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Note to the attention of

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Regular note on FRA's work in Greece – February/March 2021

Since April 2016, FRA has been reporting regularly on its operational activities in the area of migration and asylum in Greece, Italy and later Spain. This note focuses on fundamental rights issues in Greece, including on the visit to Chios on 23-24 February. It covers reports on push-backs, the situation of Syrian rejected asylum applicants, reception conditions in the Vial camp and the implementation of the new regulations on the NGO registry. From 1-3 March, FRA Director Michael O'Flaherty visited Spain to discuss the asylum and migration situation in the Canary Islands from a fundamental rights perspective, with a special focus on unaccompanied children. The Director's visit will be the focus of a separate letter.

1. Taking preventive measures to counter unlawful returns at borders

European Union law as well as international refugee and human rights law requires that any person stopped or apprehended after having crossed irregularly the border must be given an effective possibility to seek international protection. Their immediate return (push-back) is unlawful. During FRA's visit to Chios, humanitarian actors raised serious concerns about continuing practices of returning intercepted and apprehended migrants to Turkey without allowing them to seek asylum in Greece.¹ They referred, for example, to a recent incident where a group of persons who had reached the camp in Vial was not registered by the authorities and later disappeared. Few days later, one of them was rescued by a ferry boat when he re-entered Greece on a wooden raft.

FRA has already raised the need for independent investigations of each reported allegation. Given the seriousness and frequency of the alleged incidents which are now continuing for about one year, FRA suggests to strengthen preventive measures. A first such measure would be the swift recruitment and deployment of Frontex fundamental rights monitors ensuring that they have

¹ Information on some alleged incidents in the Eastern Aegean have been made public. See, for example, [UNHCR concerned by pushback reports, calls for protection of refugees and asylum-seekers](#), 21 August 2020. Global Legal Action Network, [Drift-Backs on the Aegean](#), 4 March 2021; Mare Liberum, [ALARMING START TO 2021 - BRUTAL PUSHBACK IN THE AEGEAN ALMOST EVERY OTHER DAY](#), 2 March 2021; Refugee Support Aegean, [Push backs and violations of human rights at sea: a timeline](#), 29 December 2020.

meaningful access to monitor effectively border surveillance activities. In addition, based on the spirit of the fundamental rights monitoring mechanism the European Commission presented together with the Pact on Asylum and Migration, a cooperation with the Greek Ombudsman could be explored to promote an independent and effective national monitoring mechanism, building on the successful work the Ombudsman already carries out under Article 8 (6) of the Return Directive.

2. Examining Syrian asylum applications in their merits

Between 1 March 2020 to 4 March 2021, the Appeals Authority found 1,420 applications submitted by Syrian nationals on the hotspot islands as inadmissible² on the basis of the first country of asylum or safe third country concepts.³ As readmission to Turkey discontinued in March 2020, only few of them could be send back to Turkey, if any. Leaving aside the few applicants who were referred to the authorities for the issuance of a humanitarian permit, most Syrians remain in a limbo situation. On Lesbos, Chios and Samos, they are allowed to stay in the Reception and Identification Centres, with access only to basic services, such as food. In Kos, except for applicants with visible vulnerabilities, Syrian nationals pending readmission, remain detained in the pre-removal centre where they were staying also during the asylum procedure.

Refugees should not be left in a protracted limbo situation without access to protection, accommodation or services. Based on Articles 35 and 38 (4) of the Asylum Procedures Directive, applicants found inadmissible should be given access to the asylum procedure in the responsible Member State if the third country does not admit them. The absence of readmissions should be taken into consideration also when examining the admissibility of new asylum applications.

3. Reception conditions in Vial

During FRA's visit of the Vial camp in Chios on 23 and 24 February, the Agency noted fundamental rights concerns in relation to reception conditions and healthcare. Out of the 1.694 people in the camp, 1.100 persons were staying in containers and rub-halls and the rest in tents or makeshift structures. FRA observed the presence of rats in parts of the residential areas and was informed that there were 20 recent cases of flea-borne typhus. Concerning medical staff, there was only one doctor in the camp, together with six nurses, two midwives, four psychologists, three social workers, all of whom shared one interpreter. Access to running water and showers remains largely insufficient, while many sanitary facilities were dirty and practically unusable.

The Agency is aware of the plans to have a new facility in place by fall 2021 but understands that there is no agreement yet on the plot of land for the new site. Considering that the construction of the new camp will take significant time, alternative solutions should be sought to ensure dignified accommodation to asylum applicants and refugees. In addition to infrastructure upgrades in Vial, other options for safe accommodation of vulnerable applicants, including temporary stay in hotel or hostels, could be considered.

² Data provided by the Appeals Authority via email, 4 March 2021.

³ Articles 85 and 86 of Law 4636/2019 published in the Government's Gazette 169/A/1-11-2019.

4. Enabling civil society organisations to support migrants and refugees

In 2020, Greece introduced new rules on the registration of NGOs active in the area of asylum, migration and social inclusion,⁴ the most recent of which is Ministerial Decision 10616/2020 of September 2020.⁵ FRA has been following these developments and the concerns expressed⁶ closely, which the agency will look into more comprehensively, collecting also the views of other stakeholders, including national authorities, as part of its ongoing work on the enabling space for civil society in the EU. Meanwhile, FRA discussed with ten NGOs the implementation of the new rules. Seven out of ten organisations consulted were operating on Lesbos, Samos and/or Chios and three have nation-wide programmes in Greece. Four organisations were less formalised, operating mainly with volunteers and two of them had mixed teams with volunteers and professionals. Seven organisations also have activities or are registered in other countries. They raised the following main issues:

- Difficulties in meeting registration requirements

For the registration, Article 2 (2) requires civil society organisations to submit a list of obligatory supporting documents, such as balance sheet data, annual reports of activities and financial audits for the last two years. According to Article 5, NGOs also need to prove efficiency and quality of their work, which includes a compulsory ISO EN 9001 certification.

NGOs mentioned that the requirement to prove a two-year activity led to the exclusion of some organisations operating or having legal status in Greece for less than two years. Six out of the ten organisations consulted mentioned difficulties in collecting funds to cover the costs linked to registration. Some mentioned having spent between 2,500 and 4,000 Euros for the ISO certification. For volunteer-based organisations, the total cost together with the financial audits by certified accountants was significantly higher. Registration requirements affected particularly smaller and grassroots organisations dependent on donations. NGOs feared investing large sums to produce all the necessary documentation without a guarantee of being included in the registry, as according to Article 6 (4), the Special Secretary for Stakeholders Coordination has the discretion to reject or accept a registration application, taking into account all submitted data as well as the activity of each organisation. Under Article 9 (1), NGOs who were already registered or had initiated the registration procedure in the past, had 40 days from the day of publication of the Ministerial Decision to submit

⁴ Article 191 of Law no. 4662/2020 (Government's Gazette 27/A/7-2-2020); and Article 58 of Law 4686/2020 (Government's Gazette A' 96/12-05-2020); Ministerial Decision 3063/2020 of published in the Government's Gazette 1382/B/14-4-2020 and later revoked by Ministerial Decision 10616/2020.

⁵ Ministerial Decision 10616/2020 "Specification of operations concerning the Register of Greek and Foreign Non-Governmental Organizations and the Register of Members of Non-Governmental Organizations" published in the Government's Gazette 3820/B/9-9-2020.

⁶ See Council of Europe, Expert Council on NGO Law of the Conference of INGOs, [Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration](#), 2 July 2020 and [Addendum to the Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration](#), 23 November 2020. Civil society organisations have also submitted an application for annulment of the Ministerial Decision at the Council of State.

additional documentation. Collecting supporting documents from various public services during the pandemic has been challenging for them within this timeline.

- Lack of consultation and support during the registration process

All NGOs consulted described the registration procedure as cumbersome, complicated and exhausting. NGOs of foreign origin mentioned that they asked some clarifications regarding the supporting documents but the authorities did not provide any and simply cited the relevant legal provisions. In case of insufficient documentation, under Article 3 (2) of the Ministerial Decision the NGOs need to provide supplementary information within 10 days from the day the Evaluation Committee informs them in writing. One organisation mentioned not being informed in writing of the need to submit additional documents and was rejected.

- Arbitrariness in the decision making and lack of transparency

The civil society actors consulted highlighted the risk for arbitrary decision-making. They all referred to the lack of transparency in the decision making process and raised the wide discretion given to the Special Secretariat for Stakeholders Coordination to either deny (Article 6 (4)) or revoke the registration (Article 14 (1)). They noted that the main ground for rejection is the lack of supporting documents. Respondents noted that some organisations were rejected for failing to prove two years of activity while others were included despite not meeting this requirement. Some NGOs also mentioned that the decisions were not sufficiently reasoned and simply referred to the relevant legal provisions without always specifying which documents were missing.

- Delays and uncertainties

Some NGOs have been waiting for a reply to their application for approximately 5-6 months. One of them has been trying to register since 2018 and due to constant legal amendments had to submit its supporting documents four times. NGOs whose registration is pending mentioned difficulties in the implementation of ongoing and planned projects, requests for donations and continuation of partnerships.

The Ministerial Decision does not include a reference to remedies against the decisions of the Evaluation Committee. NGOs whose registration was rejected were considering appealing before the Administrative Courts. This is, however, a lengthy procedure during which the NGO may have to suspend or terminate its support activities for migrants or refugees.

- Discontinuing activities

As per Article 1 (1) of the Ministerial Decision, all NGOs active in the area of asylum, migration and social inclusion are obliged to be registered. Two of the civil society actors FRA spoke to did not manage to register so far. FRA was informed that some rejected NGOs had to stop their activities – in the specific cases provision of food, laundry services or leisure activities for children – inside the camps.

- Excessive requirements and administrative burden

Article 10 of the Ministerial Decision obliges organisations to register all their staff and volunteers. As per Article 11, the supporting documents include copies of identity documents, criminal record documents, a solemn declaration that the person has not been convicted for criminal offenses, contact details, a curriculum vitae and a copy of the employment contract. Article 10 (4) imposes an obligation to update the registry and notify of any changes of data within 24 hours. Non-compliance leads to de-registration of the organisation and of the relevant person. NGOs referred to the high administrative burden placed on organisations with a lot of employees or on those employing staff and volunteers with short-term contracts. They also questioned whether the justification of processing all this personal data for all their employees is necessary and proportionate.

- Employing people with criminal record

Article 10 (2) of the Ministerial Decision clarifies that the registration of employees serves public interest purposes and preventing that persons convicted of heinous crimes have contacts with asylum applicants and refugees, especially women and children. The establishment of a vetting system for staff who have contacts with children is an important safeguard provided also in Article 10 of the Directive 2011/93/EU on Child Sexual Abuse and Exploitation of Children. However, this concerns staff who have direct or indirect contacts with refugees and migrants hosted in the camps. NGOs employing convicted persons to facilitate their social integration were concerned about the potential need to discontinue their contracts, even if these persons are only involved in office-based tasks.

Upcoming month

FRA plans to visit the hotspot and pre-removal center in Kos. FRA will also share with the Task Force a list of fundamental rights safeguards for the construction of safe zones for unaccompanied children in the new Multi-purpose reception and identification centers.