck.
7. In this regard, please provide detailed information on the measures taken or planned to be taken to strengthen the capacity of the HCG to carry out search and rescue operations as well as the measures foreseen to effectively increase international and regional cooperation between states to search for and identify those disappeared in the context of migration in accordance with the aforementioned Guiding principles for the search for disappeared persons, particularly principle 9.
8. Please provide detailed information on the measures taken to assist the survivors of the shipwreck on 14 June 2023, including by providing adequate and prompt medical and psychosocial support as well as legal counselling, including their rights to ask for asylum. In this regard, please explain why the cellphones of survivors have allegedly been withheld by Greek authorities to date and why survivors have reportedly not been granted sufficient time for the preparation of their asylum hearings.
9. Please explain in detail the role Frontex plays in SAR operations in the Mediterranean and, in particular, the cooperation with the HCG in relation to the shipwreck on 24 June 2023. How is information about search and rescue operations shared between Frontex and national authorities?

We would appreciate receiving a response within 60 days. Passed 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 re-occurrence 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.

Please note that copies of this communication are being transmitted to the Governments of Egypt, Italy, Pakistan, State of Palestine, Lebanon, Malta, Syria and to the European Border and Coast Guard Agency Frontex.

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

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Special Rapporteur on extrajudicial, summary or arbitrary executions

Matthew Gillett

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Annex

Reference to international law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 2 (3), 6, 7, 9, 12, 16, 17, 19, 24 and 26 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Greece on 5 May 1997, which provide for the rights to an effective remedy, to life, to freedom from torture and ill-treatment, to liberty and security of the person to leave any country, including one's own, not to be subjected to arbitrary or unlawful interference with his or her family life, to seek and receive information, to benefit from the protective measures required by his or her status as a minor, and to equal protection of the law without any discrimination. In this respect, we wish to emphasize that the enjoyment of the rights guaranteed by the ICCPR is not limited to citizens of States parties, but "must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party" (CCPR/C/21/Rev.1/Add.13 (2004), para. 10). We also refer to the obligations enshrined in the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention for the Protection of All Persons from Enforced Disappearance (ICPED) and the International Convention on the Elimination of Racial Discrimination (ICERD), ratified by Greece on 11 May 1993, on 7 June 1983, on 9 July 2016 and on 18 June 1970, respectively.

We wish to bring your attention to article 2(1) of the ICCPR, which makes clear that State parties should ensure that all provisions of the Covenant, including articles 6, are upheld without distinction of any kind, including race. Moreover article 2(3) of the ICCPR makes clear that victims of violations of rights under the Covenant are entitled to access remedy, as determined by competent judicial, administrative or legislative authorities.

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 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). In order to protect the right to life of persons in acute distress at sea, we emphasize the paramount importance of the time factor in such a situation: every passing minute counts and can

have a crucial impact on the rescue of victims, given that drowning occurs in a matter of minutes.³ While we understand that the commander and crew of a state vessel involved in rescuing people at sea often have to make difficult and rapid decisions in the course of such an operation and that, as a general rule, these decisions fall within the discretionary power of the commander, we note that these decisions must be inspired by the overriding effort to guarantee the right to life of individuals in danger.⁴

We wish to refer your Excellency's Government to the Human Rights Committee's **general comment no. 36**. The right to life constitutes a norm of *jus cogens* and customary international law from which no derogation is permitted under any circumstances ([CCPR/C/GC/36](#), paragraph 2). 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 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). 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.

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. Considering the fact that there were allegedly many children on board of the *Adriana*, 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 the provisions of the CRC, in particular articles 2 and 6.

We would like to recall the Human Rights Council resolution A/HRC/RES/47/12, which addresses the issue of the human rights of migrants, "deeply concerned about the large and growing number of migrants, especially women and children, including children who are unaccompanied or are separated from their parents, who have lost their lives, have been injured or have gone missing in their attempt to cross international borders, including at sea, and recognizing the obligations that States have to protect and respect the human rights of those migrants, regardless of their migration status, and reaffirming the commitment to take action to avoid the loss of life of migrants, including by preventing human rights violations

³ Cour européenne des droits de l'homme, *Safi et autres c. Grèce*, arrêt du 7 juillet 2022 (requête n° 5418/15), para. 162.

⁴ *Ibid.* para. 158.

resulting from pushback practices, in particular collective expulsions and refoulement”. In addition, we would like to refer your Excellency’s Government to a recent 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).

We also recall the Human Rights Council resolution 9/5, which addresses the issue of the human rights of migrants, “requests States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party”. Resolution 9/5 also “reaffirms that, when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants” and “urge States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including persons with disabilities, and take into account, in conformity with their international commitments, the principle of the best interest of the child and family reunification”.

Furthermore, in **general comment no. 31**, the Human Rights Committee observed that there is a positive obligation on States parties to ensure the protection of the rights of individuals under the Covenant against violations committed by their own security forces, including border guards (CCPR/C/21/Rev.1/Add. 13, para. 8). In this regard, we would like to highlight that the enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but “must also be available to all individuals, regardless of their nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party” (ICCPR/C/21/rev.1/Add.13 (2004), para. 10). States parties are also required to respect and protect the lives of all individuals located on marine vessels and aircraft registered by them or flying their flag, and of those individuals who find themselves in a situation of distress at sea, in accordance with their international obligations on rescue at sea (CCPR/C/GC/36, general comment no. 36 on article 6: right to life adopted by the Human Rights Committee, para. 63).

Furthermore, we would like to bring to your Excellency’s Government attention to paragraph 14 of the CEDAW general recommendation no. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, where [...] [t]he Committee recognizes that displacement arising from armed conflict, gender-related persecution and other serious human rights violations that affect women compounds existing challenges to the elimination of discrimination against women. It also recognizes the persistence of other forms of exploitation concomitant with displacement, such as trafficking for purposes of sexual or labour exploitation, slavery and servitude. The Committee therefore reiterates the obligation of States parties to treat women with dignity and to respect, protect and fulfil their rights under the Convention at each stage of the displacement cycle, as well as in the enjoyment of durable solutions, including integration and/or resettlement in receiving States and/or voluntary repatriation to their State of origin. The Committee is therefore of the view that States parties have an obligation to ensure that no woman will be expelled or returned to another State where her life, physical integrity, liberty and security of person would be threatened, or where she would risk suffering serious

forms of discrimination, including serious forms of gender-based persecution or gender-based violence. What amounts to serious forms of discrimination against women, including gender-based violence, will depend on the circumstances of each case (CEDAW/C/GC/32, para. 23).

The Committee states further that [g]ender sensitivity should be reflected in reception arrangements, taking into account the specific needs of victims of sexual abuse and exploitation, of trauma and torture or ill-treatment and of other particularly vulnerable groups of women and girls. Reception arrangements should also allow for the unity of the family as present within the territory, in particular in the context of reception centres (ibid, para 34). As a general rule, pregnant women and nursing mothers, who both have special needs, should not be detained. Moreover, [a]s a general rule, detention of pregnant women and nursing mothers, who both have special needs, should be avoided, while children should not be detained with their mothers unless doing so is the only means of maintaining family unity and is determined to be in the best interest of the child (CEDAW/C/GC/32, para. 49).

Moreover, CEDAW General Recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration highlights that refugee women and girls are highly vulnerable to trafficking and are in need of international protection, especially against refoulement. In particular we would also like to recall recommendations regarding victim identification and victims' assistance and protection, as stated in paragraph 38 on the positive obligations on States to identify victims of trafficking, and paragraph 39 to 41 on the obligations of States to provide victims with high-quality support services with immediate availability, which must be inclusive and accessible, include access to information on their rights, the medical, psychological, social and legal services available to them and how to acquire access to them, as well as to safe and appropriate accommodations.

The Special Rapporteur on the human rights of migrants in his report on the impact of migration on migrant women and girls (A/HRC/41/38) stated that they are uniquely and disproportionately affected by gender-based discrimination, abuse and violence. The prevalence of sexual and gender-based discrimination, harmful practices such as child, early and forced marriage, violence, and unequal access to rights and resources are crucial reasons why women and girls migrate. Women migrants are at great risk of being subjected to acts of violence, including gender-based violence, exploitation, trafficking, slavery and detention, while in transit or upon arrival, and by public officials, private individuals or criminal gangs. In countries of destination, regardless of their migratory status, migrant women encounter multiple and intersecting forms of discrimination, not only as women and as migrants, but also on other grounds, including age, race and ethnicity, nationality, religion, marital and family status, sexual orientation and gender identity. As a result, they are at risk of abuse and exploitation. It is well documented that migrant women in general struggle in many countries to have their credentials recognized, which leads to “deskilling” as a result of being underemployed.

The report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/41/36, para. 33) emphasizes that one's immigration status has no bearing on the responsibility of States to protect individuals against foreseeable threats to their lives, security and integrity. States are duty-bound to be attentive to the vulnerability of individuals whose lives may be particularly at risk because of their activities or identity.

In relation to the obligation to provide sea rescue of ships in distress, we further refer to article 98(1) of the United Nations Convention on the Law of the Sea of 10 November 1982, stating that: “Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers: (a) to render assistance to any person found at sea in danger of being lost”.

We wish to recall that, pursuant to international law of the sea and human rights law, Greece is under an obligation to respond promptly and effectively to any situation of distress at sea of which it may become aware. The obligation to coordinate search and rescue operations may arise also when the distress situation occurs outside the Greek search and rescue region, at least until when coordination can be handed over to another State willing and able to assume responsibility in a manner compliant with maritime and human rights law. In this regard, we refer to the International Convention for the Safety of Life at Sea (SOLAS), adopted in 1974 and acceded by Greece on 12 May 1980, the International Convention on Maritime Search and Rescue (SAR), adopted in 1979 and ratified by Greece on 4 September 1998, and the United Nations Convention on the Law of the Sea, adopted in 1982 and ratified by Greece on 21 July 1995, particularly article 98 (duty to render assistance).

We wish to stress that the right not to be arbitrarily deprived of life is a foundational and universally recognized right, applicable at all times and in all circumstances, including during armed conflict or other public emergency. The right to life is protected by international and regional treaties, customary international law and domestic legal systems.

Substantively, international law requires State agents to take “all reasonable precautionary steps to protect life and prevent excessive violence” by States, their agents and by non-State actors. Individuals are entitled not to be arbitrarily deprived of life on grounds “impermissible under international law, or under more protective domestic law provisions”. Procedurally, whether committed by the State or by private actors, States must investigate all deaths thoroughly, independently and effectively, provide redress or reparations and ensure that no person acts with impunity. Failure to investigate is in and of itself a violation of the right to life.

The right to life is further protected by the 1951 Convention Relating to the Status of Refugees and 1967 Protocol to the Convention, which impose on States the core principle of non-refoulement, now a rule of customary law. “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

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.

States have the duty to provide an adequate and effective search and rescue service at sea. The United Nations Convention on the Law of the Sea, of 1982, and the International Convention for the Safety of Life at Sea, of 1974, place obligations on the masters of ships to render assistance to persons found at sea in danger of being lost, and to rescue persons in distress if informed of their need of assistance. This obligation exists without regard to the nationality, status or circumstances in which such persons are found. The International Convention on Maritime Search and Rescue, of 1979, obliges States parties not only to ensure that assistance is provided to any person in distress at sea, but also to provide for their initial medical or other needs and to deliver them to a place of safety. The International Convention on Maritime Search and Rescue prescribes that any search and rescue unit receiving information about a distress incident is to take immediate action if in a position to assist. We also wish to refer to the Global Compact for Safe, Orderly and Regular Migration, in particular 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.

We would like to draw your Excellency's Government's attention to the report on human rights violations at international borders: trends, prevention and accountability by the Special Rapporteur on the human rights of migrants (A/HRC/50/31). In particular, the Special Rapporteur notes that States should redouble their efforts to adopt a human rights-based, gender-sensitive, age-appropriate and child-sensitive approach to migration and border management, ensuring that the human rights of migrants, including irregular migrants, are always the first consideration.

In his report on responding to the human rights consequences of measures to return migrants by land and sea (A/HRC/47/30), the Special Rapporteur on the human rights of migrants urges States to ensure that the use of force and firearms by border authorities is strictly regulated in accordance with international standards, and to ensure that any allegations of misuse are promptly investigated and appropriately prosecuted; to implement measures in the best interests of children, taking precedence over migration management objectives; to cooperate internationally to protect the

lives and safety of migrants on land and at sea, and to ensure that migrants rescued at sea are promptly taken to a port recognized by the international community as safe, and have access to individual procedures and adequate care; to provide effective access to mechanisms enabling migrants who have suffered human rights violations or abuses as a result of border management measures to seek redress and redress, including by establishing accessible and adequate complaints and redress procedures, and by refraining from imposing territorial or other restrictions that effectively prevent claimants from accessing justice. In this regard, delays in searching for and rescuing migrants in distress on land and at sea, as well as in designing safe ports for disembarkation, may amount to torture or ill-treatment and undermine the right to life.

He also noted that “the loss of life at international borders has been a tragic consequence of States increasingly relying on militarization, extraterritorial border control and deterrence to attempt to control migration. State neglect leading to deprivation of access to medical assistance, water, food and basic means of survival for migrants may amount to torture and becomes a threat to the right to life. Delays in searching for and rescuing migrants in distress on land and at sea, as well as in designating safe ports for disembarkation, may also amount to torture or ill-treatment and undermine the right to life” (para. 44).

Furthermore, the Special Rapporteur recalled that States are required to take all reasonable precautionary steps to protect life and prevent excessive violence, and that under the Global Compact for Safe, Orderly and Regular Migration (GCM) States have committed to cooperate internationally to save lives and prevent migrant deaths and injuries, in accordance with international law.

In relation to the non-discriminatory application of the above international legal provisions, we wish to draw your attention to relevant provisions within the ICERD. Article 2 of the ICERD prohibits all forms of racial discrimination and obligates State parties to take all necessary measures to prevent and address all forms of racial discrimination. Furthermore, article 5 guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, including in relation to the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

Investigations

We underscore the importance of conducting investigations into all suspected unlawful deaths in line with international standards, particularly the *Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* and the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (the *Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)*).⁵ Investigations and prosecutions of potentially unlawful deprivations of life must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity. Investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates. They must always be independent, impartial, prompt, thorough, effective, credible and transparent. In the event that a violation is found, full

⁵ <https://www.ohchr.org/sites/default/files/Documents/Publications/MinnesotaProtocol.pdf>.

reparation must be provided, including adequate measures of compensation, rehabilitation and satisfaction.

States are also under an obligation to take steps to prevent the occurrence of similar violations in the future. It is essential that investigations are carried out promptly when a death occurs in a controversial situation, as the passage of time inevitably erodes the quantity and quality of available evidence, and the appearance of a lack of diligence casts doubt on the good faith of the investigation and prolongs the ordeal of the deceased's family.

We also refer to the report on Medico-legal Death Investigations (MLDIs) (A/HRC/50/34) by the Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that the bereaved families and next of kin should be informed in a timely and appropriate manner about the investigation into the death of their loved one, its progress and its findings and that should be protected from any threat resulting from their participation in the investigation (paras. 92 and 94).

The dignified treatment of the dead is at the heart of international human rights law, and failures in this regard constitute a violation of the right to a family life and even a violation of the prohibition of torture and ill-treatment.⁶ In this regard, the Minnesota Protocol on the Investigation of Deaths Potentially Resulting from Unlawful Acts (2016) provides detailed information on the duty to investigate potentially unlawful deaths “promptly, effectively and thoroughly, with independence, impartiality and transparency.” The authorities must “proceed with an investigation as rapidly as possible and act without unreasonable delay” (para. 23).

Among other things, investigations into allegations of unlawful killing should seek to determine who was involved in the death, and their individual responsibility, and seek to identify any failure to take reasonable steps that might have had a real chance of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death, as well as patterns of violations where they exist (para. 25). The recovery of human remains must be carried out under the supervision of forensic experts (para. 90), and identification must be carried out on the basis of scientifically reliable identification methods such as fingerprints, dental examination and DNA analysis (para. 120).

In addition, family members of victims of unlawful death have the right to equal and effective access to justice, to receive adequate, effective and prompt reparation (E/CN.4/1998/43, paras. 68-75 and A/HRC/22/45), to have their status recognized by law (A/HRC/19/58/Rev.1, chap. II, sect. H, par. 42), to request and obtain information on the causes of a murder and to know the truth about the circumstances, events and causes that led to it. In view of the reported withholding of the findings of the preliminary investigations into the deaths resulting from the event of April 23, 2022, we stress that the State has an obligation to provide all relevant documentation to the family of the deceased, including reports on the investigation into the circumstances of the death, and to involve them effectively in the investigation procedures (paras. 17 and 35).

We would like to draw your Excellency's Government's attention to the report on Unlawful deaths of refugees and migrants by the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/72/335). In particular, the Special

⁶ See *Staselovich v. Belarus* (CCPR/C/77/D/887/1999).

Rapporteur notes that "unlawful deaths of refugees and migrants involving the responsibility of the State or non-State actors all too rarely trigger thorough investigations" and that "death, seen as an inherent risk of clandestine travel, seems to be tolerated" (para. 50). According to the Special Rapporteur, "the absence of investigations into these illegal deaths has the effect of limiting our understanding of the modalities of trafficking and migratory networks" (para. 51). It is also recalled that "When the identity of a deceased person has been established, the State must immediately inform the next of kin and provide a death notice in an accessible manner. At the end of the investigation procedures, the remains and property of the deceased must be returned to the family members" (para. 72) and that "When repatriation or return of the remains to the family members or next of kin is impossible, States are obliged to provide a dignified and respectful burial" (para. 75). Families have the right to know where a loved one is buried (para. 76). "States must ensure that refugees and migrants and their families have access to effective remedies, adequate, effective and prompt reparation for harm suffered and relevant information concerning the unlawful death and the location of the remains." (Paragraph 103). The Human Rights Committee found that a State had violated article 6(1) of the Covenant due to negligent acts and omissions of the State in rescue activities at sea, which endangered lives and led to the death or disappearance of persons due to the lack of prompt response to distress calls (paragraph 8.2). The Human Rights Committee also found that the lengthy duration of ongoing national investigative procedures and the lack of foresight as to their conclusion constituted a failure to conduct a prompt investigation into alleged violations of the right to life, resulting in a violation of the State's obligations under article 6(1) read in conjunction with article 2(3) of the Covenant (para 8.7).

Failure to investigate and prosecute such violations is in itself a violation of human rights treaty standards. Such failures lead to impunity, which can encourage the repetition of crimes by others in subsequent incidents (general comment 31, paragraphs 15 and 18).

We further recall that the failure to provide information on the fate and whereabouts of disappeared persons, as well as the official indifference of the authorities to the suffering of relatives, may constitute a form of ill-treatment, in violation of article 7, read alone and in conjunction with article 2(3), of the ICCPR. The impossibility of obtaining the mortal remains of a loved one and performing last rites and mourning, as well as obstructions to seeking and receiving information, constitute a violation of the right to private and family life and the right to freedom to seek information, enshrined respectively in articles 17 and 19 of the ICCPR.

We also refer to the **Declaration on the Protection of All Persons from Enforced Disappearance**, adopted by General Assembly resolution 47/133 of 18 December 1992, in particular articles 9, 13, 16.2 and 19. In its Report on Enforced or Involuntary Disappearances in the Context of Migration (A/HRC/36/39/Add.2), the Working Group on Enforced or Involuntary Disappearances recalled that failure to identify and investigate cases of disappearance of migrants may engage the responsibility of the State, as they may constitute practices tantamount to disappearances or facilitate disappearances because they make it very difficult to search for or identify disappeared persons (para. 44). In this regard, we refer to the Guiding Principles on the Search for Missing Persons by the Committee on Enforced Disappearances in 2019. In particular, we highlight principle 2.4, which states that the body or remains of a missing person must be handed over to family members in

decent conditions; principle 7.3, which states that the search for a missing person must continue until his or her fate and/or whereabouts have been determined with certainty; principle 9.1, which states that states must take specific coordinated measures to prevent disappearances in the context of the particular vulnerability of missing persons, and principle 9.2, establishing that States should adopt specific search mechanisms that take account of the difficulties associated with migration situations and principle 13, which stipulates that the search for the disappeared and the criminal investigation of those responsible for the disappearance must be mutually reinforcing. We also refer to the General Comment on Children and Enforced Disappearances (A/HRC/WGEID/98/1) which states that children, because of their particularly vulnerable status as child victims of enforced disappearance or as relatives of a disappeared person, need enhanced protection and that States should develop a comprehensive strategy to prevent and respond to enforced disappearances of children and should pay particular attention to the prompt resolution of cases involving child victims of enforced disappearance. We also recall the General Comment on women affected by enforced disappearances (A/HRC/WGEID/98/2), which states that a gender perspective should be incorporated into all measures, including legislative, administrative, judicial and other measures, taken by States when dealing with enforced disappearances.

We refer to the obligation to provide victims of human rights violations with **effective remedies**. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in 2006, provide that victims of a gross violation of international human rights law or a serious violation of international humanitarian law must be guaranteed: equal and effective access to justice; adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.

We would also like to refer to the provisions of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (the Protocol), ratified by Greece on 11 January 2011. It's article 8(2) states: When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall be preferably be voluntary.

Reference is further made to article 6 of The Protocol concerning assistance to and protection of victims of trafficking in persons. The article provides, in particular, that in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care, is taken into account.

We would also like to bring to your attention article 7 which specifies that in addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases. Moreover, that in implementing the provision contained in

paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.