

# FRONTEX

# BETWEEN

# GREECE AND TURKEY:

# AT THE BORDER OF DENIAL



FIDH - Migreurop - EMHRN

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Photo: greek coast guard vessel returning to Mytilene port (Lesvos Island, Greece) after spending the night patrolling the sea (October 2013)

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## Introduction

For several years, the North-East of the Mediterranean has been considered the main point of entry for migrants seeking to reach the European Union (EU). Strengthened aerial and maritime surveillance techniques and the deployment of Frontex – the EU border agency – in the area between West Africa and Spain (Iberian Peninsula and Canary Islands), have resulted in the shift of migratory routes eastwards, in turn leading to the increased presence of Frontex in the region.

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex or “the agency”), established in 2004, is one of the main tools of the strategy employed at the EU’s external borders to implement the core objective of EU migration policy: “preventing and reducing irregular immigration.”

Since 2010, the agency has considered the Greece-Turkey border as the ‘centre of gravity’ of its operations.<sup>1</sup> This border serves as a ‘laboratory’ for its activities: the agency’s sea and land Poseidon operations have been periodically renewed since their launch in 2011, the first regional Frontex office was established in Piraeus (Greece) in 2010, and the first Rapid Border Intervention Teams (RABITs) were deployed in October of the same year.<sup>2</sup>

Over the years, the routes of passage over the border have changed in response to the operations of the agency and the Greek authorities. In the past, migrants generally entered Greece via the land border in the region of Evros, located in the North of the country. Since August 2012, Turkish associations have observed a sharp increase in departures of boats from the region of Izmir (Turkey) heading towards the Greek Islands, as a direct consequence of the increased control at the land border.

While Frontex welcomed a decrease in the number of migrants intercepted at the land border between Greece and Turkey in 2012 (2,000 persons intercepted per week in August in comparison to under 10 from October

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1 Frontex (2012) General Report 2011, p. 60.

2 RApid Border Intervention Teams.

onwards),<sup>3</sup> the number of migrants intercepted at sea during the same period increased significantly, according to the Greek coastguards, from 102 in the first semester of 2012 to 3,280 in the second semester.<sup>4</sup> According to the agency, in 2012, a total of 3,307 interceptions were recorded within the scope of Operation Poseidon at the sea border. In 2013, this figure rose to 10,427 interceptions.<sup>5</sup>

The figures provided by the Greek authorities appear to disregard the increasing number of accidents at sea.<sup>6</sup> Between September 2012 and the beginning of May 2014, at least 18 shipwrecks, 191 deaths and 33 disappearances were recorded.<sup>7</sup>

A large majority of the victims were Syrian and Afghan refugees fleeing conflict, explaining also the large presence of women and children in the boats.

The number and recurrence of these tragedies raise the issue of whether border control operations adequately address the imperative of saving people in danger. They also bring into question the legality of these operations with regard to international obligations towards people seeking international protection.

In violation of the right to asylum, the priority placed on sealing borders has led to migrants being pushed out of European waters even before a detailed examination is carried out regarding whether they are entitled to remain in Europe or have the right to some form of international protection.

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3 Frontex General Report 2012.

4 “Greek islands faced with fresh wave of illegal migrants”, Ekathimerini, 7 January 2013; Parliamentary Assembly of the Council of Europe, Committee on Migration, Refugees and Displaced Persons (2013), “Migration and asylum: mounting tensions in the Eastern Mediterranean,” Rapporteur: Ms Tineke Strik.

5 Email from Frontex to the delegation dated 05/03/2014.

6 See Appendix I, List of Shipwrecks for the years 2012-early 2014.

7 This data was collected from press articles and the summary in the report “Pushed back. Systematic human right violations against refugees in the Aegean sea and at the Greek-Turkish land border” Pro Asyl, 2013, p. 33. The chronology was updated up to early May 2014. In the absence of official data, it does not represent all shipwrecks in the Aegean Sea. The numbers of deaths and disappearances, in particular, remain uncertain. The list of documented shipwrecks from September 2012 to beginning of May 2014 can be found in the Appendix to this report.



Building of the national headquarters of the Greek coastguard, Piraeus, October 2013

In the 2012 *Hirsi Jamaa and others vs. Italy* judgement,<sup>8</sup> the European Court of Human Rights (ECtHR) confirmed the illegality of forced returns by sea (“push-backs”): no one can be sent back without their individual situation being examined (prohibition on collective expulsions) and no return can take place if the person is at risk of being subject to inhuman or degrading treatment. Yet, many recent reports have documented cases of boats of migrants being pushed back from Greek waters towards the Turkish border, often using violence. Techniques used to “dissuade” boats from entering Greek waters follow the same logic.

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8 ECtHR, *Hirsi Jamaa and Others vs. Italy* (Application No. 27765/09), 23 February 2012.

Although far-reaching legislative reforms have taken place in Greece and Turkey, allegations of violations of migrant rights on the Greece-Turkey border continue, backed up by numerous reports by non-governmental organisations (NGOs). The main violations include inhuman and degrading conditions of detention,<sup>9</sup> violations of the right to asylum, interceptions at sea by Greek coastguards and forced returns to Turkey.<sup>10</sup> The Council of Europe,<sup>11</sup> the European Union Agency for Fundamental Rights<sup>12</sup> and the United Nations Special Rapporteur on the human rights of migrants<sup>13</sup> have also expressed serious concern about human rights violations committed at this border. While the reforms undertaken by the Greek and Turkish are to be welcomed, numerous problems persist.

Firstly, uncertainties surrounding the implementation of these new legal frameworks reveal the limits of this response to the systemic failings documented for many years in both countries. Secondly, the spirit of these reforms corresponds to the objectives fixed by the European Union on the management of migratory flows and border surveillance: approval of the Greek action plan on immigration management,<sup>14</sup> and bringing Turkish law into closer conformity with European legal frameworks so as to enable the signature of a readmission agreement in December 2013. This is indicative of the limitations to reforms which are supposed to ensure better reception of migrants in Greece and Turkey and address the various violations denounced in judgments of the European Court of Human Rights.<sup>15</sup>

This is the context in which Frontex operations are conducted while, despite the announcement of reforms on both sides of the Mediterranean,

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9 Médecins Sans Frontières (2014) “Invisible suffering.”

10 Pro Asyl (2013) “Pushed-Back: Systematic human rights violations against refugees in the Aegean Sea and at the Greek-Turkish land border,” Amnesty International (2013) “Frontier Europe : Human rights abuses on Greece’s border with Turkey.”

11 Ibid. 4.

12 EU Fundamental Rights Agency (2013) *Fundamental rights at Europe’s southern sea borders* (Summary).

13 United Nations Special Rapporteur on the Human Rights of Migrants (2013) “Regional study: management of the external borders of the European Union and its impact on the human rights of migrants” and Addendum mission to Greece and Turkey.

14 General Secretariat of the Council of the European Union, 10327/13, 3 June 2013.

15 ECtHR, *MSS v. Greece and Belgium* (N° 30696/09), 21 January 2011; ECtHR, *Ghorbanov and Others v. Turkey* (N° 28127/09), 3 December 2013; ECtHR, *Abdolkhani and Karimnia v. Turkey* (N° 30471/08), 22 September 2009.



security considerations and the desire to stop irregular migration continue to predominate over the implementation of a genuine reception policy.

Based on research into Frontex and the Poseidon operational plans obtained from the agency, this report raises questions regarding the conditions surrounding Frontex's participation, and therefore also the involvement of the EU, in a system which aims to 'fight' irregular migration in the backdrop of serious and proven violations of the human rights of migrants.

From 29 September to 12 October 2013, the International Federation for Human Rights (FIDH), Migreurop and the Euro-Mediterranean Human Rights Network (EMHRN) – as members of the Frontexit campaign<sup>16</sup> – conducted a joint investigation to explore cooperation between Frontex, Greece and Turkey at this EU border and the impact of this cooperation on the human rights of migrants.

This report has two main objectives. Firstly, it aims to provide clear and detailed information on the deployment of Frontex at the Greece-Turkey border and to examine the impact of its activities on human rights. Secondly, it raises questions over the participation of Frontex, and through it of the EU, in a system which aims to combat irregular migration in the backdrop of serious and proven violations of the human rights of migrants. The investigation highlights serious problems of accountability and transparency in the operations of the agency, which have not been resolved by the adoption of a "fundamental rights strategy" in 2011.

## Methodology and challenges for the investigation

This report is based on information received directly from Frontex, through written exchanges with the Frontexit campaign between autumn 2012 and spring 2014.

It is also based on a series of testimonies and observations collected in Turkey and Greece during the two-week fact-finding mission, which took

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<sup>16</sup> See the website of the [Frontexit](#) campaign.

place from 29 September to 12 October 2013. The delegation, composed of representatives from the three participating organisations, carried out the mission with the support of NGOs in both countries (Turkey: Helsinki Citizen Assembly-Refugee Advocacy Support Program (HCA-RASP), Multecider, Human Rights Association-IHD; Greece: Greek Human Rights League, the Greek Council for Refugees, the Village of All Together).

Much of the information gathered is not easily available to the general public. Even when it is available, it is often not accessible because of its technical or confusing nature (contradictions, use of acronyms, etc.).

Some of the documents requested from Frontex were not made available by the agency, but the organisations did have access to parts of the Operation Poseidon Operational Plans for 2012. The information they contain raised many questions which are explored in this report.

The field investigation supplemented this information, and contextualised it within the broader framework of migration policy and border control in Turkey and Greece.

For the sake of clarity in view of the different names used in different countries, but also as a reflection of our positioning, the report refers to places of confinement as detention centres. Whether migrants are held in a deportation centre (“pre-removal centre” in the case of Greece) following an administrative decision or in a “reception” centre when they arrive on the territory for identification purposes, it should be recalled that these spaces are first and foremost places of deprivation of liberty.

Various interviews, some semi-structured and others informal, were conducted with migrants in Turkey and in Greece<sup>17</sup> and the various offices of the Greek coastguards, representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Greece and Turkey, the International Organisation for Migration (IOM) in Ankara (Turkey), local migrants’ rights organisations, representatives of the European Commission in Turkey and the office of Frontex in Piraeus (Greece).

Despite the Greek administration’s silence to our multiple requests for permission to enter the Greek centres in Amygdaleza, Filakio, Chios, Lesbos

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17 30 interviews in Greece and 39 in Turkey.

and Corinth, we were able to gain access to the reception centres in Lesbos and Corinth with the support of local intermediaries.

However, negative responses to requests for meetings were received from the Greek Ministry of the Merchant Navy and the Aegean Sea (Marine Ministry) and the delegation was therefore unable to meet the Greek coastguard on the islands of Chios and Lesbos. Requests to meet with the operational officers (Frontex and guest officers from Member States) participating in Joint Operation Poseidon on the island of Lesbos were also refused. The delegation was able to meet a Frontex representative at the coastguard headquarters,<sup>18</sup> as well as the coordinator of the Frontex office in Piraeus.

Repeated requests to meet the Turkish authorities responsible for border control and to visit detention centres in Edirne and Izmir in Turkey were not granted.

#### Disclaimer

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<sup>18</sup> Under the authority of the Ministry of the Merchant Navy and the Aegean Sea.

# **FRONTEX AT THE GREECE-TURKEY BORDER**

# Chapter 1.

## Frontex at the Greece-Turkey border: denial of responsibility?

### A – Background to Frontex activities in the region

The European Agency for the Management of Operational Cooperation and the External Borders of Member States of the European Union, referred to as Frontex, was created on 26 October 2004<sup>19</sup> by a European regulation and has been operational since 2005. It “promotes, coordinates and develops the management of European borders” through several fields of activity: joint operations at land, sea and air borders, **joint return operations, research and sharing of information (administration of Eurosur system)**<sup>20</sup> etc.<sup>21</sup>

The purpose of the agency is to support EU Member States to combat so-called irregular immigration more effectively. In October 2011, the regulation establishing Frontex was amended<sup>22</sup> to reinforce the agency’s operational capacity and to incorporate stronger guarantees for the respect of fundamental rights.

Since 2009, when migration routes were displaced towards Turkey (in reaction to increased surveillance at the border with West Africa to the

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19 Regulation (EU) No. 2007/2004.

20 “Eurosur, the fantasy of total control” (“Eurosur, le fantasme du contrôle total, available” in French) *Migrations Magazine*, March 2013.

21 Frontex, mission and tasks, available on the Agency’s [website](#).

22 Regulation (EU) No 1168/2011.

South of Spain and off the coast of the Canary Islands), Frontex's presence in the eastern Mediterranean has intensified. This region, which has become a laboratory for the agency's work, was the location of the first rapid intervention operations as well as the agency's first operational regional office. Since 2011, the Poseidon joint operation has been deployed permanently at the Greek land and sea borders, considered a major entrance point for migrants to Europe. This chapter explores the nature of Frontex's activities on the Greece-Turkey border, the sources and allocation of funding, and the Poseidon operational plans.

Frontex has been operating in Greece for several years, and now has a growing interest in Turkey, through which many migrants transit. An agreement with Turkey in April 2012 lays the foundations for future cooperation, but the Turkish authorities remain reluctant to the deployment of the agency on its territory.<sup>23</sup>

## 1 – A Frontex laboratory at the Greece-Turkey border

Even before Greece was considered the main entry point to the European Union,<sup>24</sup> the agency paid particular attention to the eastern Mediterranean. Between 2007 and the beginning of 2010, it strengthened its presence on the islands in the Aegean Sea and the southern part of the land border between Greece and Turkey<sup>25</sup> using various operational means (agents, equipment, etc.), including the Piraeus operational office.

In 2009, Frontex launched **Attica**,<sup>26</sup> a **pilot project** which aims to provide support to Greek authorities on the removal of migrants: providing experts for 'screening' (procedure aimed at identifying countries of origin of migrants), organising training on screening and detecting false documents,

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23 Interview with the European Commission delegation in Turkey, Ankara, 30 September 2013.

24 "Fortress Europe; Have border controls worked? An interactive guide," *The Guardian*, 13 January 2014.

25 Frontex (2011) "RABIT Operation 2010 Evaluation Report."

26 See Amnesty International & ECRE (2010) "Briefing on the Commission proposal for a Regulation amending Council Regulation (EC) 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)".

facilitating cooperation with embassies of third countries, facilitating coordination of return flights, etc. Project Attica has been renewed annually since its launch.

In October 2010, following the increase in number of migrants attempting to reach Greece through the land border with Turkey, Greece called for further support from the EU to control its borders.<sup>27</sup> It requested the intervention of **Rapid Border Intervention Teams (RABITs)**. Frontex dispatched the first RABITs to the region of Orestiada and neighbouring areas to provide assistance from November 2010 until March 2011, to deal with the ‘exceptional’ situation over the four month period.<sup>28</sup> According to Frontex,<sup>29</sup> 175 border control experts provided by 26 Member States assisted Greece in ‘screening’ and debriefing interviews during this period (aimed at collecting information on migratory routes).<sup>30</sup>

**On 1 October 2010, the first Frontex Operational Office (FOO)** outside the agency’s headquarters in Warsaw opened in the Greek port of Piraeus. The aim of the Office is to assess the effectiveness of Frontex presence in the region and improve identification of needs in the area. The Office is under the direct authority of Warsaw headquarters, where decisions are made. The FOO does not yet have its own operational equipment and in this respect depends on the goodwill of Member States, even though, since the 2011 reform, the agency has the capacity to purchase or rent its own equipment. Although the FOO is based in Greece, its remit is regional under the Poseidon operation. It covers other EU Member States including Italy and Bulgaria.<sup>31</sup> This report focuses on its operations in Greece.

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27 “Frontex to Deploy 175 Specialist Border-Control Personnel to Greece,” Frontex Press Release, 29 October 2010; “Frontex and the RABIT operation at the Greek-Turkish border,” European Commission Press Release, 2 March 2011.

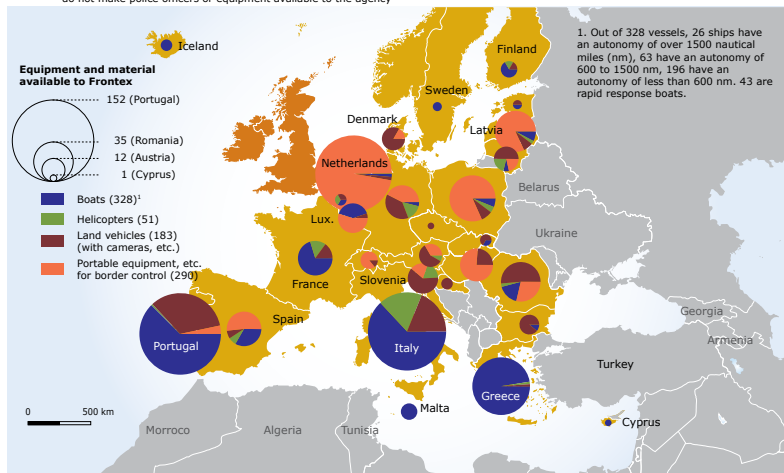
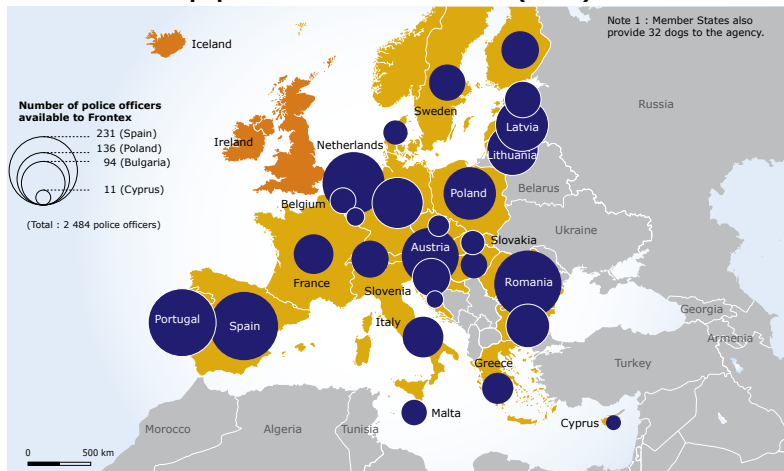
28 Their deployment at the Greece-Turkey border started on 2 November 2010 for an initial period of two months and was renewed until 2 March 2011.

29 “Frontex and the RABIT operations at the Greek-Turkish border,” press release by the European Commission, 2 March 2011.

30 See the section on debriefings below.

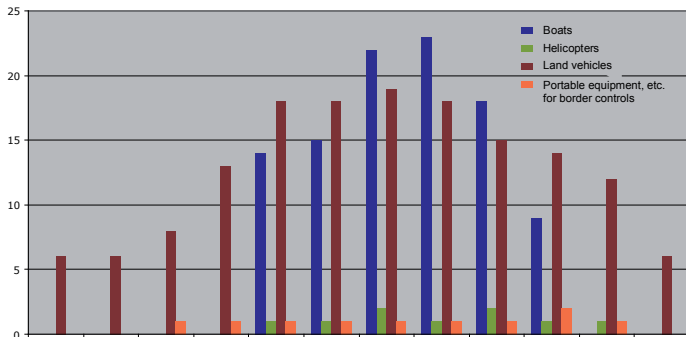
31 Operations may also be extended to Cyprus and Malta. Interview with Mr Grigorios Apostolou, Coordinator of FOO, 11 October 2013.

### Personnel and equipment available to Frontex (2014)



Source: Frontex (2014) Annual Information on the Commitments of the Member States to the European Border Guard Teams and the Technical Equipment Pool, 19 p.

### Use of equipment: forecast for 2014





The FOO is staffed by up to a dozen Frontex Officers<sup>32</sup> each year depending on needs (2012: 7 persons, 2013: 10 persons).<sup>33</sup> In most cases, officers are dispatched to the field in order to coordinate the deployment of Guest Officers,<sup>34</sup> install technical equipment or to strengthen “screening” and “de-briefing” activities. It is worth noting that the FOO is a ‘specialised branch’;<sup>35</sup> initially conceived as a pilot project, it became a permanent Frontex structure at the end of 2013.

The FOO’s activities cover the full range of possible Frontex interventions, applied on a regional scale within Operation Poseidon,<sup>36</sup>

- Contribution to the establishment of joint operations, particularly border surveillance and interceptions at sea (assistance to international coordination centres);
- Participation in the design and assessment of operations (reports on joint operations);
- Strengthening border management, including activities related to the return of migrants;
- Information gathering and assessment for risk analysis;
- Establishment of a network of all Member States actors involved in Operation Poseidon (Greece, Italy, Bulgaria, Malta and Cyprus) for operational coordination and data-gathering.

**Since 2011, the Regional Poseidon Programme has become a permanent joint operation covering Greek and Bulgarian land borders as well as Greek sea borders.** Joint Operation Poseidon Land was established with the same objectives as the RABITs. According to Frontex, Joint Operation Poseidon Sea 2011 was established to respond to “potential

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32 Agency’s staff.

33 Response from the FOO dated 10 October 2013 to a letter sent by the Delegation on 6 October 2013.

34 Guest Officers are officers sent by the European Union Member States.

35 Article 16 of the Frontex Regulation.

36 Response from Frontex dated 23 December 2013 to a letter sent by the Delegation on 13 November 2013.

migratory flows from Libya<sup>37</sup> and was deployed around the Greek islands in the Aegean Sea, including Crete.

By 2011, despite Frontex's presence in the area for almost five years, the region became one of the main points of irregular entry of migrants into the EU, along with the Italian island of Lampedusa.

**In 2012, Joint Operations Poseidon Land and Sea were renewed. In parallel, Greece initiated two national operations, Operation Aspida (“shield”) and Operation Xenios Zeus. In addition was the construction of the wall at the land-border with Turkey, finalised at the end of 2012.**

The combination of these developments led to a significant decrease in arrivals in the Evros region by the end of summer 2012. Arrivals fell from 2,000 per week in the first week of August 2012 to 10 per week in October of the same year.<sup>38</sup>

As a result of increased obstacles to entry at the land border, migrants increasingly resorted to the more dangerous sea route via the Aegean Islands.<sup>39</sup> Whereas, 102 people were intercepted at the Greek sea border between January and July 2012, 3,280 were intercepted between August and December 2012, according to a report by the Parliamentary Assembly of the Council of Europe.<sup>40</sup>

In addition to Operations Poseidon Land and Sea, Frontex coordinates **land and sea focal points**. These are migration ‘hotspots’ where experts from Member States are deployed, generally in small numbers, to establish better relations with local authorities.<sup>41</sup>

Over the years, Frontex's means of intervention in Greece have evolved. According to the FOO Coordinator, Mr Grigorios Apostolou, at the outset intervention in the region almost exclusively took the form of operational

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37 “Update to Joint Operation Poseidon 2011”, Frontex, 26 March 2011.

38 Ibid. 3.

39 Mainly Lesbos, Samos, Symi, Farmkonissi and the Dodecanese Islands.

40 *Migration and asylum: mounting tensions in the Eastern Mediterranean*, PACE, Council of Europe, 23 January 2013.

41 Interview with Mr. Grigorios Apostolou, Head of the FOO, 11 October 2013.

activities, via border control and surveillance, screening and debriefing activities. However, **since 2011 the agency has focused more on capacity-building activities**, largely due to the adoption of the Frontex “fundamental rights strategy.”<sup>42</sup>

**At the EU level, Frontex coordinates joint return flights**, whereby migrants who have received deportation orders are transported from several Member States to the one organising the flight, after which they are transferred to a plane and taken to the destination airport in a third country. Greece participates in this programme, in particular for flights to Nigeria, Georgia and Pakistan.<sup>43</sup> According to the agency, only nationals from the destination countries are deported. The agency states that no incidents have ever been reported within the framework of these operations.<sup>44</sup>

**At the regional level, Frontex works in cooperation with international and European organisations** such as the European Asylum Support Office, the European Commission, the Fundamental Rights Agency, etc.

**Finally, within the scope of its cooperation with states that are not members of the European Union, the agency signed a Memorandum of Understanding with Turkey** on 28 May 2012.<sup>45</sup> The 3-page document provides for the exchange of information, the possibility of participating in joint return operations, training on border management and research and development. The memorandum is currently being implemented.

According to the Head of the FOO, “high-level meetings are organised to define how to implement the memorandum in practice.”<sup>46</sup> He told the delegation that Frontex has been involved in strengthening the partnership between Greece and Turkey for several years and that the two countries have developed a good cooperation at the operational level. Since the signature of the memorandum, Greece and Turkey have organised several high-level meetings in the Evros region and communicate on a daily basis. Frontex participated in these meetings as both an observer and facilitator.

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42 Interview with Mr. Grigorios Apostolou, Head of the FOO, 11 October 2013.

43 See Appendix.

44 Letter from the Frontex Agency to the Frontexit Campaign, 5 September 2013.

45 [Memorandum of Understanding between Frontex and the Turkish Ministry of Foreign Affairs](#), Statewatch, April 2012.

46 Interview with Mr. Grigorios Apostolou, Head of the FOO, 11 October 2013.



Building of the Greek coastguard in the port of Mytilene (Lesbos), October 2013.

In an interview with the representative of the European Commission delegation in Turkey, Mr Erwan Marteil, it appeared that the terms of cooperation remain vague. It was not possible for the delegation to obtain the views of the Turkish authorities on this subject. Repeated requests for meetings addressed to the Ministry of Foreign Affairs and the Ministry of the Interior received no response or were refused on the basis that representatives were not available. The delegation was unable to meet those in charge of the adoption of the memorandum. According to the European Union delegation in Ankara, Turkey does not seem to be in a hurry to see greater Frontex involvement. Nevertheless, developments in recent years such as measures taken by Turkey to strengthen border control and training given by the IOM (cooperation on

border management, data collection, risk analysis), have facilitated the harmonisation of practices between the EU and Turkey with a view to strengthening the partnership between the two entities in the years to come.<sup>47</sup> Turkey's signature of the Memorandum of Understanding with Frontex in May 2012 and a readmission agreement with the EU in December 2013 should be understood in this context. Although the operational nature and implementation of both agreements remains to be defined, they constitute strong political symbols of cooperation, under the terms of reference characterising the links between the EU and its neighbours in this area, i.e. the externalisation of methods of migration and border management based on risk analysis and protection against irregular migrants.

## 2 – Funding Frontex operations: prioritising surveillance and security systems

From 2007 to 2013, the External Borders Fund<sup>48</sup> was the source of the majority of financial support to EU Member States participating in Frontex operations. This fund is now integrated into the new European budget framework 2014-2020 known as the Internal Security Fund (ISF).<sup>49</sup>

According to the Head of the Department of the Greek coastguard for the surveillance of sea borders, Mr Karagastos, most of the budget in Greece is allocated to establishing and connecting systems, surveillance and border security, rather than to equipment, staff and the maintenance of vessels.<sup>50</sup>

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47 The International Organisation for Migration (IOM) supported an ambitious reform project (see Chapter 2A) and the adoption of methodological frameworks concerning the collection of information and analysis of risks. The IOM facilitated workshops and seminars between Turkey and its neighbours (Balkan countries, Bulgaria) on border management cooperation. The IOM in Ankara confirmed that these workshops were organised in the framework of the Frontex regional network in the Western Balkans, and in support of the cooperation agreement signed by Frontex and the IOM in 2008.

48 Decision No. 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows.

49 For the period 2014-2020, the European Commission has proposed an increase of approximately 40% to the budget allocated to home affairs, compared to the previous budget. In parallel, the Funds have been combined: the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF). See the EU's Home Affairs Website.

50 Interview with Mr Kostantinos Karagatsos, Head of the Department of the Greek coastguard for the surveillance of sea borders, 10/10/2013.

This orientation in funding priorities is a reflection of the EU tendency of externalising border control by investing in surveillance and security technologies.<sup>51</sup> This change falls within the framework of the implementation of the system for surveillance of European external borders, Eurosur, which has been operational since 2 December 2013.<sup>52</sup>

The Greek case, in particular the Poseidon joint operations, illustrate this tendency and its economic effect, described by the press<sup>53</sup> as “big business” involving the European Commission, companies in the defence and security sectors, and Frontex: “*Frontex confirmed (...) that the agency has been paying weapons and security equipment manufacturers to participate in demonstrations of equipment which national agencies attended as potential customers. (...) The companies participated in demonstration of Remotely Piloted Aircraft (Drones) in Aktio<sup>54</sup> in Greece in October 2011.*”<sup>55</sup>

### 3 – Joint Operation Poseidon Operational Plans: limited access to information and a multiplicity of actors

Operational plans define the rules of intervention by the agency, the Host State and participating European or non-European States in joint operations. Most often, they are accompanied by a multitude of annexes which provide details on specific aspects of the operational plan.

Joint operations are prepared by Frontex, the Host Member State, participating Member States and associated Schengen countries<sup>56</sup> on the basis of

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51 “The bases of this new doctrine on the security of European borders appeared in 2004 with the emergence of the European Security Research Programme (ESRP). This programme is a platform on which converge economic and political interests focused on the militarisation of border control. The ESRP programme will be integrated later on within the 7th Framework Programme for Research and Technological Development for 2007-2013,” in Fotiadis A.: “A new architecture of migration control emerges on the borders of Europe,” 2 January 2014.

52 “Eurosur kicks off: new tool to save migrants’ lives and prevent crime at the EU borders,” European Commission Press Release, 29 November 2013.

53 “Closing Europe’s borders becomes a big business,” IPS News, 9 January 2013.

54 Military airport in Greece, close to Greece’s western sea borders, with Italy on one side and Albania on the other.

55 “People pay for research against migrants,” IPS News, 11 January 2013.

56 Iceland, Norway and Lichtenstein.

Frontex's risk analysis reports and identified needs in a predefined border area. Operations are conducted within the framework of specific joint operational plans (OP) which specify the objective, the area of intervention, the coordination and resources used.

In accordance with the European rules concerning public access to the documents of the European Parliament, Council of Europe and European Commission,<sup>57</sup> these operational plans and their appendices should be made publicly available upon request. However, in practice only those related to completed operations can be consulted, and even these only in part. Frontex, in an exchange in October 2013, invokes public interest in the field of public security, defence and military security and international relations<sup>58</sup> to justify restrictions on access to information.

As a result, the delegation was unable to access parts of the Operational Plan Poseidon Sea 2012 including the agency's presentation of the political and social situation in North Africa and the Middle East. The same applies to Operational Plan Poseidon Land 2012. Parts related to the context and assessment of the situation, as well as documents on information-gathering, were removed from the documentation provided.

The Operational Plans reveal the multiplicity of actors involved in the agency's operations. EU Guest Officers (also known as experts) are deployed in the field by Member States participating in a given operation in the region. These Guest Officers have executive power: they can conduct border controls, check identity documents,<sup>59</sup> etc. Guest Officers deployed in the field are under the command of the Host State. They cannot issue decisions, which remains among the sovereign powers of the Host state. They work alongside national officers and Frontex Officers.

Additionally, observers can be seconded to Frontex operations. These are nationals of non-EU states with which the agency has signed a working agreement, such as the Memorandum of Understanding between Frontex and

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57 Article 4 (1) (a) of [Regulation No. 1049/2001](#) on public access to European Parliament, Council and Commission documents.

58 Ibid.

59 Ibid. 41.

Turkey, and whose tasks are defined in said agreement. These observers do not have enforcement powers in the field, such as border control. They are not authorised to take measures against individuals. Their mission is to provide advice, exchange information and acquire practical experience. In particular, they can be intermediaries between the national members of the host Member State and their own national authorities if incidents occur on the border and for sharing information. Observer officers can participate in joint patrols on the borders with local agents of the Host state. They exchange information and data concerning the *modus operandi*, routes and networks of criminals operating in the area of concern detected. Thus within the scope of Operation Poseidon Sea 2012, three Croatian, Georgian and Ukrainian observers<sup>60</sup> were deployed. There were no observers on the land border in 2012 and 2013.

Frontex also deploys several other types of officers or personnel: a Frontex Operational Coordinator (FOC), a Frontex Support Officer (FSO), a Frontex Coordination Officer (FCO), operational analysts, etc.

Operations require the establishment of an International Coordination Centre (ICC) managed by the State hosting the operation in collaboration with Frontex. The ICC coordinates the operation in conformity with the pre-defined operational plan: information gathering and exchange on any incident at the border, daily reports on the situation at the border and follow-up of cases. The Centre is managed by a coordinator (a national from the Host State), and is comprised of National Officers (NO) from the State hosting the operation, officers in charge of data gathering (Intelligence officers-IO) and the FOC. The ICC cooperates with a regional coordination centre and local coordination centres. In parallel, regional and local coordination centres have also been established.

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60 Ibid. 33.



## B – Illegal Practices in the Aegean Sea: Who is responsible?

Multiple actors are present on the Greek and Turkish land and sea borders and participate in operations coordinated by Frontex in the region. In addition to the coastguard and border guards of the country hosting the Frontex operation, participants include guest officers from EU Member States, Frontex officers and observer officers from non-EU member states. The opaque nature of procedures and the diversity of methods for intercepting, detaining and removing migrants employed by these different actors contribute to diluting responsibility and creating a climate of impunity, in a context in which human rights violations are frequently committed.

### 1 – Access to EU territory and interceptions at sea

The maritime border around the Aegean Islands is located at equal distance from the Greek and Turkish coasts. This proximity makes it difficult to identify the dividing line between the two countries and to determine in which waters interception operations take place.

#### ‘Early detection’

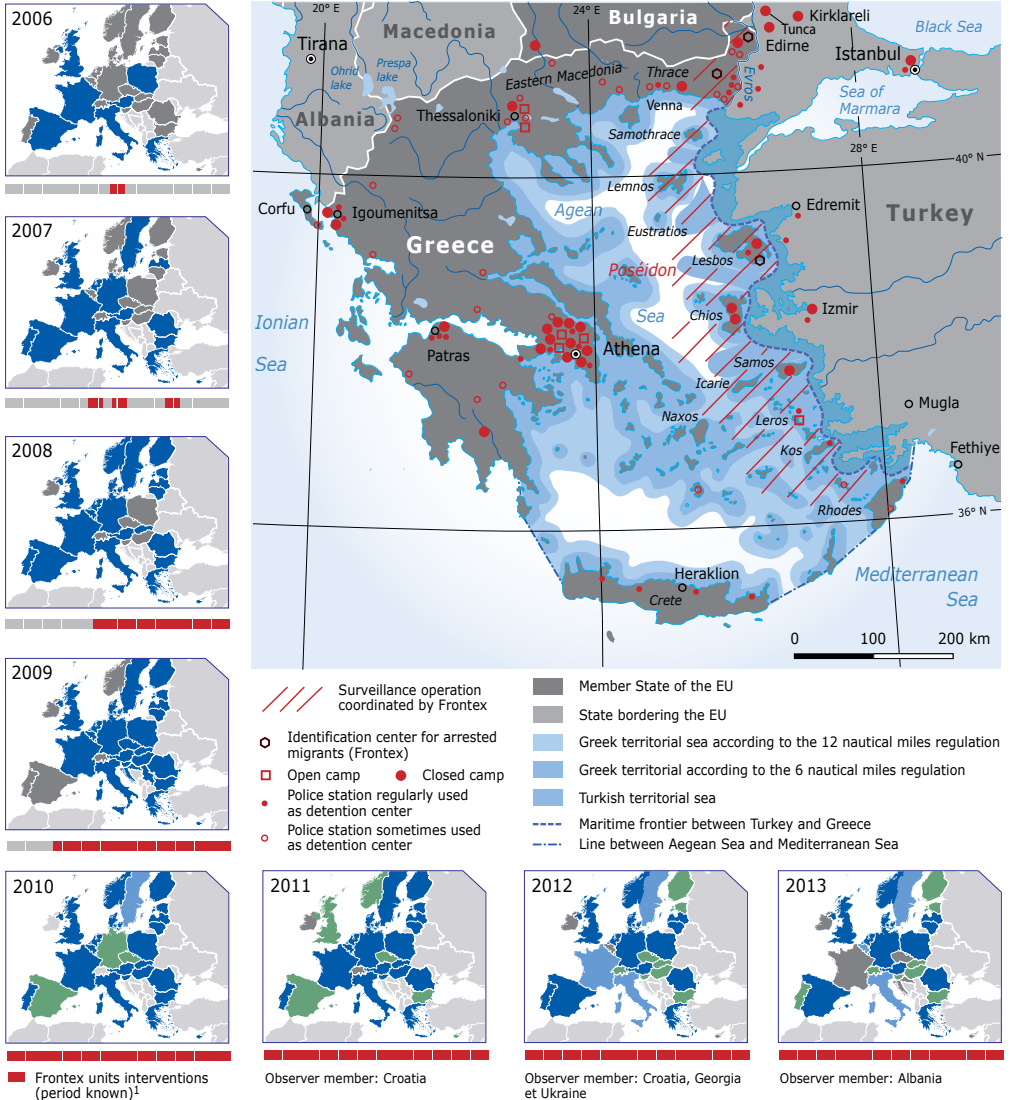
The proximity of the Turkish and Greek coasts facilitates cooperation between the authorities on each side of the border. Thus, according to the Head of the Greek coastguard department for the surveillance of sea borders, Mr Kostantinos Karagatsos, and the First Class Navy Officer, Mr Michalis Grammis, when a boat is detected by the Greek coastguard on the boundary line between the two countries<sup>61</sup> or in Turkish waters,<sup>62</sup> the Greek coastguard ask their Turkish counterparts to intercept the embarkation. “Early” detection by the Greeks makes it possible, with Turkey’s cooperation, to prevent people reaching the Greek territorial waters.

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61 Michalis Grammis, First Class Navy Officer, in the documentary, *Autopsia* (October 2013), *The Undeclared War in the Aegean Sea*.

62 *Ibid.*, 50.

### Mobilization in Aegean Sea



1. For each map, the first rectangle represents the month of January and the last one the month of December.

Sources: Associations Antigone, Diktio (Athènes) et HCA-RASP (Helsinki Citizens Assembly-Refugee Advocacy and Support Program / Istanbul), Frontex annual reports, Andrew Wilson (1979)

By intercepting boats in its waters, Turkey, which is a signatory of the Universal Declaration of Human Rights (UDHR), violates the universally recognised principle that everyone has the right to leave any country, including one's own (UDHR, Article 13). Greece is complicit in such violations.<sup>63</sup>

In addition to early detection, states operating within the framework of Frontex operations or alone can dissuade boats from entering into their waters without permission by various means: approach the embarkation, use all means of communication possible to inform passengers to modify their route, etc.

### Dissuasion by Greek coast guards: pre-border or within Greek waters?

According to public statements by the Minister of the Merchant Navy and the Aegean Sea, Mr Varvitsiotis, “if [the boats] are on the Turkish side, first we inform the Turkish authorities so that they collect them. If they are on the Greek side, we find a way to push them back to the Turkish side.”<sup>64</sup> The minister added “we don't tow them (towards Turkey), we prevent.” It would therefore seem that “dissuasion” techniques are used in Greek waters.

Despite the assertion of the Minister, the issue is not whether there is contact (towing) or not (dissuasion) with the boat, but whether or not the boat is in Greek waters at the time. Under European law, Greece has the obligation to examine the individual situations of persons presenting themselves at its border and on its territory.<sup>65</sup> Greece cannot avoid this obligation by dissuading people in its waters from seeking international protection. This practice of dissuasion in Greek waters resembles the practice of collective expulsions (see below: push backs).

Furthermore, since the sea border dividing the two countries is vague, it is difficult to see where dissuasion ends and push-backs begin.

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63 Although states can control conditions of exit, they can only do so to the extent that it is necessary and proportional. See thematic document submitted by the Commissioner for Human Rights of the Council of Europe (November 2013), “The right to leave a country.”

64 “Undeclared war in the Aegean Sea,” 17 October 2013 available online: [www.youtube.com/watch?v=fElr2nmpFuM](http://www.youtube.com/watch?v=fElr2nmpFuM) Greek television programme Autopsia.

65 Article 19.1 of the European Charter of Fundamental Rights.

These “early detection” and “dissuasion” techniques breach international refugee law. By signalling the presence of a boat to the Turkish authorities, intimidating its passengers so that they do not enter Greek waters or even following it and pushing it back to Turkey, there are risks that the principle of non-refoulement will be violated: those on board do not have the opportunity to exercise their right to request asylum and may face risks if sent back to Turkey.

### Push backs

Two recent NGO reports, by Amnesty International and Pro Asyl, have cited hundreds of testimonies of refugees and revealed that push-backs in the Aegean Sea by Greek coast guards have been commonplace since 2012.<sup>66</sup> Boats are pushed back to Turkey from Greek territorial waters or Greek territory. These practices violate the prohibition on collective expulsions and the principle of non-refoulement. They would also appear to violate the prohibition on arbitrary arrest and detention.

The vast majority of migrants met during the mission said that they had been victims of such practices.

In Athens, the delegation interviewed a Sudanese man who arrived in Greece in 2006 and whose asylum application was still pending. He reported how on several occasions he had been returned to Turkey from Greece outside of any legal procedure.

Illegal deportations also take place at the land border, although most “push-backs” seem to take place at sea as a result of the greater number of migrants arriving by sea routes as a consequence of increased surveillance of the land borders.

According to the UNHCR-Athens, the number of migrants detected at the Evros land border decreased from 16,000 between January and May 2012 to only 150 detections during the same months in 2013. However, during the first five months of 2012, Helsinki Citizen Assembly’s Refugee Advocacy

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66 Pro Asyl (2013), “Pushed back. Systematic human right violations against refugees in the Aegean sea and at the Greek-Turkish land border,” Amnesty International (2013), “Frontier Europe: Human Rights Abuses on Greece’s border with Turkey”.

Support Program (HCA-RASP, the Turkish branch of the Helsinki Citizen Assembly defending migrants and refugees rights) was contacted by almost 500 persons who were held in the Edirne detention centre on the Turkish side of the border. They claimed that they had reached Greece before being intercepted and brought back to Turkey to be detained.<sup>67</sup> This disparity supports evidence that migrants are being pushed-back to Turkey, either once in Greece or at the moment they cross the border.

**During these illegal operations, the Greek coastguards and border guards have been violent and abusive.**

The delegation interviewed two Syrian men individually and a group of 15 Syrians in Izmir. All of them had tried to reach Greece by sea and had been pushed back by Greek coastguards. One man had been detained in Samos for a few days and beaten, before being returned to Turkey. Three of them said they had tried to cross the Aegean Sea with their children aged between seven months and eight years. They said that their families had undergone beatings and body searches by the Greek coastguards and had their personal belongings stolen. Their children had not been beaten but had been subjected to the same body searches as the adults. One girl was traumatised after her experience at sea (masked border guards, shouting and using violence) and continued to suffer from nightmares.

A Syrian man told the delegation that he had taken a boat with his wife and their seven-month old baby: all their money and other valuables had been stolen by Greek coastguards, his wife had been body-searched by a male border guard in front of everyone and all the baby's food had been thrown into the water. They had to drift for 24 hours before the Turkish guards came to their rescue. One Syrian man in his forties asked: "*Why can't they [Greek coast guards] just turn us away? Why do they need to steal our money and beat us up?*"

A pregnant Somali woman attempted to cross the sea border to join her husband who was already in Greece. Since the couple had had a traditional marriage, she had no document to prove their marriage and could not join her husband through legal channels. Visibly six months into her pregnancy, she was beaten by Greek border guards at sea. She was taken to the hospital by

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<sup>67</sup> Interview with HCA-RASP, 1 October 2013.



Entrance to the national headquarters of the Greek coastguard, Piraeus, where the Frontex Operational Office is located, October 2013

Turkish coastguards, who came to pick up the group after they were abandoned at sea by the Greek coastguards. She showed the delegation injuries on her back and sides where she had been hit and kicked by the guards.

**Such violence, intimidation and abusive practices against vulnerable persons constitute inhuman and degrading treatment in violation of Article 3 of the European Convention on Human Rights.**

Presence of Greek special forces during deportation operations

**Several witnesses reported the presence of Greek Special Forces during expulsion operations.** Special Forces are armed and trained to intervene in cases of terrorism, armed robbery, piracy and organised crime.<sup>68</sup> Within the Special Forces, the MYA is the submarine unit based in Athens. According to testimonies gathered by the delegation<sup>69</sup> hooded and armed personnel sometimes participate in the coastguard teams during sea operations and use violence<sup>70</sup> in some cases endangering the lives of the migrants. One of the people met by the delegation reported the presence of an MYA<sup>71</sup> agent during a particularly brutal interception.

When asked by the delegation, the coastguard representative<sup>72</sup> denied the presence of MYA during sea operations to combat irregular immigration. He did however concede that in the past Special Forces had been able to take part in operations if the coastguard had been informed that the migrants on board the boats were “armed”. How do they get such information? The delegation did not receive a precise response to this question; they were told that the coastguard received the information from various sources.<sup>73</sup> A

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68 Ibid. 50.

69 The deployment of the MYA was mentioned in several testimonies but cannot be corroborated by official texts. See: Pro Asyl (2013) “[Pushed back. Systematic human right violations against refugees in the Aegean Sea and at the Greek-Turkish land border;](#)” footnote page 55.

70 Thomas Reuter (2013), “[Festung Europa - Das Ende der Hoffnung.](#)”

71 In Greek: Μονάδα Υποβρύχιων Αποστολών (MYA). Its activities are described on the website of the Greek coastguard, according to which the unit intervenes in SAR cases to provide assistance to people and boats in distress at sea. Reference in Greek available online: [www.hcg.gr/node/155](http://www.hcg.gr/node/155)

72 The coastguard reports to the Ministry of the Merchant Navy and the Aegean Sea.

73 Ibid. 50.

request for access to the guidelines on management of the Greek borders, in order to better understand the connection between the work of the different branches of the Special Forces and that of the coastguard, received no response.<sup>74</sup>

If proven, the deployment of armed Special Forces during sea operations, in addition to the opaque nature of their intervention, is a source of great concern. **It would be further evidence of the Greek authorities' willingness to resort to intimidating and illegal practices, using quasi-military means.**

**Intimidation and refoulement, often with violence and inhuman and degrading treatment, breach European and international law, as do conditions of detention. By acting in this way, the Greek authorities violate multiple rights: violation of the prohibition on inhuman and degrading treatment; violation of procedural guarantees for any person deprived of freedom as set out in the European Convention on Human Rights; violation of the right to asylum by preventing asylum seekers from reaching Greek territory; violation of the principle of non-refoulement; violation of the prohibition on collective expulsions.**

**By maintaining its presence in the region despite being aware of a situation that has been publicly denounced on several occasions by NGOs, European courts, the Council of Europe and others, Frontex is complicit in these failings.**

**The agency does not seem to have made use of the new prerogatives of its mandate which allow it to suspend or cease an operation in cases of violations of fundamental rights. In this context, the activities of the agency at sea and on land increase the risks of violations of the rights of migrants and refugees, without the agency being obliged to answer for its acts.**

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<sup>74</sup> Email from delegation to Greek Directorate for the Protection of Sea Borders, 20 December 2013.



## 2 – Risks of human rights violations in the framework of Operation Poseidon

In a letter dated 5 March 2014, Frontex provided information on the number of migrants intercepted at the sea border between Greece and Turkey: the figure more than tripled between 2012 and 2013 (3,007 persons intercepted in 2012 compared to 10,427 in 2013). As in previous years, the majority of those targeted were potential asylum seekers, and their numbers are constantly rising: Syrians (988 persons in 2012, 5,034 persons in 2013), Afghans (1,349 in 2012, 3,471 in 2013) and Somalis (54 in 2012, 416 in 2013).

Although these operations appear to be being reinforced, the precise framework of Operations Poseidon Land and Sea, as set out in the operational plans, is not made public (see previous section). Therefore, in order to evaluate the conditions in which sea operations take place, the following analysis is based on the 2012 version of the operational plans, which was provided by Frontex on request but of which much has been redacted.

### Geographic scope of intervention by Frontex

The operational plan for Poseidon Sea 2012 received by the delegation contains a paragraph entitled “operational area,” but its contents have been completely blacked out. It is therefore not possible to know the extent of the geographic zone of intervention at sea for 2013 (operational plan not transmitted despite our request), or 2012 (missing information). It seems that maritime operations cover, at a minimum, the Aegean Sea and part of the Mediterranean, a vast area. Operational Plan Poseidon 2012 states that the objective of the operation is to control irregular migration flows principally coming from Western Turkey and Egypt heading for Greece and Italy.<sup>75</sup>

### Objectives of Frontex operations at sea

Operation Poseidon Sea, which was extended on 1 January 2012, aims to ensure constant surveillance of borders, making it possible to identify “risks and threats” at the EU’s external borders and deal with arrivals of irregular migrants from the West coast of Turkey and Egypt.

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<sup>75</sup> Operational Plan Poseidon Sea 2012, Operational aim, p.10.

To this end, the 2012 Plan mentions maritime patrols in which agents of 15 Member States participate<sup>76</sup> in addition to the Greek coastguards. The main aim of the operation is to identify the arrival of an embarkation as quickly and as far from the border as possible (early detection) and to “control secondary migration flows,” in other words the routes taken by migrants from Greece to reach other countries in the Schengen Area such as Italy.

Nine objectives are set out of which some overlap: enhance border security; enhance efficiency of border security, enhance operational cooperation, enhance exchange of information, enhance efficiency of the exchange of information, identify possible risks and threats, establish and exchange best practices, support the establishment of permanent structures, support provision of training.

All objectives are focused on issues of security and aim to increase the effectiveness of the response to supposed “threats” and “risks”.

### **Operations in breach of international law**

Frontex intervenes in the Greek territorial waters with the same three objectives as the maritime interception operations conducted by the Greek coastguards in the Aegean Sea: early detection, dissuasion and interception.

Appendix 6 of Operational Plan Poseidon Sea 2012 allows Frontex to order an embarkation of migrants to change course towards a destination other than the territorial waters of an EU Member State. This prerogative of the agency is set out in Decision 242/2010 of the EU Council,<sup>77</sup> replaced by a Regulation adopted on 16 April 2014 on interceptions at sea within the scope of Frontex joint operations.<sup>78</sup>

In a written response to the delegation by the agency,<sup>79</sup> in the event that a boat contravenes or attempts to contravene border controls, or is engaged in the trafficking of migrants at sea, the participating Member State generally approaches it to identify it and find out its nationality, and uses all means of

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76 See Appendix.

77 Decision of EU Council (2010/252/EU) dated 26 April 2010.

78 Frontexit Press Statement, “Regulation on maritime surveillance by Frontex: lives in danger at the EU’s external borders,” 14 April 2014.

79 Email dated 5 March 2014 to the mission delegation, FIDH, EMHRN, and Migreurop.

communication to tell its passengers to change route. It then watches over the boat from a distance, taking “all necessary precautions.” In many cases, the skippers of suspected boats change route at their own initiative and return to their starting point. If, however, the boat continues its route in the waters of the Member State, it is intercepted.

In the same response, Frontex highlights the fact that while international maritime law provides for freedom of navigation in international waters, Article 8 of the Palermo Protocol on trafficking of migrants by sea allows for interventions in international waters.

The new Regulation on maritime operations coordinated by Frontex provides for the interception of boats contravening the Palermo Protocol in international waters, with the possibility of disembarkation in a non-EU Member State, such as Turkey.

As with the operations led by the Greek coastguards, operations coordinated by Frontex raise numerous questions. Operations aimed at early detection and dissuasion carry risks of violations of the right to asylum and the principle of non-refoulement in the context of the Greece-Turkey border.

The origins of the majority of those intercepted by Frontex indicate that many of those who do not reach Greek territory could be entitled to some form of international protection in Greece and in the European Union. Yet it does not seem that migrants and refugees on board the vessels which are detected and diverted have the opportunity to request international protection, have an effective examination of their personal circumstances, or have recourse against a decision to deny access to territory.

It therefore seems that Greece’s early detection and dissuasion operations are repeated in the context of Frontex operations. The agency becomes a tool for circumventing the international obligations concerning those in need of protection, which bind the scope of actions of Member States

**“Screening” (identification): facilitating removal or refoulement?**

According to Frontex, the aim of “screening” is to identify the nationalities of each intercepted individual to facilitate his/her removal. In Greece, this

procedure is carried out in places of detention,<sup>80</sup> police stations, detention centres or reception centres for new arrivals (KEPIs in Greek).<sup>81</sup> For this purpose, Frontex and the Greek national police may have joint offices, as in the case of the Lesbos “reception” centre in Greece, which the delegation visited.<sup>82</sup> According to the agency, the screening procedure must be conducted by Greek police who can be assisted by interpreters and Guest Officers with expertise in screening sent by Frontex and the Member States.

The agency showed the delegation the form used during this procedure. Information gathered relates to the date of the interview, the presumed nationality and reasons for the presumption, the surname, first name, age, height, eye colour, the name of the spouse, the number of children, the address in the country of origin, etc. This form is to be completed in the interviewee’s mother tongue, then in English, which means that the form must be filled out by the interpreter, who is sent by the Agency via the Member States, during the interview. Once it is complete, this document is signed by the interviewee and “transmitted to the national authority for its use.”<sup>83</sup>

Several cases of persons being wrongly identified (with an incorrect nationality or age) have been recorded. In particular, problems are recurrent with refugees from Syria. The delegation met several Palestinian refugees from Syria with a Syrian travel document and/or a Syrian identity card saying that they were Palestinian refugees. However Greek police and Frontex had recorded them as “stateless”, without mentioning their country of origin. Despite the fact that they had been living in Syria, they were thus unable to benefit from the specific regime applicable to Syrian refugees (obligation to leave the territory within 6 months) and were given an order to leave the territory within 30 days.

The Director of the FOO responded to the questions concerning change of identities during “screening” procedures by stating that the local authorities remain responsible for this procedure, and although Frontex officers can

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80 On Frontex’s role in places of detention, see: Human Rights Watch (2011), “The EU’s Dirty Hands Frontex Involvement in Ill-Treatment of Migrant Detainees in Greece.”

81 See Chapter 2.B.1.

82 Visit on 7 October 2013.

83 Visit on 7 October 2013.



Statue of liberty, Mytilene, Lesbos, October 2013

give opinions and make suggestions, the final decisions are taken by the Greek authorities.<sup>84</sup>

The United Nations Special Rapporteur on the Human Rights of Migrants highlighted his concern about the role of Frontex in interviews with migrants. According to the Special Rapporteur, the EU, via Frontex, provides support to Greece to define the nationality of persons in order to expel them and not to identify protection requirements.<sup>85</sup>

### **Debriefing: an intrusive practice**

It seems that there are fewer regulations governing the debriefing procedure than the screening one. It consists of interviewing intercepted persons, on a voluntary basis, to collect information regarding the routes they used, on “smugglers”, etc. These interviews can last “between 15 minutes and 3 hours”<sup>86</sup> and only concern a few persons who have been specifically chosen (based on ‘intuition’ or ‘experience’).<sup>87</sup>

Operational Plan Poseidon Sea 2012 provides that the agents deployed are not required to wear their uniforms, only the Frontex accreditation badge. According to the Director of FOO: “*It’s not that agents don’t introduce themselves. They are not undercover. It’s just that migrants are more at ease.*”<sup>88</sup>

However, two testimonies gathered by the delegation raise concerns. A forty-year old Syrian national told the delegation that he had been forced to accept the interview and that questions went beyond subjects strictly related to the migratory route. Moreover, the motives and objectives of the interview were not clearly explained to him.

On the day following his arrival in the reception centre, he was called into an office. It was his third interview, having already met the service of the Greek reception centre, then Frontex and the Greek police within the framework of the screening procedure.

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84 Ibid 41.

85 “Report of the Special Rapporteur on the human rights of migrants, François Crépeau (April 2013), *ibid.* 13, [Regional study: management of the external borders of the European Union and its impact on the human rights of migrants](#)”.

86 Ibid. 41.

87 Ibid. 41.

88 Ibid. 41.

*“I was the only one chosen from the group by the man. He said that I could speak English and French and that he wanted to ask me more detailed questions.”* He did not understand the identity of the interviewer or the purpose of the interview. The interviewer was not wearing a Frontex armband and did not speak about the Agency. *“He told me he was related to another organisation, but not a governmental one; that he had no link with the police. He asked questions similar to those asked during [the screening interview] but more detailed... The man told me: I would like to interview you, it’s very discreet, the information will stay between us, and I have no link with the police. But I think that he was the head of the police.”* He said that he was not told that he could refuse the interview. Although he did not oppose the interview, he said that he thought he did not have the choice and felt compelled to respond to questions which went on for over an hour, with the assistance of an interpreter. *“He interrogated me on my entire life, from my birth until today, on my family, my situation, my family members, but most of all on why and how I left, where I transited... He wanted to know everything. – What for example? – Everything. The smuggler’s number and address, the name of the hotel in Izmir, the colour of the boat, the hair of the man who steered the boat, his suits everything. He wanted very detailed information.”*<sup>89</sup>

A young man from southern Syria said that after being transferred from a police station on an Aegean Island, he was separated from his group and brought to an office where he was interrogated for almost six hours by a Frontex Officer, Greek police officers and an interpreter.

*“There was a man who wanted to interview me. I told him I didn’t want to do the interview and that I didn’t want to talk... He started speaking and he looked at me saying: ‘I was told that your English was good’... He said he wanted to interview me, he wanted to know my story: ‘I only want to interview you, don’t be afraid, please, please, maybe I could help you, I could do something for you.’ I told him I didn’t want to do anything. At the police station there was a high level officer. He said he wanted to see me, so they took me. They put all the others in prison and I was alone in the room. They wanted to try to obtain information from me about the boat and who drove the boat ... I told him: I don’t know anything. I don’t care about this. I feel good now here. I’m only concerned about my life. I don’t know anything. And they tried*

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89 Interview with a Syrian refugee, November 2013.

*and tried... But I don't know anything. They asked questions about my life since I was born until today. The interview lasted six hours with two breaks when they gave me something to eat and drink... They were very friendly. It seemed like a sort of policy to gain my confidence...".<sup>90</sup>*

The delegation requested access to the debriefing guidelines in order to better understand the type of information the agency seeks to collect. However, these requests were not granted, on the basis that the criminal groups facilitating irregular crossings of the Greece-Turkey border are constantly trying to find out the methods used against them.<sup>91</sup>

**On the basis of testimonies collected, it appears that the debriefing interviews exceed the stated objective of collecting information on migration routes in order to combat criminal organisations. In fact, the questions asked appear to retrace the life of a person from birth until arrival on European soil. This intrusive practice into private lives of the persons interviewed raises questions about the real aim of these interviews. Additionally, migrants interviewed in this context are often unable to clearly identify the position of the persons involved in the interviews (Frontex officers, police, etc.). This makes it difficult to hold the agency accountable if there are allegations of violations of human rights. The lack of access to information on the running of debriefings only reinforces these concerns.**

### 3 – Violations recognised but responsibility denied

#### Procedure on “serious violations”

In order to respond to the concerns over the risk of violations during operations conducted by the agency, the revision of the Regulation establishing

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<sup>90</sup> Interview with a Syrian refugee, 11 October 2013. NB: some insignificant elements of the account were changed to respect the anonymity of the interviewee.

<sup>91</sup> Ibid. 83



Frontex at the end of 2011 introduced a Fundamental Rights Strategy.<sup>92</sup> One of the main elements of this strategy is to impose an obligation on participants in joint operations to report human rights violations.<sup>93</sup> In response to such reports, the Executive Director has the power to suspend or terminate a joint operation if the violation is of a “serious nature or likely to persist.”

All persons participating in Frontex activities (Frontex Officers or Guest Officers from Member States) are obliged to follow the Serious Incident Reporting (SIR) procedure in case of a human rights violation (when s/he is a direct witness) or a suspected violation (when s/he is an indirect witness). S/he must report the incident as quickly as possible to a superior. Frontex stresses that not all incidents are recorded as part of the SIR procedure; some are reported directly by Guest Officers from Member States.<sup>94</sup>

This report is then transmitted to the Frontex Situation Centre (FSC) based in Warsaw which mandates the Frontex Fundamental Rights Officer (FRO) to monitor the incidents.

The Frontex Situation Centre is also required to transmit the report, with-out delay, to the Executive Director, the Deputy Executive Director, relevant Member States as well as non-EU States where relevant. The agency’s Legal Department assesses the legal aspects of the incident report and sends its conclusions to the Executive Director. The Joint Operations Unit and any Member State or non-EU Member State concerned by the case under examination, assess the situation and send comments. The report is not made public.

If the incident is of a serious nature or likely to persist, the Executive Director can decide to suspend or terminate the joint operation. It is unclear which criteria are used to determine whether an incident is serious. Frontex states that the establishment of such criteria is currently under consideration.<sup>95</sup>

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92 The strategy also created the post of Frontex Fundamental Rights Officer (FRO), a post currently held by Ms. Inmaculada Arnaez and provided for the establishment of a [Consultative Forum](#) composed of Frontex, human rights organisations, European agencies, etc.

93 Article 22 of the [Code of Conduct](#) for all persons participating in Frontex activities.

94 Email from Frontex to the mission delegation dated 8 May 2014.

95 *Ibid.* 83

## Reports of violations at the Greece-Turkey border

The agency told the delegation that between the beginning of 2012 and the end of 2013 it received 27 reports of incidents of violations of human rights from participants in the Poseidon Land and Sea Operations.<sup>96</sup> Twelve incidents were reported in 2012 at the land border alone. In 2013, 15 cases were reported, of which 10 concerned the land border and 10 concerned the sea border. This data cannot be interpreted as signifying that there are fewer violations at the sea border, given that it is much more difficult to monitor what is happening at sea than on land.

**A document summarising reported incidents provided to the delegation on request shows that the agency has been informed of allegations of collective expulsions** (19 of the 27 reports. Frontex calls them “unprocessed returns”), **problems of access to asylum procedures, violence** (a Greek officer is alleged to have pointed his gun at a migrant at the time of interception at the land border) **and inhuman and degrading treatment** (migrants hit by guards). Despite these clear violations of international law, the agency, through its Member States, continues to provide logistical support to Greek operations (experts, boats, planes, thermal cameras, etc).<sup>97</sup>

Of the 15 incidents recorded by the agency in 2013,<sup>98</sup> 3 were reported by various guest officers (interpreters, screeners, debriefers, etc.) who directly witnessed violations, including violations of the right to asylum and inhuman and degrading treatment. In the same year, one case concerned the liability of a Frontex Support Officer (FSO)<sup>99</sup> from an EU Member State<sup>100</sup> who is alleged to have struck a migrant. After investigation by the officer’s state of origin, the officer’s deployment was terminated.

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96 Ibid. 94

97 See Appendix for list of equipment and experts sent to the region in 2012 and 2013 within the framework of Operation Poseidon.

98 In the email sent to the delegation by the Agency on 8 May 2014, it is not specified which incidents in 2012 were reported by direct witnesses.

99 The FSO is in charge of surveillance and coordination of the operation at the local level and horizontal issues, in particular connected to the reporting system and expert documents.

100 In the email sent to the delegation by the Agency on 8 May 2014, the officer’s nationality was not specified, despite a request for that information.

According to the agency and the Greek Ministry of the Merchant Navy, Frontex agents and guest officers from Member States do not board the ships of Greek coastguards. However, within the scope of the Poseidon joint operation, the agency can patrol at sea on board a craft loaned by a Member State, in the presence of one or more Greek coastguards. According to Frontex, maritime equipment patrolled for 19,073 hours in 2012 and 12,034 hours in 2013.<sup>101</sup>

According to testimonies collected by the delegation in October 2013 concerning two separate incidents of push-backs, some coastguards on board were speaking German and Italian, which seems to indicate that Frontex was present. However, the witnesses could not see what was happening, as the operation took place at night and they were forced by the coastguards to keep their heads down and look down at the deck. This evidence tends to suggest that push-backs may have taken place during deployment of a Frontex patrol.

### Lack of clarity on liability

The agency intervenes at several levels within the framework of joint operations. Before the operation, Frontex conducts a risk analysis which forms the basis of annual discussions held between the agency and Member States regarding which operations to prioritise. Once the priority geographical areas have been defined, Frontex meets with the Member State hosting the operation in order to define needs in terms of human resources and equipment. It then calls on Member States to transfer the necessary resources. At the operational level, the agency mainly acts through joint operations.

Frontex is therefore involved in identifying and defining the objectives of border surveillance operations, defining the execution of joint operations (Operational Plans) and Joint Returns Operations, as well as their implementation. Although the reformed Frontex mandate provides that the agency can “initiate” or “coordinate” an operation, there is no text defining the responsibility of the agency in cases of irregularities or human rights violations.

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<sup>101</sup> Ibid. 94.

A few provisions make reference to the concept of responsibility but this is never defined. Most of these texts are non-binding.

The Code of Conduct which applies to all participants in operations of the agency provides in Article 7 that participants<sup>102</sup> are primarily and individually responsible for their actions in their work; the liability of the agency as a body is not mentioned.

The Regulation establishing the agency provides that “the Protocol on the privileges and immunities of the European Communities shall apply to the agency”<sup>103</sup> (Article 18). Yet, the Protocol applies to EU civil servants and agents, not to institutions and agencies themselves. Thus, like any EU civil servant, Frontex employees enjoy a form of immunity from legal proceedings, with respect to acts performed by them in their official capacity.<sup>104</sup>

The Frontex Fundamental Rights Strategy, adopted in March 2011, sets out a range of principles intended to ensure that human rights are respected in the framework of the agency’s activities. This document states, in paragraph 13, that although Member States remain primarily responsible for the actions of participating officers, this does not relieve Frontex of its responsibilities as the coordinator. The text goes further: it provides that Frontex “remains fully accountable for all actions and decisions under its mandate.”<sup>105</sup> This confirms that the agency is indeed fully responsible for all actions and decisions taken within the scope of its mandate, a fortiori now that its role is no longer limited to the coordination of joint operations, but can also initiate them.

Should such liability be established, according to Frontex<sup>106</sup> the European Union could be held responsible for the actions of the agency pursuant to Article 340 of the Treaty on the Functioning of the European Union (TFEU): “In the case of non-contractual liability, the Union shall, in accordance with

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102 Art. 2 of the Code of Conduct for all persons participating in Frontex operations. Participants include Frontex officers, guest officers of Member States, officers of the Host state and observer officers.

103 See Steve Peers (2011), [The Frontex Regulation – Consolidated text after 2011 amendments](#).

104 Article 12 (a) of the European [Protocol on the Privileges and Immunities of European Communities](#).

105 Frontex (2011) Fundamental Rights Strategy.

106 Ibid. 83.



Mytilene port, summer 2012: migrants who arrived by sea are held in the port where they sleep on the ground then in tents. Children play around the remains of cars and barrels of oil, August 2012

the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.”

It would appear that Frontex is multiplying the devices by which it can avoid being held accountable or responsible for its actions.

In the Operational Plans, Frontex is presented as a coordinating agency between Member States; states remain responsible for the management of their borders (Host states) and decisions made during operations (partici-

pating Member States).<sup>107</sup> Although the agency does not assume any direct responsibility, it participates in the very design of Operational Plans.

In November 2013, the EU Ombudsperson recommended that Frontex set up an internal complaint mechanism for violations of human rights for which the agency and its officers are responsible. Frontex rejected this recommendation, with the argument that “individual incidents are the responsibility of the respective Member State.”<sup>108</sup> This response underlines a lack of willingness to be held accountable as the coordinator of operations deployed at the EU’s external borders.

It is thus extremely difficult to hold Frontex liable in the context of the actions it coordinates. Although its responsibility is mentioned in its Fundamental Rights Strategy, as well as in the preamble of the Regulation on sea interceptions, no mention of the responsibility of the agency is made in the Codes of Conduct or Operational Plans.

Yet Frontex coordinates, collects and passes on information and personal data, makes decisions in the framework of operational activities, and deploys officers and resources for this purpose. Its work with, and support to, Member States influence their activities at the EU’s external borders, including when violations of human rights are committed. The vagueness which characterises its operations and the immunity set out in its establishing Regulation enable it to escape accountability.

Civil society organisations, the European Ombudsperson, the UN Special Rapporteur on the Human Rights of Migrants and the Council of Europe have all called for increased clarity on the division of responsibility between the parties involved in operations conducted by Frontex, including the agency itself. It is essential that clear responses are provided.

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107 Poseidon Sea Operational Plan 2012, p 20 and AENEAS Operational Plan 2012, p. 20.

108 European Ombudsperson (2013), Press Release [No. 17/2013](#).

**GREECE AND  
TURKEY:  
INSUFFICIENT  
LEGAL REFORMS**

# Chapter 2.

## Insufficient legal reforms in the region

### A – Turkey: Migrants stranded in a country in transition

The official recognition of Turkey's candidacy for EU membership in 1999 was a milestone in EU-Turkey relations. Migration and mobility-related issues quickly gained prominence in negotiations, as Turkey set out to harmonise its laws with EU standards in return for better integration of its citizens in Member States, in particular via facilitated procedures to obtain Schengen visas.

In December 2013, Turkey signed a readmission agreement with the EU, signalling closer cooperation on mobility and combating irregular immigration.<sup>109</sup> A cooperation agreement (Memorandum of Understanding) signed by the Turkish authorities with Frontex in May 2012 forms a key part of this dynamic.<sup>110</sup> The Memorandum has yet to come into effect at the time of writing, according to the representatives of the EU delegation met by the mission delegation.

In addition, the adoption of a new Law on Foreigners and International Protection in April (hereafter the “2013 Law”) reflects the gradual harmonisation of Turkish legislation with EU and international standards, as well as the impact of the EU's migration and border management approach on Turkish migration policy. At the time of publication, the 2013 Law has entered into force but its effectiveness in practice cannot yet be tested, and regulations regarding its implementation have yet to be adopted.

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109 Euro-Mediterranean Human Rights Network (June 2013) “An EU-Turkey Readmission Agreement – Undermining the rights of migrants, refugees and asylum seekers?”

110 Memorandum of Understanding, 28 May 2012.



Although on paper the 2013 Law sets out procedural and legal standards that are to a large extent in line with those of the EU, serious concerns remain about the implementation of this ambitious reform. Although the adoption of progressive laws is to be welcomed, doubts persist as to whether complete harmonisation with EU legislation would fully guarantee the rights of foreigners in Turkey, given the security-oriented, restrictive and criminalizing objectives that have characterized the EU's migration policy since the early 2000s. Previous reforms, for example, in the areas of freedom of expression had limited effect in practice, as illustrated by continued judicial harassment of human rights defenders<sup>111</sup> and the violent repression of peaceful demonstrations in Gezi Park, Istanbul and several towns across the country in 2013.<sup>112</sup> FIDH regularly denounces persistent human right violations in Turkey, despite legislative progress (abolition of the death penalty and repeal of the anti-terror law in 2004). According to FIDH, "Since the procedures do not conform to the principle of the rule of law, there are alarming violations of the right to a fair trial. The government has not abandoned its policy of "pressure through the judiciary."<sup>113</sup>

## 1 – Migration policy and border management in Turkey

With nearly 472 km of land borders with the EU, several international airports connected to Europe and a coastline along the Black Sea and the Mediterranean, Turkey is considered to be a major gateway for irregular migrants into the EU. In 2012, Frontex referred to the Greek land border with Turkey as "still by far the undisputed hotspot for detections of illegal border-crossing."<sup>114</sup>

The geographical position of the country has led Turkey to create a highly-developed border management system. A "physical security system" has been deployed at various points along the land border, including heat-sensitive cameras, radars and land and air patrol vehicles.<sup>115</sup>

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111 "Turkey: The Supreme Court due to render its judgement on April 30 must put an end to 16 years of judicial harassment against Pinar Selek," FIDH Press Release, 25 April 2014.

112 "Stop violence against the peaceful demonstrators in Turkey", HRFT Press Release, Human Rights Foundation in Turkey, 4 June 2013.

113 FIDH (2013), *Executive Summary of the IHD annual report*, 9 May 2013.

114 Frontex (2013), *FRAN Quarterly Issue 3* – July-September 2012.

115 Turkish Ministry of Interior (2006), *National Action Plan Towards The Implementation of Turkey's Integrated Border Management Strategy*.

In 2004, the European Commission acknowledged that, “Turkey devotes considerable resources to border management” but emphasized that “many aspects of this management are not in line with EU practices,”<sup>116</sup> in particular due to the absence of a single border management authority. To date, 16 different civil and military law enforcement authorities are in charge of controlling the different segments of land, air and sea borders.

Over the past several years, the EU has supported the harmonisation of Turkey’s border management with the Schengen acquis, namely through the gradual establishment of a border police system, the negotiation of a readmission agreement and the implementation of a EU-like Integrated Border Management system.<sup>117</sup> Since 1999, the prospect of EU accession has sped up the reform process. To this end, a Task Force on Asylum, Migration and Protection of External Borders was established in 2002, and, in 2004, the Ministry of Interior set up a Directorate, now called the “Bureau for Border Management.” The Bureau is tasked with putting into effect the Action Plan for Implementing Border Management Strategy adopted in 2006. A specific law establishing a specialised Directorate General of Border Protection was under preparation in early 2014 with the aim of taking over border guard functions from the plethora of agencies currently in charge of border control and border surveillance at Turkey’s borders. Numerous cooperation projects have been initiated to encourage further legislative reforms in the field of asylum, migration and border management, such as the cooperation project with Western Balkan countries, coordinated by IOM-Budapest and supported by IOM-Turkey, as well as twinning projects with Denmark, France and the UK. In 2013, the European Commission considered that progress was still limited.<sup>118</sup>

As part of the overhaul of legal frameworks and structures responsible for migration issues and border control, the 2013 Law was adopted in April 2013.

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116 European Commission, [Issues Arising from Turkey’s Membership Perspective](#), Staff Working Document, COM (2004)656 final.

117 The Integrated Border Management strategy was adopted during the Laeken European Council in 2001. It is based on three pillars: intra-agency cooperation, inter-services cooperation, and international cooperation in border management.

118 European Commission, [Turkey 2013 Progress Report](#), COM(2013)700.

## The new Turkish Law on Immigration and Asylum

The new law represents the first time that Turkish legislation establishes clear rules on entry, stay and departure procedures and clarifies the rights of people seeking international protection.<sup>119</sup> It was adopted in 2013 and came into force in April 2014, replacing the existing legal framework, made up of several separate texts, including the Passport Law and the Law on the Sojourn and Movement of Aliens dating back to 1950, as well as the 1994 Asylum Regulation and the 2006 Asylum Circular.

The 2013 Law has been hailed as a “historic step” forward by HCA-RASP<sup>120</sup> which considers that it comprehensively addresses all existing gaps in the domestic legal framework. Furthermore, for the first time, the law introduces specific criteria, procedures and basic guarantees governing every aspect of migration and the right to asylum. The law also establishes a new, civilian and specialised Directorate General of Migration Management to take over the mandate and powers previously held by the National Police.

The 2013 Law was prepared via an unusually transparent and participatory process: community associations, defenders of the rights of refugees and migrants, academics, the UNHCR and IOM were consulted before the drafting of the law. According to HCA-RASP, the final content of the new law is in line with the provisions of the European Convention on Human Rights and, to a large extent, with the EU acquis.<sup>121</sup>

The perception of migrants and refugees as right-holders is fairly new in Turkey, a destination country for many migrants. The principles set out in the new law contrast with previous practices based on border management and the detention of ‘undesirable’ migrants, encouraged by cooperation with the EU and which continues to this day. Increased controls at the Greece-Turkey border combined with Turkey’s own migration dynamic have left “an increasing number of [persons] stranded in Turkey and wishing to enter the EU.”<sup>122</sup>

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119 [Law on Foreigners and International Protection](#), 4 April 2013, unofficial translation by UNHCR.

120 HCA-RASP is a member of the FIDH, Migreurop and EMHRN networks.

121 Interview with HCA-RASP, 1 October 2013.

122 Frontex (2013) [FRAN Quarterly, Issue 2 – April – June 2012](#).

Moving beyond the very restrictive 1994 Asylum Regulation, the United Nations has called the law “an important advancement for international protection.”<sup>123</sup> It is estimated that there are close to one million Syrian refugees and 80,000 asylum seekers, mainly from Iraq, Afghanistan, Iran and Somalia, registered with the Ministry of Interior and the UNHCR currently in the country.<sup>124</sup>

The Law on Foreigners and International Protection establishes new and significant procedural guarantees. All decisions concerning applications for international protection, residency permits, visas and removal and detention orders can be appealed. Under the previous legislation, even though decisions of this kind could be contested before an administrative court, the appeal was not automatically suspensory, unless an application for suspension of enforcement had been filed and accepted in parallel. Now, appealing a deportation and imprisonment decision will automatically suspend removal. The Law provides for the presence of the Turkish Red Crescent in reception and detention centres.

However, some procedural guarantees are not set out in the law: lack of systematic legal control of the lawfulness of a removal or detention measure; decision to extend the detention period made by an administrative body only and not a judge; possibility to detain minors, in particular when unaccompanied, even though, under international law, the principle of the greater interest of the child must be taken into consideration and unaccompanied minors cannot be subject to fast-track procedures; geographical limitations maintained on the application of the 1951 Geneva Convention relating to the Status of Refugees.

Although on paper, this reform appears to bring significant progress, it is important to recognise that the current legal changes are partially a response to the numerous rulings against the country by the European Court of Human Rights as well as criticisms by NGOs and international organisations like the UNHCR. By adopting this law, Turkey is complying with some of its obligations as a member of the Council of Europe, bound by the European Convention on Human Rights.

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123 “Turkish law on foreigners wins UN praise,” UN News Centre, 12 April 2013.

124 Interview with HCA-RASP, 29 January 2014.

## Detention of migrants

Several provisions in the 2013 Law seek to address problems of arbitrary and unlimited detention of irregular migrants. Deportation and detention orders must be issued in writing. A decision on whether to issue a deportation order must be issued within 48 hours of the arrest of an irregular migrant. The detention of migrants and refugees in “detention centres” cannot exceed a period of six months, renewable only once for a further six months. Until the adoption of the Law there was no limit on periods of detention of migrants and refugees. The Law provides for periodic review of detention: the administration must make a monthly assessment of whether detention should be continued. Asylum seekers may be detained for up to 30 days. All detained migrants must have access to legal aid. Detained asylum seekers must also be given access to legal advice services provided by NGOs.

An appeal against a removal order must be lodged within 15 days and has automatic suspensory effect.

The Law also provides that detention should be an exceptional measure decided on a case-by-case basis. Strict conditions apply to the decision on detention of irregular migrants and asylum seekers. This is in line with EU law which provides that detention of migrants should only be a measure of last resort (Return Directive of 2008), although, in practice, this principle is rarely observed in the EU. The Law provides new safeguards for detainees to access legal representation and the UNHCR.

Although the 2013 Law does not mention access to interpretation services for detained migrants, it contains a general provision on the need to take into account languages spoken by individuals concerned when notifying decisions adopted under the law.

## Refugee rights

Although Turkey is a signatory to the 1951 Geneva Convention relating to the Status of Refugees and 1967 Protocol, it entered a geographical limitation under which non-European asylum seekers – i.e. nearly all those seeking international protection in Turkey – are not entitled to refugee status. This limitation is maintained under the new Law. However, the law does establish two new forms of status providing international protection to non-European

refugees and granting them access to legal protection in Turkey: “conditional refugee” status for 1951 Convention-type refugees and “subsidiary protection” status for people fleeing generalised violence and other human rights violations. Asylum seekers are guaranteed access to an interpreter.

According to the UNHCR in Ankara,<sup>125</sup> upon filing an application for international protection, all asylum seekers are entitled to the same rights enjoyed by European applicants, including access to primary and secondary education up to 14 years of age, automatic inclusion in the social security system, access to primary health care, the right to social assistance, and the right to work after a period of six months, subject to the delivery of a work permit.

Most importantly, the principle of non refoulement is enshrined in the 2013 Law (Article 4 on non-refoulement and Article 55 on “exemptions from deportation”) and is explicitly applicable to stateless persons.

Applications submitted by unaccompanied minors must not be processed under the accelerated procedure.

Appeals against a deportation order or a refusal to grant international protection can be filed before the competent administrative courts and have an automatic suspensory effect. Administrative detention orders, whether or not for the purpose of removal made during the asylum procedure, may be challenged before the competent Criminal Court of Peace.<sup>126</sup> The new law does not provide for specialised courts to deal with immigration and asylum issues.

The newly created General Directorate of Migration Management, which should ultimately have a staff of 2,540 officers, is responsible for implementing the new Law. The 2013 Law also provides for the creation of an Advisory Board on Migration, bringing together the IOM, the UNHCR, as well as competent ministries and civil society organisations.

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<sup>125</sup> Interviewed on 30 September 2013.

<sup>126</sup> Interview with IOM, 30 September 2013.



Reception centre in Moria, seen through the barbed wire of the complex (Lesbos), October 2013

## 2 – Uncertainties around the implementation of the 2013 Law in the Turkish context

### **New policy: practical aspects and uncertainties**

The Law on Foreigners and International Protection was drafted taking into consideration EU law on asylum and immigration and with reference to the case law of the European Court of Human Rights. Thus, for example, it stipulates that the term of detention cannot be longer than 12 months and reasons must be given for decisions on removal. Turkey has been condemned

several times by the ECtHR for the detention of refugees and for the failure to respect procedural rights.<sup>127</sup>

The NGOs met by the delegation recognise the many advances provided by the new law, but remain vigilant over the implementation phase. Local NGOs consider that the process of drawing up regulations for the implementation of the law has not been as transparent and open as the process of drawing up the law itself. At time of writing, it was difficult to know whether the government would give the new Directorate General of Migration Management the necessary political support to implement the Law in a comprehensive matter, nor whether it would provide support to ensure that migration management is carried out in accordance with international protection obligations.

As in many other countries, there is concern over the lack of competent lawyers available and willing to represent migrants in appeal cases. Effective access to legal aid remains uncertain. According to a representative of HCA-RASP, “*We would need an army of lawyers in order to monitor and ensure the implementation of the very good new safeguards and rights provided by the new law on paper.*” Turkey’s already under-resourced civil society organisations will need increased capacity while at the same time working to mobilise the existing legal aid mechanism in Turkey as well as pro-bono legal aid providers all over the country. To achieve this they need more funds and skilled professionals.<sup>128</sup>

The Law has a number of problematic provisions, some of which were directly incorporated from the EU acquis, such as the 8-day fast-track procedure when asylum applications are lodged after a deportation order has been issued. Moreover, although the three categories of international protection seekers are entitled to work after a period of 6 months, this right is not automatic since a work permit is required. The procedure in Turkey for foreign nationals to obtain a work permit is extremely strict. Indeed, very few international protection seekers manage to obtain a work permit. The 2013 Law does not differentiate between non-European “conditional refugee” status holders and other categories of foreign nationals in this regard. On the

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127 ECtHR, *Ghorbanov and Others v. Turkey* ( N° 28127/09), 3 December 2013.

128 Interview with HCA-RASP, 1 October 2013.



other hand, European refugee status holders and “subsidiary protection” status holders regardless of their origin can be granted automatic access to the labour market.<sup>129</sup>

Moreover, there is a need for specific safeguards to be provided by secondary legislation, in order to avoid human rights violations which may be committed under the 2013 Law. In particular, the Law provides that the Directorate General shall collect personal data (Article 99 of the Law on Foreigners and International Protection), despite the fact that there is currently no data protection legislation in Turkey.

Finally, the readmission agreement signed with the EU on 16 December 2013 is a source of concern. Until the Law on Foreigners and International Protection is fully implemented and its compliance with international human rights standards has been verified by independent reports,<sup>130</sup> the Turkish context does not make it possible to guarantee that this agreement will not prevent asylum seekers from claiming the protection to which they are entitled.

### Refugees in Turkey: The war in Syria and its consequences

In October 2011, Turkey became the first country in the region to establish a “temporary protection” regime for Syrians. However, in the absence of specific legal provisions, this policy is based on political discretion.

Turkey has refused international support and assumes responsibility for managing refugee camps. During the first year of operation, access to the camps was restricted for organisations and international organisations, including the UNHCR, in charge of the refugee status determination (RSD) process.<sup>131</sup>

Since October 2012, access for Turkish civil society organizations has been facilitated,<sup>132</sup> although international civil society organisations continue to have a restricted access,<sup>133</sup> Security measures in the camps are very tight.

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129 Interview with HCA-RASP, 1 October 2013.

130 Ibid. 119.

131 Euro-Mediterranean Human Rights Network (2011) “[Syrian Refugees in Turkey: A Status in Limbo](#)”; Amnesty International (2013) “[Turkey: National Authorities and the International Community Must Act in Partnership to Meet the Needs of Syrian Refugees](#).”

132 Interview with Multeci-Der, 3 October 2013.

133 Ibid. 125.

Initially, refugees were allowed out of the camps only for a few hours a day, accompanied by security personnel from the camp.<sup>134</sup> An entry-exit system is now in place, with long hours of queuing on each occasion. Syrian refugees based in urban areas (about 70% of Syrian refugees in Turkey) rely on very limited assistance provided by privately-funded charity organisations. Publicly-funded access to health care applies, in theory, to all Syrian refugees regardless of their registration status. In practice, however, access has not been easy. In Izmir, a local solidarity organisation informed the delegation that a pregnant woman had to return to Syria to give birth as she could not afford hospital fees in Turkey.

Compared to international protection seekers of other nationalities, Syrians have enjoyed better access to accommodation and education, including facilitated access to Turkish universities. However, their current limited access to the labour market is comparable to the situation of other asylum seekers of other nationalities in Turkey. Apart from a small number of Syrians who entered Turkey legally and to whom the Turkish Ministry of Labour appears to apply the law more flexibly, the vast majority of Syrians who entered the country without a passport are ineligible to apply for a work permit. Finally, while a registration mechanism is in place for the 200,000 Syrian refugees hosted in the large camps located in the border region, there is no proper registration mechanism to regularise and document the much larger population outside the camps, estimated at between 600,000 and 800,000 people. UNHCR has deployed 23 mobile registration units to support registration efforts in urban areas,<sup>135</sup> but it is unclear how many Syrians have so far been able to register through them.

In addition to those with Syrian nationality, people of other nationalities have fled the war in Syria. They also have to register with the UNHCR and the Ministry of Interior.

Like Syrians, Palestinians from Syria are covered by the “temporary protection” regime. Some are hosted in refugee camps. However, HCA-RASP reports that some have been denied access to Turkish territory. Our interlocutor from

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134 Report of the Special Rapporteur on Migrants Human Rights (April 2013), “Addendum – Mission to Turkey (25–29 June 2012)”.

135 “Syria Regional Refugee Response,” UN inter-agency information sharing portal.

the Palestinian community confirmed to the delegation that, because no entry visa has been granted to Palestinians since the summer of 2013, many have had no other option but to use smuggling routes to escape Syria.<sup>136</sup>

Kurdish Syrian nationals also face great difficulties in accessing protection as they are not welcome in the Turkish government-supported refugee camps. This has led many of them to seek a safe haven in EU countries. These difficulties should be analysed against the background of tensions between the Kurdistan Workers' Party (PKK), which has been in armed conflict with the Turkish government since 1984, and Ankara.

Migrants and refugees in an irregular situation intercepted close to the land and sea borders may be detained for varying periods of time. Refugees from Syria are usually released within a few hours, but the delegation was informed of a case of a Palestinian refugee from Syria who had been detained for up to 10 days in Edirne.

## Deportation of Syrians

Turkish authorities have mostly refrained from deporting Syrian nationals. However, the delegation was informed of one removal operation which took place in March 2013 following a riot in the Akcakale Syrian refugee camp which caused the death of a child. The riot allegedly started because Syrian refugees had been protesting against living conditions in the camp. The authorities retaliated by removing a large number of refugees across the border. Estimates of the numbers of refugees concerned vary sharply. According to the Government, 130 people were sent back 'voluntarily' under the supervision of UNHCR to ensure that all departures were voluntary. However, in a letter sent to Refugee Rights Coordination in Turkey, the UNHCR denied any involvement. Instead, the UN agency expressed its concern<sup>137</sup> and stated it had requested the government to provide more detailed information.<sup>138</sup> Moreover, several NGOs and a local journalist reported that 600 persons –

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136 Interviewed by the mission delegation on 2 October 2013.

137 "U.N. checks reports Turkey deported hundreds of Syrian refugees," The Chicago Tribune News, 28 March 2013.

138 Written response from the UNHCR to the Refugee Rights Coordination dated 18 April 2013.



Entrance to the pre-removal centre in Corinth (Greece), October 2013

including families – were forcibly sent back across the border. The journalist stated that the Turkish authorities contacted the Syrian Free Army at the border claiming that the returnees were pro-regime (which allegedly was not the case), thereby putting the lives of hundreds of persons at risk.<sup>139</sup>

### Refugees fleeing other countries

The war in Syria has been the focus of international media attention and efforts of international organisations operating in neighbouring countries,

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<sup>139</sup> Interview with Multeci-Der, 3 October 2013.

including Turkey. Many respondents expressed concern about the situation of refugees of other nationalities. While most financial and human resources are directed at dealing with those fleeing the war in Syria, other refugees face huge difficulties in accessing protection in Turkey.

In this regard, the situation of refugees from Afghanistan is of particular concern. Over the past two years, increasing numbers of Afghans have been seeking protection in Turkey. In 2013, due to the tense political context and ongoing insecurity, the willingness of Afghan refugees to return to Afghanistan declined dramatically.<sup>140</sup> In recent years, Iran, which had hosted a large number of Afghans since the late 1970s, has expelled massive numbers of Afghan nationals.<sup>141</sup>

At the end of October 2013, approximately 25,000 Afghan asylum seekers were either registered or “pre-registered” with the UNHCR in Turkey (only “registered” cases are processed by the UNHCR; pre-registration means being placed on a sort of waiting list). In May 2013, in the face of the growing number of arrivals and the reticence of resettlement countries to take in Afghan refugees,<sup>142</sup> the UN agency suspended registration of newly-arrived Afghans,<sup>143</sup> Since this date, newly-arrived Afghans are “pre-registered” by the UNHCR and procedures concerning asylum seekers and refugees registered before May 2013 have been suspended.

## Presence of the UNHCR in Turkey

In Turkey, the UNHCR has limited access to places of detention and does not have sufficient capacity to follow up all requests submitted by asylum seekers in detention. In general, the situation has improved since 2009 when only 30% of cases of contact with detainees were followed-up, compared to 96% (3,000 persons contacted) in 2012.

However, UNHCR access to detention centres varies, ranging from weekly visits in Kumkapı (Istanbul) to almost no contact with detainees held in Edirne, located near the Greek border. Representatives of UNHCR-Ankara

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140 “Afghans voluntary return in doubt,” Dawn, 31 October 2013.

141 Interview with IOM, 30 September 2013.

142 Interview with HCA-RASP, 1 October 2013.

143 Interview with Mülteci-Der, 3 October 2013.

reported that the centre in Edirne is particularly problematic due to a huge turn-over of persons and overcrowding.<sup>144</sup> Over recent years, the UNHCR has trained hundreds of officers in the Migration Police on human rights and international protection standards, but the large turn-over among police officers has complicated the follow-up process.

### 3 – Exportation of the European model?

For many countries neighbouring the EU, the integration of European norms has not proven beneficial to migrants and refugees but has led to the risk of legitimising the division of migrants into desirable and undesirable categories. The externalisation of EU migration policy has been observed, for example, in Serbia and Bosnia and Herzegovina (violations of migrants' rights in administrative detention centres built with EU funds),<sup>145</sup> and in Morocco, where legal reforms and cooperation with the EU have contributed to legitimating repression by the Moroccan State against irregular migrants and refugees, without an effective policy on reception and stay.<sup>146</sup>

The Law on Foreigners and International Protection reproduces many provisions which have for years been denounced in the EU for violating migrants' human rights, including the possibility to detain families and children, the possibility to detain asylum seekers, the inadmissibility of asylum claims on the grounds that it is not the "country of first asylum" or that the country of origin is a "safe third country," the absence of a second instance appeal mechanism, and the multiplication of fast-track examination procedures for asylum applications.

The 2013 Law also provides for the possibility to "outsource" services in reception and accommodation centres. This echoes the problems faced in many Western countries including in the EU, where the lack of public monitoring gives private companies full control over detention sites, and more

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144 Interview with the UNHCR, 30 September 2013.

145 Migreurop (2011) "BH and the EU's responsibility for the violation of the fundamental rights of alien detainees at the Lukavica detention centre".

146 "On the tenth anniversary of the Security Law 02-03, end the repressive vision of migration", ("Pour les dix ans de la loi sécuritaire 02-03, en finir avec la vision répressive des migrations," available in French) GADEM, Press Release, 6 December 2013.

often than not leads to total impunity, increasing the vulnerability of migrants to abuse.

The UN Special Rapporteur on the Human Rights of Migrants expressed concern about the creation of a Coordinating Board to Combat Irregular Migration as provided for in Article 116 of the Law on Foreigners and International Protection: “Terms such as ‘fight against’ migration, ‘illegal entry’ and ‘countermeasures’ further increase the vulnerability of these migrants.”<sup>147</sup>

Following the EU example, policies focused on border surveillance and intercepting migrants in an irregular situation have taken precedence over opening legal routes leading to residence rights and work permits. The Turkish government has already signed several readmission agreements with countries located to the South and East. It has planned to build and self-finance several large-capacity detention centres, including the Edirne detention centre located close to the Greek border and operational since 2011, with capacity for 650 people.

Cooperation with the EU is undoubtedly reinforcing this tendency. By making the mobility of Turkish citizens in the European area conditional upon signature of a readmission agreement, Turkey has entered the European game of forced returns and detention on return if they do not have the possibility of obtaining regular status or integration.

The future will show whether Turkey will follow the path of the EU and in turn make access to its territory for certain nationalities conditional upon the signature of readmission agreements with the authorities of their country of origin. Such a strict policy would contrast with the fairly-liberal visa policy Turkey has had with many countries around the world and which serves its economy. Such a move may also be detrimental to rejected asylum seekers in Turkey, who would be sent back to countries where their rights may be at risk. Since 2002, readmission agreements have been proposed by Turkey to at least 22 countries (Algeria, Bulgaria, Bangladesh, China, Egypt, Ethiopia, Georgia, India, Iran, Israel, Jordan, Lebanon, Mongolia, Morocco, Nigeria, Pakistan, Russian Federation, Sri Lanka, Sudan, Tunisia, Uzbekistan), and at least four have been signed since 2003 (Kyrgyzstan in 2003, Romania in 2004, Ukraine in 2005 and Belarus in 2013).

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<sup>147</sup> Ibid. 135.

## B – Greece: stumbling reforms, backward steps in practice

The borders of the Eastern Mediterranean, in particular the Greek land and sea borders, are considered to be one of the main points of entry – via Turkey – for irregular migrants into the EU. Greece plays the role of guardian of the EU’s external borders by reinforcing border controls with the support of the EU and of Frontex.

Over the past several years, civil society, national and international media and EU bodies have regularly highlighted widespread serious violations of the rights of migrants in Greece: arbitrary detention, inhuman and degrading detention conditions, police violence, etc.

In August 2010, Greece presented its **Action Plan on Asylum and Migration Management (Action Plan)**, which mainly focuses on reform to asylum policy,<sup>148</sup> to the European Commission. The Action Plan in large part transposes the EU “Return” Directive of 2008. It reflects the continuation of the security-based approach of the EU and its Member States to migration-related issues and is financed by the EU.

In January 2011, the Greek authorities announced that they intended to erect a secure partition fitted with dissuasive devices approximately 10 kilometres long and 2.5 high at the land border with Turkey, at the lowest point of the Evros River, between the Greek villages of Kastanies and Nea Vyssa.<sup>149</sup> The European Commission opposed this project and “*would not pay for the fence as it would not effectively discourage immigrants or smugglers who would simply seek alternative routes into the European Union, either via another section of Greece’s porous border with Turkey or through the border of another EU member state.*”<sup>150</sup>

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148 In January 2013 a revised version of the Action Plan was presented to the European Commission. The revised version of the Plan focuses on two dimensions: access to international protection and the establishment of an effective system for managing borders and returns. See Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Mission to Greece, 17 April 2013, Chapter III, Normative and institutional framework for the protection of the human rights of migrants, paragraph 22, p. 7.

149 Between the Greek villages of Kastanies and Nea Vyssa.

150 Response of Commissioner Malmström to a parliamentary question, 06/12/2011.



In line with the Action Plan, Greece has strengthened surveillance at its borders, in particular through Operation Aspida (“shield”), launched in August 2012 to strengthen control, surveillance and patrols at the Greece-Turkey land border. 1,881 additional Greek police officers were deployed in the Evros region.

The combination of these measures contributed to deterioration of the already alarming situation for migrants in Greece, from the moment of their arrival on the territory until their removal.

## 1 – Difficulties establishing an asylum procedure

Although Greece is a signatory to Geneva Convention relating to the Status of Refugees, the country’s asylum practices are regularly denounced by NGOs at the national and regional level, as well as by the European Court of Human Rights and the Court of Justice of the European Union (ECJ).<sup>151</sup> Both European courts have ruled that the living and detention conditions of asylum seekers in Greece constitute inhuman and degrading treatment or punishment in violation of Article 3 of the European Convention on Human Rights (ECHR). Cases examined by the courts have demonstrated the systemic failings of the asylum procedure in Greece which have been held to expose asylum seekers to risks of deportation without applications for asylum having been properly examined. The ECtHR has also ruled that asylum seekers in Greece have been deprived of the right to an effective remedy as required by Article 13 of the ECHR.

Law 3907/2011<sup>152</sup> established a new asylum system that aims to separate asylum services from the police, who were responsible for asylum claims prior to the reform. As of 2011, the new asylum system provided for local offices throughout the country in charge of processing asylum applications and an appeal body in Athens. However, the first asylum office was only opened in June 2013, in Athens. In the meantime, the UNHCR provided support to

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<sup>151</sup> ECtHR (2011), The Belgian authorities should not have deported an asylum seeker to Greece; ECJ (2011), an asylum seeker cannot be transferred to a Member State where s/he is at risk of being subject to inhuman treatment.

<sup>152</sup> See Presidential Decrees 141/2013 and 113/2013.

Greece at border entry points, in particular by providing information on asylum in Lesbos, Samos and Chios. It continued to provide this support in 2014.

Protection officers working for the new asylum system were sent to various strategic locations, in particular to the Greek border with Turkey (Evros region) and the Aegean Islands (Lesbos).

The establishment of the asylum system has encountered several structural difficulties and continues to be a source of concern. For example, although civilians are in charge of the asylum system, they continue to work under the Ministry of Public Order and Citizen Protection, which is also in charge of the police.

## 2 – Security-based management of migration

Between 2001 and 2011, migrants arriving irregularly at the Greek border were systematically arrested and detained for periods ranging from 3 to 12 months. Law 3907/2011 aims to respond to criticism of systematic detention, by creating new structures, called “reception centres”<sup>153</sup> (referred to as ‘KEPIs’ in Greek). The law also creates detention centres (“pre removal centres”)<sup>154</sup> and increases the maximum period of detention to 18 months.

### “Reception” centres: detention in all but name

Under the 2011 Law, migrants arriving in Greece are subject to “measures which restrict their freedom”<sup>155</sup> for the period necessary to carry out identification procedures (screening). The reception service,<sup>156</sup> composed of employees of the Ministry of Public Order,<sup>157</sup> is responsible for carrying out screening and managing<sup>158</sup> the “reception” centres, which are also called “screening

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153 The only centres for newly-arrived migrants before law 3907/2011 were called ECHPA (Eidikoi Choroi Paramonis, Alodapon). These centres operated as screening and detention centres for migrants.

154 Law 3907/2011.

155 Article 13 of Law 3907/2011.

156 This service was also established by Law 3907.

157 Like the new asylum service (see above).

158 Other teams are also supposed to work in the KEPI, including a service for asylum seekers, a team of doctors and psychologists and potentially NGOs.

centres".<sup>159</sup> These centres are intended to separate out<sup>160</sup> potential asylum seekers and vulnerable persons from migrants who do not fulfil the conditions for regular stay in Greece, in order to channel them to the structures corresponding to their administrative status. The length of this period of restriction on freedom can range from 15 to a maximum of 25 days.<sup>161</sup> Migrants placed in these centres can, in theory, request permission from the person in charge of the centre to go out.<sup>162</sup> However it is unclear how this works in practice, especially when centres are located far from urban centres, as is the case in Lesbos.

According to the Law, police are only responsible for external surveillance and are therefore not present inside reception centres. The 2011 Law provides that private companies can also be mandated to conduct surveillance.<sup>163</sup> despite the fact that the Greek Constitution provides that it is a sovereign power, devolved solely to the Greek state. The UN Special Rapporteur on the Human Rights of Migrants<sup>164</sup> and the Greek League of Human Rights<sup>165</sup> have both expressed their concerns on this issue, in particular concerning questions of liability in cases of misconduct by guards working for private companies.

The establishment of reception centres in Greece is supposed to be an indication of a new policy whereby the situation of newly-arrived vulnerable persons is taken into account, and therefore no longer automatically placed in detention centres. Migrants are now placed in reception centres only for the length of time required to establish their nationality. Detention and removal measures are only supposed to be taken after this reception procedure. On

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159 Reception centres for migrants without authorisation to enter Greek territory (in Greek: Κέντρα Πρώτης Υποδοχής (ΚΕΠΥ) των εισερχόμενων στην Ελλάδα αλλοδαπών χωρίς τις νόμιμες διατυπώσεις).

160 Article 11 (selection and distribution, in Greek: Διαχωρισμός και παραπομπή) of Law 3907/2011.

161 15 days which can be renewed once for a further period of 10 days.

162 Interview with Ariana Vassilaki, responsible for detention issues, UNHCR Athens, 11 October 2013.

163 According to Article 14, Law 3907/2011. However, in practice it is not yet the case.

164 "While the police may not necessarily be best placed to guard a detention centre, using private companies can make it difficult to hold the guards responsible for misconduct," p.15, Report of the Special Rapporteur on the Human Rights of Migrants, François Crépeau, Mission to Greece, 17 April 2013.

165 HLHR (2012) "[Memorandum addressed to the Permanent Committee of Public Administration, Public Order and Justice of the Greek Parliament](#)" (in Greek).

the surface, the system seems to have put an end to the systematic imprisonment of newly-arrived migrants. In practice, this legal packaging masks a completely different reality: reception centres are places where freedom to come and go is limited, as in the centre in Moria on the island of Lesbos which opened in September 2013.<sup>166</sup> At the time of the delegation's visit, the Moria centre was in a transitional phase: it was neither a KEPI nor a detention centre. However, migrants assigned to the centre received detention orders. The centre is eventually intended to become a KEPI. At the end of 2013, Greece officially had one pilot KEPI, or reception centre, in Fylakio located in the Evros region.

Although the KEPIs are defined as places of "reception," in practice their purpose is to sort people who have arrived on the territory, resulting for some in transfer to official detention centres; "reception" is in fact a euphemism for a new type of detention.

### Detention centres ("Pre-removal centres") and excessive periods of detention

Operation Xenios Zeus, launched on 5 August 2012 and still ongoing at the beginning of 2014, aims to increase arrests of irregular migrants in Athens.<sup>167</sup> Almost 65,000 migrants were arrested between August and December 2012 during "clean-up" operations,<sup>168</sup> of which only 4,100 were in an irregular situation.<sup>169</sup> Human rights organisations expressed their concern<sup>170</sup> at the risk of arbitrary arrests, based solely on physical appearance, arbitrary detention and summary removal. The operation continued in 2013. The first year of the

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166 "Lesbos/ Greece the new European cage for migrants," Joint Declaration by Migreurop, EMHRN, Welcome 2 Europe, Youth without Borders (Jugendliche ohne Grenzen – JOG) and their Afghan friends and members, who were detained in Pagani in 2009, 17 October 2013.

167 Frontex Agency, FRAN Quarterly, Issue 3, July-September 2012, p. 15/70.

168 Also referred to as "sweep-up" operations by the Greek media.

169 PACE-Council of Europe (2013) "Migration and asylum: mounting tensions in the Eastern Mediterranean" and Human Rights Watch (2013) "Unwelcome guests. Greek police abuses of migrants in Athens".

170 "Greece: Halt Mass Migrant Round-Ups," Human Rights Watch, 8 August 2012; "Greece must halt mass police crackdown on irregular migrants," Amnesty International, 8 August 2012; "ECRE Press Statement on the round-ups of migrants in Greece," ECRE, 16 August 2012.



Entrance to the enclosure of the first reception centre of Moria (Lesbos Island), October 2013

operation cost 4 million Euros per month and was funded by the EU External Borders Fund (known today as the Internal Security Fund).<sup>171</sup>

Once screening procedures have been concluded in the KEPIs, individuals are supposed to be released or transferred to specialised structures<sup>172</sup> or placed in a pre-removal centre<sup>173</sup> to await deportation. Pre-removal centres are situated in Amygdaleza (a suburb of Athens), Corinth (in the Peloponnese),

171 "Greece: "Xenios Zeus" Operation will continue in 2013," PICUM Bulletin, 4 December 2012.

172 Those dedicated to persons considered vulnerable (minors, families, etc.).

173 In Greek: Προαναχωρησιακά Κέντρα Κράτησης Αλλοδαπών.

Xanthi, Comotini and Drama (in Paranesti, near the border in Evros). These centres are regularly criticised by international bodies and organisations for failing to respect the rights of detainees in view of their inhuman and degrading living conditions.<sup>174</sup>

Detention in pre-removal centres of persons subject to a removal order is governed by a 2005 law. Deprivation of liberty is justified on the basis that it is required to organise their removal.<sup>175</sup> The maximum period of detention was fixed by successive legal reforms, increasing from 3 to 6 months and then to 18 months<sup>176</sup> under Law 3907/2011.<sup>177</sup> Furthermore, an Opinion of the Greek State Legal Council published on 20 March 2014<sup>178</sup> authorises an extension of the detention period beyond the 18 months stipulated by Greek and EU law for foreigners who refuse to cooperate in their removal procedure.<sup>179</sup> This Opinion was given at a time when the legal detention period of 18 months for persons arrested and held under Operation Xenios Zeus was reaching an end. Thus, the Greek high administrative court allows detention of migrants arrested under Operation Xenios Zeus to be extended, but also more generally that of any foreigner held on Greek soil, in breach of Greek legislation,<sup>180</sup> European law<sup>181</sup> and European case law.<sup>182</sup>

In practice, detainees awaiting removal can rarely be deported at the end of the detention period for various reasons: difficulties in identifying natio-

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174 Amnesty International (2011) "2010 Report"; MSF (2010) "Migrants in detention. Lives on hold"; Pro Asyl (2008) "The situation in Greece is out of control. Research into the situation of asylum seekers in Greece."

175 Law 3386/2005 "allows for the detention of irregular migrants pending their deportation if they have infringed the provisions of the law (art. 76.3)", UN Special Rapporteur, p. 27, *ibid.* 13.

176 Global Detention Project (April 2014) [Greece Detention profile](#).

177 The maximum duration is now specified in a Code established under Law 4152/2014, published on 1 April 2014.

178 Opinion of the Greek State Legal Council, no. 44/2014, published 20 March 2014.

179 Press release by Greek Human Rights League, "They called the detention of foreign nationals a restrictive measure so as not to admit that Operation Xenios Zeus was a fiasco", 22 March 2014.

180 Violation of Articles 5 and 6 of the Greek Constitution and Article 325 of the Greek Penal Code.

181 Article 5 of the ECHR. See also ECRE weekly bulletin, "Greek State Legal Council justifies detention pending removal beyond 18-month limit set by EU Return Directive," April 2014.

182 ECJ, C 357/09 *Kadzoev and ECtHR, John v. Greece* 2007.

nalities, lack of cooperation between the Greek state and the authorities of the country of origin of the persons concerned for the removal procedure, risks in the event of return, etc. No legal basis actually exists to justify the detention of these persons, which according to Greek and European law can only be justified for the purposes of organising their removal.

Since 2012, detained asylum seekers have been treated differently.<sup>183</sup> Detention may last for 3 to 15 months<sup>184</sup> if the asylum seeker has already filed his or her asylum application before being placed in the detention centre, and from 6 to 18 months<sup>185</sup> if the claim was submitted when he or she was already detained.

The United Nations Working Group on Arbitrary Detention, following a mission to Greece in January 2013, “is of view that the imprisonment of a migrant or an asylum seeker for up to 18 months, in conditions that are sometimes found to be even worse than in the regular prisons, could be considered as a punishment imposed on a person who has not committed any crime. This appears to be a serious violation of the principle of proportionality which may render the deprivation of liberty arbitrary. In addition, through interviews with detainees, the Working Group found that the prolonged period of detention was often perceived by potential asylum seekers as a deterrent in order to discourage them from submitting their applications.”<sup>186</sup>

The legal reforms enacted under the Greek Action Plan reinforce the security-based approach to migration management in Greece for all migrants. They do not respond to the main needs of the country and of migrants: reception.

### 3 – EU funding in Greece: control v. reception

The funding that Greece received from the EU for 2007-2013 was granted in the framework of the programme ‘Solidarity and Management of Migration Flows,’ which grouped together several funds.<sup>187</sup> The highest amount of fun-

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183 Presidential Decree 116/2012, published in the Official Gazette on 19 October 2012.

184 If an asylum application has been filed before detention.

185 If an asylum application is filed before detention. NB: the detention period is then added to that already completed.

186 UN Working Group on Arbitrary Detention (2013) [Statement upon the conclusion of its mission to Greece \(21-31 January 2013\)](#).

187 On the years 2008-2020, see chapter 1.

ding to Greece comes from the External Borders Fund (EBF) and the Return Fund (RF). For 2013,<sup>188</sup> a total amount of 85 million Euros was allocated to Greece under four funds: 42.5 million euros from the EBF, 35.3 million euros from the RF, 3.2 million euros from the European Refugee Fund (ERF) and 4 million euros<sup>189</sup> from the European Integration Fund (EIF).

For 2013 and 2014, the predicted financial support from the European Union confirms the concentration of funds on measures related to border security. Thus, the management of borders, detention and the return programme are financed by the EBF and the RF, covering a total of slightly over 260 million euros.<sup>190</sup> At the same time, the so-called “reception” system is to receive of 12,667,550 euros<sup>191</sup> via the EBF and subsidies from the European Economic Area (EEA) allocated by Liechtenstein, Norway and Iceland. It should be recalled that the reception centres (so-called KEPIs) are de facto detention sites (see above). The amount allocated to asylum for 2013 and 2014 represents 5,690,132 Euros for the new asylum service and persons belonging to vulnerable groups, via the 2012 European Refugee Fund and EEA subsidies.<sup>192</sup>

In other words, in the projected 2013 and 2014 budgets of the Greek Ministry of Public Order, 93% of European funds destined for the Greek state are to finance border-security, compared to 2% for asylum. (See table for European funds allocated to Greece, 2013-2014).

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188 In 2012, this amount was 90 million Euros. Parliamentary question of 25 June 2012 asked by MEP Papanikolaou: “EU funding to Greece (January 2012-March 2013)”, [E-006240/2012](#).

189 Ibid.

190 “Migration management, budgeting and financial planning”, Presentation by the Greek Minister of Public Order to the LIBE Commission of the European Parliament, June 2013.

191 Ibid.

192 Ibid. 192.



**Migration Management in Greece: 2013-2014 EU funds provisional budget**

	2013		2014		Total 2013/2014 by funds		Total all funds	%
	European Border Fund (EBF)	Return Fund (RF)	EBF	RF	EBF	RF		
Funds allocated to security issues	98 476 937	X	89 513 775	X	187 990 712	X	260 025 824	93%
Border management (equipment, buildings, information systems, coastguard and police, integrated border management etc.)								
Detention centres	X	18 975 000	X	19 020 000	X	37 995 000		
Returns	X	17 907 612	X	16 132 500	X	34 040 112		
		European Border Fund (EBF) and the European Economic Area (EEA) grants		EBF and EEA grants		EBF and EEA grants		
Funds allocated to first «reception centres» (KEPI)		9 804 750		2 862 800		12 667 550	12 667 550	5%
		Constructions, operations, staff, mobile units, etc.						
		European Refugee Fund-ERF (to UNHCR) and the EEA grants		ERF (to UNHCR) and the EEA grants		ERF (to UNHCR) and the EEA grants		
Funds allocated in support to the asylum system		3 248 707		2 441 425		5 690 132	5 690 132	2%
		Establishment of the new service for asylum and vulnerable groups (interpretation, training, information leaflets on asylum etc.)						
							278 383 506	

In euros / Source: "Migration management, budgeting and financial planning"; Presentation by the Greek Ministry of Public Order to the European Parliament's LIBE Committee, June 2013

More generally, the management of EU funds by the Greek authorities reflects a security-oriented vision of migration policies. The funding from the European Refugee Fund, previously supervised by the Greek Health Ministry, was transferred in July 2013 to the Ministry of Labour. In the future, funding from the ERF, to be absorbed by a new fund called the European Fund for Asylum and Immigration, is to be placed under the control of the Ministry of Public Order. This change is not insignificant, as funds destined for the reception of asylum seekers will be administered by a ministry whose principal mandate is not public assistance but public order. According to several NGOs, “This confusion may lead to serious violations of human rights as underlined by human rights organisations.”<sup>193</sup>

Following the same logic, the ambivalent discourse of the Greek government legitimises the use of sites for the detention of migrants, promoted as spaces of “protection” of refugees in order to channel national funds planned for public social policies. This is the case of the centre in Amygdaleza (a suburb of Athens) described in the ministerial texts for allocation of spending as both a “reception centre” and a place where migrants are “detained.”<sup>194</sup>

In addition to the practice of misappropriating funds intended for social purposes to finance detention systems, Greece uses non-transparent procedures for public tenders, as queried by Greek members of parliament in a question to the Ministry of Public Order. Citing the “urgency” of the situation, which it justifies by pressure from the EU,<sup>195</sup> the Ministry mandates large construction companies, in dubious conditions, for the construction and operation of KEPIs and detention centres.

European solidarity manifests itself through measures to increase controls at external borders, while multiple breaches of human rights are perpetrated

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193 AITIMA, Greek Council for Refugees and others, February 2013, Contribution to public consultation on articles 2.11 and 1 of Law 3907/2011.

194 Parliamentary question: Expenses to cover the needs of the Amygdaleza detention centre, 5298/662/10-01-2014.

195 Response by Minister of Public Order to the parliamentary question 2684/335/15-10-2013.

there, in particular by the Greek authorities.<sup>196</sup> Establishing a policy for the reception of migrants in the region does not seem to be a priority either for Greece or for the EU.

Other practices present further obstacles to migrants' rights from the moment of their arrival in Greece, in particular on the Aegean Islands, until detention.

#### 4 – Lesbos: Ping-Pong between different authorities

Those who manage to reach Greek territory are not out of the woods. Practices on the island of Lesbos, located a dozen kilometres from the Turkish coasts, are emblematic of the situation elsewhere in the Aegean Islands. Since the land border in the Evros region was closed, the number of migrants seeking to reach Greece via Lesbos has increased: 1 290 persons arrived between August and December 2012 (only 24 persons in 2011).

Since the closure of the Pagani detention centre on the island in 2009 following reports of the inhumane and degrading conditions of migrants held there, no clear alternative has been put in place to accommodate migrants who have been intercepted.<sup>197</sup>

In order to be able to leave the island and reach Athens by ferry, migrants need a legal travel document. The only way to obtain one is to get arrested and after a period of detention of varying length, obtain an order to leave Greek territory (which also constitutes a permit to remain there for a certain period). Migrants find themselves 'begging' the police and the coastguards to arrest them, waiting long hours and sometimes several days in front of the port and/or police station.

The division of responsibilities remains unclear: according to representatives of the Police met by the delegation in October 2013, the management of

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196 The European Commission, questioned on the subject of possible reinforcement of the EFR for Greece for better reception of refugees, responded that the financial and operational support through the return and external border funds must continue. According to the Commission, clarifying the readmission agreement between the EU and Turkey will also make a significant contribution to the situation in Greece. QP: EU funding to Greece (January 2012-March 2013), E-010916-12.

197 Figures provided by the Lesbos, November 2013.



A grotesque situation: When they met the delegation, this group of migrants had been, for three days, going back and forth between the coastguards and Greek police trying to get arrested. This is the only way for them to receive official documentation (an order to leave the territory), required for them to be able to take a ferry to Athens. Mytilene, Lesbos, October 2013

refugees is the responsibility of the maritime authorities, under an oral order of the prosecutor issued in April 2013. However, the coastguards told the delegation that they were only responsible for interception at sea and that they directed those intercepted to the police once on land.<sup>198</sup>

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<sup>198</sup> Interview with Antonios Sofiadelis, Chief Lieutenant of coastguards in Lesbos, Lesbos, 9 October 2013.

The official opening on 25 September 2013 of a temporary reception centre which is intended to become a KEPI<sup>199</sup> has not resolved these problems. On 8 October 2013, the delegation met a group of approximately 15 Eritreans, Afghans and Syrians, all exhausted and some of them injured, who were sleeping on the ground in the port of the island, waiting desperately for the authorities to deal with them. Having spent 3 days in the mountains in order to reach the island's capital, they had successively been rejected by the police, coast-guards and even the 'reception centre'. Nobody wanted them.<sup>200</sup>

This practice of "passive dissuasion" towards persons who may claim international protection breaches the right to request asylum under the Geneva Convention relating to the the Status of Refugees.

## 5 – Corinth: illustration of detention conditions in Greece

Detention of migrants in Greece remains systematic and is relatively unmonitored by independent organisations. On the day of the delegation's visit to the "pre-removal" centre in Corinth on 12 October 2012, almost 1,050 people were detained in four buildings. Most of them had been held for over a year. A dozen testimonies gathered during the visit revealed several problems: difficulties accessing medical treatment<sup>201</sup> (including 2 cases of cancer, gastric problems, etc.); development of physical or mental illness without diagnosis nor medical care (loss of sight<sup>202</sup> and psychological problems linked to detention);<sup>203</sup> police violence (several people showed traces of physical abuse); excessive periods of detention (between 15 and 18 months); absence of procedural guarantees in breach of European law (information not available in a language understood by detainees, no access to legal aid for nearly a year;<sup>204</sup> detainees not notified of decisions to extend detention); arbitrary

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199 Ibid. 168.

200 Interview with migrants in Mytilene port, Lesbos, 9 October 2013.

201 This situation is neither new nor exceptional, Infomobile, (November 2013), [Second Afghan refugee dies in Corinth detention centre](#).

202 A detainee passed a note to a member of the delegation during the visit with a name and a nationality and "I can't see anymore, I'm blind. Please help me" written on it.

203 MSF (2013) "[Medical assistance to migrants and refugees in Greece](#)."

204 Several people interviewed by the delegation, said that they had been abused by lawyers who extorted money from them.

detention of “non-removable” persons; obstacles to access by NGOs, including the delegation,<sup>205</sup> as well as poor living conditions (overcrowded dormitories for 70 people with only two showers and two toilets, poor food, unpleasant odour, etc.). Revolts, suicides and suicide attempts are common in the centre.<sup>206</sup> On 24 August 2013, a man died after jumping from the roof of a building. Afterwards, several other detainees threatened to do the same.

In Corinth, only the biological survival of detainees seems to matter. This animal-like treatment is the expression of a political vision which criminalises migrants and contributes to violations of their rights.

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205 On obstacles to access for NGOs to the Corinth detention centre: see AITIMA, GCR and others (February 2013) participation in public consultation on Articles 2.11 and 12 of Law 3907/201.

206 On 18 November 2012, a large revolt broke out in the Corinth centre. Almost 800 people protested against the duration and conditions of detention. The revolt ended when it was brutally repressed by anti-riot police. Many detainees were injured, arrested and prosecuted. Recently the Court of Appeal acquitted 48 of 50 detainees accused of being responsible for the riots. Other riots have taken place in other detention centres, including Amygdaleza. On revolts in Corinth, see Efsyn (24/01/14), “48 migrants were found innocent” (available in Greek). On revolts in Amygdaleza, see Okeanews (11/08/201) “Migrant revolt in the Amygdaleza camp” (available in Greek). See also Infomobile, “Uprising in Amigdaleza” and “About the riot in Amygdaleza immigrant detention camp” (13/08/2013).

## Conclusion

FIDH, Migreurop and EMHRN, as members of the Frontexit campaign, have expressed serious concern over recurring violations of migrant rights at the Greece-Turkey border. In this region, rather than providing support for reception and protection needs, the EU bases its border surveillance policy, embodied by Frontex, on securing borders at the expense of the rights of migrants.

As the latest incarnation of a European policy of border surveillance and combating irregular immigration, the Frontex agency has gained additional technical and financial capacities in recent years. Although its action is presented as technical support to border surveillance operations at Member State borders, Frontex is an operational agency whose activities have a significant impact on migrants, both directly (interceptions at borders, forced return operations, screening) and indirectly (exchange of data, co-financing of operations, training and support for actions of non-EU Member States). According to many NGO reports, its interventions have serious consequences for the human rights of migrants.<sup>207</sup>

Frontex's Fundamental Rights Strategy, adopted following the reform of its mandate in 2011, was supposed to respond to these criticisms. However despite the introduction of a reference to fundamental rights, the EU's Fundamental Rights Agency, the EU Ombudsperson and the UN Special Rapporteur on the Human Rights of Migrants<sup>208</sup> have echoed the concerns of NGOs, expressing reservations about the operations of the agency and the consequences of its activities on the human rights of migrants. Given the increased capacities and autonomy of Frontex (possibility to acquire its own equipment and initiate operations, management of Eurosur, etc.), the Fundamental Rights Strategy appears superficial.

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207 Irish Refugee Council (2011), [Annual report](#), p. 9; *Ibid.* 80; Migreurop (2010) "[Frontex : what guarantees for human rights?](#)"

208 FRA (2013) [EU solidarity and Frontex: fundamental rights challenges](#), from [Fundamental rights and Europe's southern sea borders](#); European Ombudsperson (2013) "[Special report of the European ombudsman in own initiative inquiry OI/5/2012 BEH-MHZ concerning Frontex](#)"; *Ibid.* 13.

Beyond non-binding codes of conduct and internal evaluations mechanisms, there is no mechanism for automatic suspension of operations in cases of human rights violations. The agency appears to refuse any mechanism by which it could incur liability. This lack of accountability poses a major problem, as demonstrated dramatically by the situation at the Greece-Turkey border.

Frontex does not intervene in neutral territory. The border surveillance policies implemented by Greece and Turkey focus disproportionately on interception, border surveillance using the latest technology, the multiplication of detention centres and forced returns, rather than on the reception and circulation of migrants.

The illegal detention of migrants and the absence of sufficient guarantees for asylum seekers have been condemned, both in Greece and Turkey, by the European Court of Human Rights. The purpose of the recent legislative reforms in each of these countries is to respond to these systemic failings. The implementation of new legal frameworks could certainly improve the situation for the migrants and refugees there, by introducing procedures and guarantees inspired by the international and regional instruments for the protection of human rights. However it is unlikely that they will end the serious violations of human rights committed at the border, for two main reasons:

- Firstly, in both cases, legislative reforms only concern asylum seekers who have already entered the territory. They therefore leave unanswered the many concerns raised by this report concerning the impact of border surveillance measures on preventing persons in need of protection from accessing these territories;
- Secondly, in the case of Turkey, reforms encourage a process of externalisation of migration control and the management of migrants and asylum seekers, with the accompanying risks. The strengthening of protection capacities in non-EU Member States, as EU partners in combating irregular immigration, is a centrepiece of the external dimension of the asylum and immigration policy promoted by the EU since 2004. There are two aspects to this: improving the outcomes for migrants, by harmonising standards on the protection of human rights in such countries with those of the EU; but also enabling EU Member States to avoid responsibility for persons in search of protection by sending them back to or preven-



ting them from leaving countries which are supposed to give them such protection but in practice do not. Maintaining migrants at a distance by “out-sourcing” in this way, combined with the EU focus on monitoring its external borders as part of a policy often guided by suspicion or even hostility towards migrants, is a source of many – now widely documented – human rights violations.<sup>209</sup>

**The role played by Frontex at the Greece-Turkey border illustrates the EU’s strategy of maintaining at a distance migrants and refugees who could, if not prevented from crossing the border, claim the right to remain in a Member State. Drawing on concrete examples, this report questions the role of Frontex in identifying migrants at the border and in the many push-backs cited in testimonies. It raises the question of the agency’s responsibility for human rights violations committed during Operation Poseidon.**

The issue of the accountability of Frontex, in a context of serious and persistent violations of human rights, emerges as a leitmotiv throughout this report, demonstrating the complexity and opacity of the agency’s operations.

The EU’s political and financial support must urgently stop contributing to a border-security vision of migration management (use of detention, dissuasion, interceptions and forced returns of migrants considered to be “irregular”) and direct its efforts to ensuring that the guarantees provided for by international and European law are respected. In view of the human rights violations taking place at the Greece-Turkey border, which cannot be ignored by Frontex, it is also vital that the agency’s degree of liability is established and that it is held accountable for its actions.

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209 On this issue, see for example, Olivier Clochard, ed., Migreurop (2012) “[Atlas of migration in Europe: A critical geography of migration policies](#)”; Migreurop (2010-2011) “[At the margins of Europe: externalisation of migration controls](#).”

# Recommendations

## To the EU Commission, Council and Parliament

- Investigate violations and initiate infringement proceedings in the event that Member States and their agents continue to violate the EU Charter of Fundamental Rights, as required by the Treaty on the functioning of the European Union (Article 258);
- Produce a detailed report evaluating cooperation between Frontex and Turkey in the framework of their Memorandum of Understanding;
- Clearly define the level of liability of Frontex in joint operations, given its coordination role and its obligations under the EU Charter of Fundamental Rights;
- Incorporate this definition of liability into a legally binding document;
- Take into consideration independent evaluations of the human rights situation of migrants in Host countries of Frontex joint operations.

## To EU Member States participating in Frontex joint operations

- Ensure that officers deployed in Frontex operations respect fundamental rights;
- Investigate allegations of human rights violations by officers from Member States deployed in a Frontex operation and take disciplinary measures and other appropriate measures in accordance with Article 3 of the Frontex Regulation;<sup>210</sup>
- Cease participation in Operation Poseidon due to serious and persistent human rights violations at the land and sea borders in the Eastern Mediterranean;
- Call on Frontex to suspend Operation Poseidon due to serious and persistent human rights violations at the land and sea borders in the Eastern Mediterranean, in accordance with Article 3 of the Frontex Regulation.<sup>211</sup>

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210 Ibid. 22.

211 Ibid. 22.

**To the Frontex agency**

- Suspend Operation Poseidon operations due to persistent and serious violations of the European Charter of Fundamental Rights;
- Publish the conclusions of investigations conducted by the various Frontex services on allegations of push-backs and other human rights violations.

**To the Council of Europe**

- Produce regular reports evaluating the operational activities of Frontex.

**To the Greek government**

- Immediately cease all push-backs;
- Conduct systematic investigations into allegations of push-backs and other human rights violations;<sup>212</sup>
- Prosecute all those responsible for violations of human rights during push-backs;
- Produce a detailed public report evaluating formal and informal cooperation at the land, sea and air borders between Turkey and Greece;
- Ensure that all persons intercepted have access to individual procedures to apply for international protection as well as access to an effective appeal against a deportation decision;
- End systematic detention of migrants arriving on the territory and undocumented migrants.

**To the Turkish government**

- Produce a detailed public report evaluating cooperation between the Frontex agency and Turkey;
- Produce a detailed public report on formal and informal cooperation at the land, sea and air borders between Turkey and Greece.

# Appendix 1

## Shipwrecks recorded from beginning 2012 to beginning of May 2014

*This data draws on information in press articles and the summary of the report by the NGO Pro Asyl, “Pushed back: Systematic human right violations against refugees in the Aegean Sea and at the Greek-Turkish land border” (2013).<sup>213</sup> This list is up-to-date as of beginning of May 2014. In the absence of official data, it does not purport to be an exhaustive list. The number of deaths and disappearances remains particularly uncertain.*

A total of 18 shipwrecks, 191 deaths and 33 disappearances were recorded during this period.

- 6 September 2012: shipwreck off the coast of Izmir (Turkey) (approximately 60 deaths)<sup>214</sup>
- 14 December 2012: shipwreck off the coast of Lesbos (Greece) (21 deaths)<sup>215</sup>
- 13 January 2013: shipwreck off the coast of Chios (Greece) (3 deaths)<sup>216</sup>
- 17 March 2013: shipwreck off the coast of Lesbos (Greece) (8 deaths, including 2 minors, 3 children and a pregnant woman)<sup>217</sup>
- 15 May 2013: shipwreck off the coast of Leros (Greece) (1 death, a six year-old girl)<sup>218</sup>

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213 Pro Asyl (2013) “Pushed back: Systematic human right violations against refugees in the Aegean sea and at the Greek-Turkish land border,” p. 33. For updated information on shipwrecks and deaths in the Aegean Sea, see the platforms [Watch the Med](#) and [The migrants files](#).

214 “[Scores of Migrants Die After Boat Sinks Off Turkey](#),” The New York Times, 6 September 2012.

215 “[Lesbos: human tragedies behind mass burials](#)”, available in Greek, TVXS, 5 January 2013.

216 “[More souls perish in the Aegean Sea, a third migrant dies in Chios](#),” (available in Greek), NewsIt.

217 “[Fears of another shipwreck off the coast of Lesbos confirmed](#),” (available in Greek), Lesbos Report..

218 “[A six year-old girl on board a boat with 21 migrants found dead](#),” (available in Greek), Tovima.

- 6 June 2013: shipwreck off the coast of Chalkis (Turkey) (1 death, 5 disappearances)<sup>219</sup>
- 21 July 2013: a mother and her two children die on arrival<sup>220</sup>
- 25 July 2013: shipwreck off the coast of Kos and Bodrum (Turkey) (13 Syrians disappeared, including 5 children and a pregnant woman)<sup>221</sup>
- 26 July 2013: shipwreck off the coast of Chios/ Oinousses (Greece) (1 death)<sup>222</sup>
- 31 July 2013: shipwreck off the coast of Canakkale (Turkey) (at least 24 deaths)<sup>223</sup>
- 2 September 2013: shipwreck at Altinova (Turkey) (8 disappearances)<sup>224</sup>
- 15 November 2013: shipwreck off the coast of Lefkada (Greece) (12 deaths including 4 children)<sup>225</sup>
- 29 November 2013: shipwreck off the coast of Balikesir (Greece) (5 deaths including 1 child)<sup>226</sup>
- 9 December 2013: shipwreck off the coast of Chios (Greece) (at least 3 deaths)<sup>227</sup>
- 22 January 2014: shipwreck off the coast of Farmakonisi (Greece) (12 deaths, including 9 children)<sup>228</sup>
- 18 March 2014: shipwreck off the coast of Lesbos (Greece) (7 deaths, including 2 children, and 2 disappearances)<sup>229</sup>

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219 Ibid. 214.

220 Ibid. 214.

221 Ibid. 214.

222 Ibid. 214.

223 “24 immigrants drown in the Aegean Sea,” *Clandestina*, 31 July 2013.

224 Ibid. 214.

225 “Shipwreck with dead immigrants in the Ionian Sea,” *Clandestina*, 15 November 2013.

226 [www.rtbf.be/info/monde/detail\\_cinq-migrants-clandestins-morts-dans-le-naufrage-d-un-bateau-au-large-de-la-turquie?id=8146338](http://www.rtbf.be/info/monde/detail_cinq-migrants-clandestins-morts-dans-le-naufrage-d-un-bateau-au-large-de-la-turquie?id=8146338); see also Watch The Med platform.

227 <http://clandestinenglish.wordpress.com/2013/12/11/another-shipwreck-in-the-aegean-3-dead-9-missing/>, see also <http://watchthemed.net/reports/view/37>

228 “Shipwrecked migrants accuse Greece,” (available in French), *Le Monde*, 31 January 2014.

229 “Greece: seven migrants dead and two disappeared in a shipwreck off the coast of Lesbos,” (available in French), APS and “Migrant boat shipwreck in the Aegean Sea: at least 7 deaths,” (available in French), *Liberation*.

- 16 April 2014: shipwreck off the coast of Menderes (Turkey) (8 deaths, including a woman and a child, 5 disappearances), all of Syrian nationality<sup>230</sup>
- 5 May 2014: shipwreck off the coast of the island of Samos (Greece) (22 deaths including 12 women and 4 children. The number of disappearances is not known).<sup>231</sup>

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230 “Shipwreck near Izmir: Another 8 refugees found dead up to now, yet 5 missing”, Infomobile, April 2014.

231 “Number of victims of the shipwreck near Samos now 18, including 3 children”, GR reporter, 5 May 2014.

## Appendix 2

### Experts and Equipements – Poséidon Operation 2012

**Source: Frontex**

*The deployments below are not necessarily for the duration of the entire year, and can be for shorter periods.*

<b>Poseidon Land 2012</b>	<b>Number</b>
Agents	
Debriefing expert	84
Experts in border surveillance	565
Frontex Support Officers and Team Leaders	65
Dog Handlers	42
Technical equipment	
Aircrafts	5
Thermo-vision vehicles	85
Patrol cars	156
Service dogs (sniffers)	45
<b>Poseidon Sea 2012</b>	<b>Number</b>
Agents	
First Line Officers	34
Frontex Support Officers and Team Leaders	6
Debriefing Experts	28
International Coordination Centre staff	6
Local Coordination Centre Staff	28
Liaison Officers to Technical Equipment (LO-TE)	59
Interpreters	7
Technical equipment	
Off-shore patrol vessels	1
Coastal patrol vessels	7
Coastal patrol boats	25
SAR vessels	2
Fixed-wing aircrafts	5
Helicopters	4
Thermo-vision vehicles	4
Mobile offices	2

## Appendix 3

### Members states (MS) participating in Joint Operation (JO) Poseidon 2012 and 2013

Source: Frontex

Poseidon Land 2012	MS Technical equipment	MS Agents	Observers
	Austria	Austria	0
	X	Bulgaria	
	Czech Republic	Czech Republic	
	X	Denmark	
	Estonia	Estonia	
	Finland	Finland	
	Germany	Germany	
	Hungary	Hungary	
	Lithuania	Lithuania	
	Latvia	Latvia	
	Malta	Malta	
	X	Norway	
	Poland	Poland	
	Portugal	Portugal	
	Romania	Romania	
	X	United Kingdom	
	Slovakia	Slovakia	
	Slovenia	Slovenia	
	X	Spain	
	Switzerland	Switzerland	
	The Netherlands	The Netherlands	
Poseidon Land 2013	MS Technical equipment	MS Agents	Observers
	Austria	Austria	0
	X	Bulgaria	
	X	Denmark	
	Estonia	Estonia	
	Finland	Finland	
	Germany	Germany	
	Hungary	Hungary	
	X	Lithuania	



	Latvia	Latvia	
	X	Malta	
	X	Norway	
	Poland	Poland	
	Portugal	Portugal	
	X	X	
	Romania	Romania	
	Slovakia	Slovakia	
	Slovenia	Slovenia	
	Spain	Spain	
	Switzerland	Switzerland	
	The Netherlands	The Netherlands	
	United Kingdom	United Kingdom	
Poseidon Sea 2012	MS Technical equipment	MS Agents	Observers
	X	Austria	
	X	X	Croatia (1)
	Denmark	Denmark	
	X	France	
	X	X	Georgia (1)
	X	Germany	
	Greece	Greece	
	Hungary	X	
	Iceland	X	
	Italy	Italy	
	Lithuania	Lithuania	
	Latvia	Latvia	
	Luxembourg	X	
	X	Malta	
	X	Norway	
	X	Poland	
	Portugal	Portugal	
	Romania	Romania	
	X	Spain	
	X	United Kingdom	
	X	Sweden	
	X	X	Ukraine (1)
	The Netherlands	The Netherlands	

Poseidon Sea 2013	MS Technical equipment	MS Agents	Observers
	X	X	Albania (!)
	X	Austria	
	X	Belgium	
	Denmark	Denmark	
	X	Germany	
	Greece	Greece	
	Iceland	X	
	Italy	Italy	
	Lithuania	Lithuania	
	Latvia	Latvia	
	Luxembourg	X	
	Malta	X	
	X	Norway	
	Poland	Poland	
	Portugal	X	
	Romania	Romania	
	Slovenia	X	
	X	Spain	
	X	Sweden	
	The Netherlands	The Netherlands	
	X	United Kingdom	

## Appendix 4

### J0 Poseidon: screening – data 2012-2013

Source: Frontex

	01/03/2012- 26/03/2013	27/03/2013-31/10/2013
Greek land border	22 584	796
Greek maritime border	2 936	4 206
Bulgarian land border	302	2 172

## Appendix 5

### JO Poseidon: Interceptions and rescue 2012-2013

Source: Frontex

	Interception	
<b>Poseidon Land</b>	<b>From January to December 2012</b>	<b>From January to 31/12/2013</b>
Nber of interceptions	29 995	912
Main nationalities	7 672 Afghans, 5 103 Syrians, 4 534 Bangladeshis, 2 376 Pakistanis, 2 214 Algerians	418 Syrians, 143 Iraqis, 141 Afghans, 54 Somalis, 38 Iranians
<b>Poseidon Sea</b>	<b>From January to December 2012</b>	<b>From January 2013 to 06/10/2013</b>
Nber of interceptions	3 007	10 427
Main nationalities	1 349 Afghans, 988 Syrians, 190 Algerians, 82 Moroccans, 58 Somalis	5034 Syrians, 3047 Afghans, 520 Eritreans, 416 Somalis, 120 Palestinians

	Rescue	
<b>Poseidon Land</b>		
Nber of people rescued	None listed	None listed
Main presumed nationalities	X	X
<b>Poseidon Sea</b>	<b>From January to December 2012</b>	<b>From January 2013 to 06/10/2013</b>
Nber of people rescued	328	1 409
Main presumed nationalities	197 Syrians, 40 Algerians, 31 Palestinians, 28 Afghans, 15 Moroccans, 7 other nationalities	843 Syrians, 401 Afghans, 74 Somalis, 27 Eritreans, 9 Palestinians, 55 other nationalities

# Appendix 6

## J0 Poseidon : debriefing, data 2012-2013

Source: Frontex

	Dates	Nber of debriefing reports	Main nationalities
Poseidon Sea	01/04/2012-31/03/2013	202	Afghan, Syrian, Pakistani and Palestinian
	01/04/2013-02/12/2013	246	Syrian, Afghan and to a lesser extent Eritrean, Somali, and Palestinian
Poseidon Land	Jan-Dec 2012	1001	Syrian, Afghan, Iraqi, Bangladeshi, Algerian, Pakistani, Moroccan, and Iranian
	Jan-Nov 2013	512	Syrian, Afghan, Algerian, Palestinian, Iraqi

## Appendix 7

### Participation of Greece to the joint return flights

Source: Frontex

	Total number of joint flights with participation of Greece	Country of return	Nationalities of migrants
2011	3	Nigeria (2 flights) Georgia (1 flight)	Nigerian and Georgian
2012	5	Nigeria (5 flights) Pakistan (1 flight)	Nigerian and Pakistani
2013	10	Nigeria (6 flights) Pakistan (2 flights) Georgia (2 flights)	Nigerian, Pakistani, Georgian

# fidh

The International Federation for Human Rights gathers 178 independent human rights organisations in more than 100 countries. Promoting and protecting the human rights of migrants is one of the Federation's priorities.

# migreurop

Migreurop is a network bringing together 45 associations and 44 individual members (researchers, activists, etc.) from 17 countries in Africa, the Middle East and Europe working for the promotion and the protection of the rights of migrants blocked at the borders.



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK  
RESEAU EURO-MEDITERRANÉEN DES DROITS DE L'HOMME  
الشبكة الأوروبية - المتوسطية لحقوق الإنسان

The Euro-Mediterranean Human Rights Network is a network of more than 80 human rights organisations and bodies from more than 20 countries in the Euro-Mediterranean region. EMHRN aims to promote and strengthen human rights and democratic reforms under its regional mandate and through networking and cooperation with civil society.

# FRONTEx [EXIT]

FIDH, Migreurop and EMHRN are members of the international campaign Frontexit, alongside 20 other organisations and individuals from Europe and Africa. The campaign promotes respect for migrants' human rights at the external borders of the European Union. It has two main objectives: to inform the general public on the human rights violations to which Frontex operations contribute; and to denounce these violations to those political representatives who are directly concerned.

Over the last few years, Frontex (the European Agency for the Management of Cooperation at the External Borders of the Member States of the European Union), present in Greece since 2009, has consolidated its presence at the Greece-Turkey border. The area, considered for a long time to be the “main gateway for irregular migrants into Europe,” has become a laboratory for the agency’s operations. It saw the first Frontex rapid border intervention operations and the first regional operational office. Since 2011, Operation Poseidon has been controlling Greece’s external sea and land borders.

In the context of wide-ranging legislative reforms on migration and border control in Greece and Turkey, two countries dealing with high levels of migrant arrivals, a detention and expulsion policy is being developed on both sides of the Mediterranean. Serious human rights violations are widespread: Greek coastguards intercept boats carrying men, women and children and push them back to the Turkish border, those intercepted are systematically detained, numerous violations of the right to asylum, lack of recourse. All this raises questions about responsibility and accountability for violations.

What is the role of Frontex in the treatment of migrants at the border and in detention centres in Greece? What actions has it taken to meet its obligations to respect fundamental rights, as laid out in its new mandate adopted in October 2011?

In this report, FIDH, Migreurop and EMHRN present the results of an investigation in Greece and Turkey, which explored the specific nature of Frontex’s activities at the Greece-Turkey border and their impact on the human rights of migrants. By participating in the EU policy to combat irregular immigration, despite numerous reports of human rights violations, is the agency complicit?

**may 2014**

