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## REFUGEES UNWELCOME? CONTINUING DETERIORATION OF REFUGEE RIGHTS IN THE EU AND TURKEY

In recent years several European countries have endorsed temporary protection, leaving asylum seekers in a precarious state. This NCHS paper outlines the ongoing challenges refugees face when establishing their rights in the European Union and Turkey.

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## INTRODUCTION

Several years have passed since the start of the migrant crisis in Europe in 2015, and the situation has not improved. Rampant xenophobia undermines refugee rights in many EU states. A selective approach to refugees overlays this background, with most recent experiences, following Russia's invasion of Ukraine, showing that some refugees are given priority over others. With regard to Turkey, there are compelling reasons to doubt its safe country status. The democratic decline in the country has forced many Turkish citizens to themselves seek asylum in Europe. This reached its apex between 2016 and 2018; in 2018, Turkish asylum seekers outnumbered Syrian asylum seekers in Norway.[1] As of October 2022, the most frequent asylum-seeking migrants were of Turkish, Afghan or Syrian descent.[2] Turkey is now considered (along with Russia and China) to be a member of the 'anti-democratic alliances' that 'are actively collaborating with one another to spread new forms of repression and rebuff democratic pressure'.[3]

This NCHS paper will draw upon and update some observations and findings of the author's paper published in early 2022.[4] As shown in that paper, in recent years several European countries have endorsed temporary protection, leaving asylum seekers in a precarious state, and have employed practices that are against international law to deter new asylum claims. The deteriorating state of rule of law in Turkey was also mentioned in this previous report and the situation has not improved since. Likewise, rampant anti-migrant sentiment has been pervasive in both Turkey and the EU. Drawing on these, the following sections will describe the ongoing challenges refugees face when establishing their rights in light of most recent developments.

## CONSTANT RISE IN ASYLUM SEEKERS

By the end of 2021 the global number of forcibly displaced people due to persecution, conflict, violence, human rights violations and 'events seriously disturbing public order' rose to 89.3 million. This number represents a sharp 8 per cent increase within a year.[5] As of mid-2022, the total number of displaced people worldwide rose further to 103 million. Within this number, while 32.5 million people are considered to be refugees, an additional 4.9 million are asylum seekers. Seventy-two per cent of all refugees and other persons in need of international protection come from five countries: Syria, Venezuela, Ukraine, Afghanistan and South Sudan.[6] In Afghanistan, the Taliban's takeover of Kabul in August 2021 forced many Afghans to flee. As of the first half of 2022, the number of Afghan refugees under the mandate of the UN Refugee Agency was 2,840,672 and the number of asylum seekers 270,533.[7]

Finally, Russia's invasion of Ukraine added a new group of internationally displaced people seeking safety in many European states: 'From 24 February to 29 May 2022, 6.8 million refugee movements out of Ukraine were recorded.'[8] This was an 'exodus [that] occurred in a magnitude and speed not seen since World War II'.[9] In a couple of weeks, the number of asylum seekers from this country reached a level that, in the case of Syria, took years. As of 6 March 2023, the number of refugees from Ukraine across Europe was 8,103,386.[10]

## THE EU'S WELCOME OF UKRAINIAN REFUGEES AND CRITICISMS OF DOUBLE STANDARD

Despite the horrific events that have unfolded in Ukraine, one positive aspect is the warm and generous welcome that Ukrainian refugees have received from European nations. Since the Russian invasion of Ukraine, many governments across Europe have been swift in creating a practical legal framework and logistical infrastructure to help those affected.

The EU reacted promptly to cope with the extraordinary refugee flow from Ukraine. Soon after the launch of Russia's invasion, on 4 March 2022, the EU Council approved the activation of the Temporary Protection Directive for Ukrainians fleeing the war.[11] This was the first activation of this Directive, although it has in fact been adopted in 2001.[12]

This decision gave Ukrainians visa-free residence and the right to work and study in the EU – and access to several welfare assistance schemes in the host countries. The decision was activated for an initial period of one year, subject to extension for two more additional years.[13] On 10 October 2022, temporary protection was extended to 4 March 2024.

Additionally, people from several European countries have offered their homes and financial assistance to the millions trying to flee Ukraine. As some observed, this is inspiring and heart-warming, yet is in great contrast to the insensitivity, and at times cruelty, shown by many European states to other refugees.[14]

The difference has been particularly visible in the EU's eastward border countries, such as Poland, Hungary and Greece. Being staunchly opposed to refugees since the 2015 crisis, the openly affectionate political rhetoric and action of these countries to the Ukrainian refugees stood in great contrast. One explanation for this may be that these countries are religiously and racially homogenous and are against ethnically and religiously different immigrants – Ukrainians are these nations' close relatives. One commentator observed that in these countries 'the tradition of accepting culturally different refugees is very weak'.[15] The simultaneity of building walls on their borders to keep out people from countries such as Syria, Nigeria and South Sudan and yet welcoming Ukrainians with open arms was 'both tragic and telling'.[16] This led credible observers to comment that 'the double standard makes a mockery of the purported shared European values of equality, rule of law, and human dignity'.[17]

Furthermore, a selective and discriminatory approach, disdainful of non-European asylum seekers, has been prevalent in public discourse, political statements and administrative practices of many Western states.

Certain remarks by journalists reporting or commenting on the issue were quite disturbing. For example, one journalist reporting to CBS News said that in contrast to places such as Iraq or Afghanistan, Ukraine was a 'relatively civilized, relatively European' place where one would not expect violent conflicts to happen. Another TV commentator said: 'We're not talking here about Syrians fleeing the bombing of the Syrian regime backed by Putin. We're talking about Europeans leaving in cars that look like our car to save their lives'.[18]

Politicians and authorities did not hesitate to endorse this view. On 1 March, the Greek Minister of Migration, Notis Mitarachi, declared before the national parliament that Ukrainians were ‘real refugees’; implying that people being brutally pushed back by Greece to Turkey were not. Bulgarian Prime Minister Kiril Petkov referred to Ukrainians in a press meeting as follows: ‘These are not the refugees we are used to; these people are Europeans ... These people are intelligent. They are educated people ... This is not the refugee wave we have been used to, people we were not sure about their identity, people with unclear pasts, who could have been even terrorists.’[19]

Without prejudice to the criticisms mentioned so far, one should give credit to the EU for its swift reaction in the case of Afghanistan. In a joint declaration released by the US Department of State on 15 August 2021, over one hundred countries agreed to receive Afghans fleeing from the Taliban in the wake of the American military’s departure. The EU promptly reacted to the Taliban’s takeover of Kabul and developed an evacuation programme that focused on, among others, Afghan staff who had cooperated with the EU. As of 30 August 2021, only after two weeks after the Taliban takeover, the EU had evacuated 13,400 Afghans to the EU. In October 2021, this number had reached 22,000.[20]

However, this initial positive development could not be sustained during the year that followed. In September 2022, several NGOs, including the European Council on Refugees and Exiles, the Amnesty International and Norwegian Refugee Council, made a joint statement expressing their ‘deep concern about the treatment of Afghan asylum seekers and refugees in Europe’.

The statement highlighted the gradual decrease in the recognition rates of the Afghan asylum claims by EU member states and noted that these recognition rates varied from one member state to another, lacking objective criteria.[21]

Regarding the preferential treatment given to those fleeing Ukraine, it is tempting to be convinced by case-specific arguments: notably that Ukraine is adjacent to the EU while refugees from non-adjacent countries could find safe havens in their own respective adjacent countries. Yet this argument is undermined by the fact that many Africans and other non-white people who had been legitimately living in Ukraine were denied entry to Poland. There have been several compelling allegations that legal residents of Ukraine who were originally from countries such as Nigeria, India and Lebanon were stopped at the Polish/Ukrainian border.[22] Despite a denial by the Polish government, representatives of several African governments, including Ghana, Nigeria and Kenya, condemned these incidences of racism and discrimination.[23]

Such contrasts in dealing with refugees according to skin colour, religion, ethnicity or country of origin may easily lead one to think that Europe is reinforcing a double standard. [24]

## RAMPANT ANTI-MIGRANT SENTIMENT IN THE EU

Having described the EU’s particular affinity towards Ukrainian refugees, it is worth noting that anti-migrant sentiment and discourse continued to be rampant during 2022, and that, throughout Europe, right-wing populist parties have constantly fuelled this view.



Indeed, over recent years anti-migrant rhetoric has dominated the political discourse so much that even politically moderate governments have had to adopt stricter immigration rules.[25] Lacking a sustainable and global accord on migration, such measures have been marked by short-term strategies to curb and deter immigration.[26]

Lack of good management of the migrant issues in different countries exacerbated the problem. This was the case, for example, in Sweden, when the then PM Magdalena Andersson publicly accepted that the liberal Swedish immigration policy was a failure – as it was supposedly the reason behind rising gang crime in the country.[27] Not long after this statement, the far-right Sweden Democrats won the second-highest majority of seats in the parliamentary elections.[28] Anti-migrant sentiment was one of the main components of this party's political campaign, with one of its campaigning themes a 'serious migration policy'. The party said Swedish society needed to 'stop taking in more asylum seekers to Sweden and instead focus on providing foreign aid to the refugees in need'. The party also 'wanted to see more immigrants return to their native countries'.[29] In Italy, in the elections held in September 2022, the right-wing bloc, including the neo-fascist Fratelli d'Italia, gained 44 per cent of the votes, allowing it to hold the majority in both houses of parliament. The chair of this party, Giorgia Meloni, now serves as 'the most far-right prime minister' since Mussolini.[30] Discriminatory anti-migrant plans have been the backbone of Meloni's politics.[31] In particular, she announced plans to erect a 'naval blockade' in the Mediterranean in order to 'put end to illegal departures to Italy'.[32]

The cases of Italy and Sweden show that political opposition to migration is one of the main reasons behind the rise of right-wing populism in Europe. As harsher rules restricting migration have become more widely accepted in many European societies, there has been a significant rise in public support for right-wing populist parties in states such as Bulgaria, Czechia and Finland.[33]

## CONTINUING SECURITISATION OF THE MIGRANT PROBLEM IN THE EU

France held the Presidency of the EU Council between 1 January and 30 June 2022. Before France held the Presidency, Macron clearly stated that he would maintain the security approach to migration and recommended borders be fortified.[34]

Macron's approach was reiterated in the Programme for the French Presidency of the EU Council, which addressed the issue of refugees in the context of sovereignty.[35] However, the sections regarding democracy and rule of law and human rights made little or no direct reference to refugees. Significantly, the need to improve asylum policy was mentioned within the context of the wish for a more sovereign Europe, whereas the goal for 'a more humane Europe' was primarily linked to 'the concerns expressed by its citizens'.[36]

In the programme, the Presidency pledged to develop 'a more sovereign Europe' – by 'strengthening the Schengen area, protecting European borders, controlling migration and improving the asylum policy, in line with Europe's values and its international commitments'.

The programme also highlighted the presence of certain 'hybrid threats' against the EU – an expression that had increasingly been used to refer to the refugee crisis at the border of Poland and Belarus.[37] The same document said that the Presidency was committed to fighting these hybrid threats 'by reinforcing the EU's prevention and response capacities, by working to develop a hybrid toolbox'.[38]

The Presidency also guaranteed to develop a united European response to the challenges faced by the EU regarding migration and asylum. In that context, the relevant section distinguished between the external and internal dimensions of migratory policies. Regarding the former, it aimed to 'strengthen cooperation with the main third countries of origin or transit, on the basis of action plans that set out clear objectives and concrete actions based on the available instruments and levers including those that are financial or related to visa policy'. The aims of these actions were listed as follows: (1) preventing irregular departures, (2) improving the efficiency of returns, and (3) strengthening the capacities of third countries to efficiently manage migratory flows and to combat trafficking. 2. Concerning the internal dimension, the programme underlined a need for a gradual approach 'to ensure that each step has a satisfactory balance of protection of external borders, responsibility and solidarity'. To that end the Presidency promised 'to strive to identify the support that could be provided to the Member States that ensure the protection of the external borders, as well as the means of achieving a unified European policy on returns, which will support the actions of the Member States'.[39]

At the end of its term, the French Presidency stated that it had realised its promise to create a more sovereign Europe by developing a 'better response to migratory flows' into the EU.[40]

At the same time, some European states agreed to implement a voluntary solidarity mechanism to cope with the demands of asylum and other migratory flows towards the EU; this was to provide aid with regard to relocations, financial contributions and other measures of support to Member States in need.[41] The EU Commission welcomed this as a 'significant step forward for the European Commission's New Pact on Migration and Asylum, particularly on the need to provide solidarity balanced with responsibility'.[42] The Pact had previously been published in September 2020, together with some legislative proposals, guidance and other texts, but all had been strongly criticised by human right defenders, who claimed that they would 'abolish the rule of law at the external borders'.[43]

On 7 September 2022, a political agreement established a joint roadmap between the European Parliament and the rotating presidencies of the EU Council.[44] The goal was to bring all discussions on proposed legislative projects on asylum and migration management to conclusion. The EU Commission praised the gradual approach promoted and implemented by French Presidency and highlighted that it had made 'significant progress towards the adoption of the full legislative framework'. Following France, the Czechia and then Sweden assumed the rotating Presidency of the EU, which has so far followed the same path. It is likely that the upcoming rotating presidencies of Spain and Belgium will follow suit.[45]

It is apparent that the EU initially responded rapidly to securitisation issues regarding the migrant problem, and that this continued, in a more systematic manner, during the Presidency of France. This approach will likely continue in the years to come.

## PRACTICES IN VIOLATION OF INTERNATIONAL LAW IN THE EU AND THE UK

### The UK–Rwanda deal

On 14 April 2022, the UK government announced its plan to relocate asylum seekers to Rwanda in order to discourage people from entering the UK illegally, particularly by the risky method of crossing the English Channel in small boats.[46] A memorandum of understanding was signed between the UK and Rwanda to create a mechanism for the relocation of asylum seekers, whose claims are dismissed by the UK, to Rwanda. Rwanda agreed to process asylum seekers' claims and settle or remove (as appropriate) individuals after their claims are decided, in accordance with Rwanda domestic law.[47]

For the UK, this measure was considered necessary to 'control full sovereignty' over the country's borders and to stop the traffic by boats immediately. The then PM Boris Johnson said that 'economic migrants taking advantage of the asylum system will not get to stay in the UK' but '[be] swiftly and humanely removed to a safe third country or their country of origin'. Johnson argued that Rwanda could offer accessible legal services and the opportunity to build a new life for those in genuine need. For Johnson, Rwanda was one of the safest countries in the world, globally recognized for its record of welcoming and integrating migrants.[48]

There was no limit on the numbers of the asylum seekers to be sent to Rwanda, the initial plan being 1,000 during a trial period. The first flight was scheduled to depart in June 2022, carrying seven passengers. Yet it was cancelled due to legal challenges brought against the relevant measure – and an ensuing interim decision by the European Court of Human Rights (ECtHR).[49]

The ECtHR particularly highlighted the fact that Rwanda was not party to the European Convention of Human Rights and thus was outside the legal space that protects Convention rights. In addition, Rwanda lacked a legally enforceable mechanism to facilitate the return of an applicant to the UK if pending appeal processes before the UK's courts were successful. For the ECtHR, 'asylum-seekers transferred from the United Kingdom to Rwanda will not have access to fair and efficient procedures for the determination of refugee status'.[50]

This decision stalled the relocation plan, and, as of early 2023, no asylum seeker has yet been relocated to Rwanda.[51] However, in December 2022 the High Court decided that the relocation scheme did not violate the UN's Refugee Convention or other relevant human rights laws.[52] This does not mean an immediate relocation of the asylum seekers to Rwanda. On 16 January 2023, the High Court granted the migrants facing probable relocation the right to appeal the decision in a higher court: the Court of Appeal.[53]

### Continuing pushbacks by Greece

Greece has been increasingly condemned by the international community regarding its pushback practices and other human right abuses concerning migration and asylum. This was reiterated on a judicial level, when, in its ruling of 7 July 2022, the ECtHR condemned these practices and found Greece guilty of violating the right to life (ECHR Art. 2) and of degrading treatment (ECHR Art. 3).[54]

On 7 April 2022, Human Rights Watch (HRW) released a report based on interviews with twenty-six Afghans – asylum seekers at the land border between Greece and Turkey – twenty-three of whom were returned to Turkey between September 2021 and February 2022.

According to this report, the Afghans were detained and their belongings stolen by Greek police. They were then handed over to some men wearing masks and commando-like uniforms who forcibly took them, in small boats, to the middle of the Evros River, and then made them jump into the cold water, where the current caused them to drift to the Turkish side. The interviewees stated that they were not allowed to appropriately register in Greece and place their asylum claims. They also claimed that they had been beaten or abused by the Greek authorities and denied food or water during their detention.[55] Another striking finding of this report is that Greek authorities used other migrants as proxies to carry out these illegal pushback activities, in exchange for residence permits. Several interviewees said the masked men spoke Arabic or Urdu.[56]

So, the Evros River border area has recently been identified as yet another probable pushback zone. One forensic expert working in the region said that he had seen thirty-six drowned bodies in 2021 and twenty-three bodies during the first two months of 2022.

Being a military zone out of reach of press and civil society organisations, observers assume that these figures may merely be a tip of the iceberg.[57]

Since the spring of 2020, Greece has been stranding asylum seekers on small uninhabitable islets. As of June 2022, as documented by several reports and observations, Greek authorities have been leaving migrants on such islets, with no access to food, drinking water or medical care. As a consequence, these migrants are forced to return to Turkey. Several non-government organisations (NGOs) applied to the ECtHR for interim measures during 2022.[58] Between March 2022 and June 2022 the ECHR granted thirteen interim measures requiring Greek authorities to rescue people stranded on the islets. Yet of those granted interim measures, only 30 per cent were rescued by Greek authorities.[59]

## Brutal blocking of irregular migrants at the border of Spain and Morocco

Morocco is both a host and transit country for refugees. The issue of refugees has recently been a matter of political bargaining between Spain and Morocco. In the past, there have been some problems between these two countries concerning the territory of Western Sahara, over which Morocco claims sovereignty. Relations between Spain and Morocco worsened during 2021 when Spain allowed the leader of the Western Saharan insurgent group Polisario to receive medical treatment in Spain. In retaliation, in May 2021 Morocco turned a blind eye to 8,000 migrants, including 1,500 minors, entering one of the African enclaves of Spain (Ceuta) over two days.[60] Spain chose to concede to Morocco's sovereignty claims about Western Sahara and make several other economic and political concessions in order to gain Morocco's support in halting irregular migration to its enclaves.[61] The two countries reached an agreement in April 2022 in which the security authorities of both states would cooperate 'in the fight against criminal activities', including, among others, 'trafficking in human beings and illegal immigration'.[62] This agreement created a legal base for Morocco and Spain to jointly deploy their security forces in border regions, in order to restrict irregular migration to Spanish territories.

On 24 June 2022, several people were killed or wounded during a collective attempt to cross the Moroccan border to Spain. Around 2,000 people, mostly from sub-Saharan Africa, tried to enter the enclave city of Melilla and Moroccan police responded with force. While Spain called this incidence an attack on its territorial integrity and blamed international human-trafficking crime organisations, many journalists and NGOs observing the region felt that this was a natural outcome of the security approach to migration, as outlined in the agreement reached in April 2022.[63]



## Poland's pushbacks against asylum seekers stranded at the Polish-Belarus Border

In October 2021, Poland adopted a law allowing the practice of pushbacks, despite this being contrary to European and international law.[64] The law allows authorities to issue a return order and to prohibit migrants from entering Poland and the Schengen Area for at least for six months after an initial attempt. Migrants are thus barred from entering Poland and they may be rejected *in toto*, regardless of any individual need for protection. The return order has immediate effect; although migrants have the right to appeal this doesn't stop the return procedures.

During late 2021 and early 2022 experience with this law has revealed yet another case of pushback. UN Special Rapporteur on the human rights of migrants, Felipe González Morales, received information pointing to human right abuses during the application of this law.[65] Migrants caught at the border were apprehended and taken to Border Guard posts, and then summarily sent back to Belarus. The existing legal framework requires a record to be kept of persons arrested for irregular border crossings and any relevant expulsion decisions to be made by higher authorities. Yet if anyone tries to cross the border after a first attempt, they may be instantly expelled as only the first expulsion is recorded and conducted according to official procedural rules, resulting in migrants being pushed back and forth across the border multiple times without being registered. Morales was primarily worried about the claims that border authorities from both Poland and Belarus were pushing asylum seekers back and forth. Testimonies and evidence gathered by him also convinced him to conclude that African migrants were among the most affected.

Furthermore, several migrants have died during such treatment. At least nineteen migrants have lost their lives and several more were missing. Commenting on this, the Special Rapporteur concluded that such legislative framework is in violation of international human rights law since it 'allows systematic practice of pushbacks conducted by the Polish Border Guards including against women and children'. [66]

## PERSECUTION OF MIGRANT RIGHTS DEFENDERS

### Greece

As mentioned, Greece has been increasingly condemned by the international community regarding its pushback practices and other human right abuses concerning migration and asylum. The government's reaction to these criticisms has been denial, accompanied by attempts to silence the groups that report and reveal the abuses. This was particularly underlined in a European Commission's rule of law report, which noted that Greece has been restricting the activities of groups that work with migrants and asylum seekers.[67]

In October 2021, the UN Special Rapporteur on human rights defenders held a hearing with activists working in Greece. The findings reveal the extent of the hostile attitude of Greek state against civil society groups focused on migration issues. One of the most common testimonies of the interviewees was the Greek authorities' 'bad faith actions' (bureaucratic harassment) to curtail the activities of NGOs, largely by imposing draconian procedural rules.

A second common issue that arose was the delegitimisation and criminalisation of solidarity activities such as providing legal and practical support to the migrants and reporting violations of their rights. Some defenders have even been accused of serious crimes, including people smuggling, membership in a criminal organisation, money laundering and espionage.[68]

The Greek press has also experienced severe democratic regression during 2021 and 2022, as it has become common practice for coverage of migration-related issues to be curtailed. For example, security forces used violence and arbitrarily banned coverage of events surrounding the refugee crisis on the Aegean Islands. After a heated exchange with the PM about migrant pushbacks, a Dutch journalist was attacked in the street and had to leave the country for her own security. The pro-government media had been running a smear campaign against her.[69] Some journalists reporting on refugee pushbacks have had their phones tapped and the government has used spyware to monitor others. Police brutality and arbitrary arrests of journalists, particularly those reporting on the refugee crisis, are also rampant.[70]

## Poland

In February 2022, certain UN experts highlighted the threats towards and intimidation against humanitarian actors by authorities on both sides of the Polish–Belarus border. Such reports of harassments particularly involve volunteers who assist migrants, journalists who cover the arrival of migrants and asylum seekers and interpreters who work with migrants. The Special Rapporteur on the situation of human rights defenders, Mary Lawlor, said she was ‘deeply concerned at this practice’.

In a similar way, the Special Rapporteur on the right to freedom of opinion and expression, Irene Khan, said ‘reports that these journalists are being persecuted for documenting such human rights violations are appalling’. These experts asked Poland to investigate ‘all allegations of harassment of human rights defenders, including media workers and interpreters, at the border with Belarus, and grant access to journalists and humanitarian workers to the border area ensuring that they can work freely and safely’.[71]

This call created no response from Poland. Entry to the border zone from Poland was restricted between 2 September 2021 and 30 June 2022. Morales observed that this has led to the serious obstruction of civil society and humanitarian actors, who are unable to pursue their missions in the border area. Some volunteers and activists have even faced prosecution for providing humanitarian assistance to migrants who are stranded at the border.[72]

## INTERNATIONAL REACTIONS

### The UN

On 21 February 2022, UN High Commissioner for Refugees, Filippo Grandi, published a statement on UNHCR’s website stating that ‘UNHCR is deeply concerned by the increasing number of incidents of violence and serious human rights violations against refugees and migrants at various European borders, several of which have resulted in tragic loss of life.’ The statement also reminded people of the violence, ill-treatment and pushbacks at several entry points at land and sea borders, within and beyond the EU, and the repeated calls by UN agencies, intergovernmental organisations and NGOs to end such practices.

Grandi particularly highlighted the pushback practices of Greece, along with other disturbing incidences in Central and South-Eastern Europe and deplored the failure to investigate the incidences ‘despite mounting, credible evidence’ and the fact that some practices violate the international principle of non-refoulement. Grandi’s disapproval of the fences and walls erected in several frontiers was based on the fact that such a security approach will do nothing but prompt asylum seekers to seek ‘more dangerous, routes, and likely result in further deaths’. The statement concluded: ‘what is happening at European borders is legally and morally unacceptable and must stop’.[73]

## EU complacency: Human rights violations

The EU is being increasingly criticised for turning a blind eye to human right abuses perpetuated by its members, such as Greece and Poland, or third countries, such as Turkey, Serbia, Libya or Morocco.

Of particular concern are the activities of Frontex.[74] The European Anti-Fraud Office (OLAF) exposed a report via a publication in the German newspaper *Der Spiegel*, showing that Frontex has been complicit in the pushback practices of Greece.[75] After reading the report, one may infer that:[76]

- In repeated incidents, Frontex management withheld cases of possible human rights violations from its own fundamental rights officer.
- The agency suspended its aerial surveillance to stop recording violations of the law.
- It co-financed some of the Greek units that carried out the pushbacks.
- It misled the bodies that are responsible for overseeing the agency.

Although it should be clear after reading the report that the pushbacks were of a ‘serious nature or are likely to persist’, Frontex did not terminate the joint operations as stipulated by Article 46 of the agency’s regulations.

This report led to the resignation of head of Frontex, Fabrice Leggeri. Frontex referred to the findings of the report as the ‘practices of the past’, and competent authorities on the agency continue to argue ‘that Frontex’s actions in the Aegean Sea region had been carried out in compliance with the applicable legal framework, including in accordance with the responsibilities stemming from fundamental rights’.[77]

The EU also continues to uphold the activities of Frontex. In its report of 6 October 2022, the EU Commission stated that ‘recent events have confirmed Frontex’ *[sic]* essential role in assisting Member States, on border management, surveillance and returns’.[78] The EU is steadily working to extend the activities of Frontex to neighbouring candidate and potential candidate countries. In late October 2022, the EU Commission adopted a recommendation to the Council to authorise the opening of negotiations of Frontex status agreements between the EU and Albania, Serbia, Montenegro and Bosnia and Herzegovina.[79]

However, critics remain justifiably sceptical since Frontex remains in operation in Greece as before, and Greek authorities continuously practise illegal pushback to Turkey.[80]

## TURKEY

### Continuing anti-migrant sentiment in society

Political actors with diverse political views are in concert for blaming the Justice and Development Party's (AKP's) twenty years of governance and its open-door policy with regard to Syrian asylum seekers for Turkey's economic decline.[81]

A newly established populist political party developed its political agenda solely on the deportation of all Syrians at all costs.[82] This is the Victory Party (Zafer Partisi) led by Ümit Özdağ, who has been actively using social media to promote hatred against refugees.[83]

The motto of the party, as published both in Özdağ's Twitter account and the website of the party, is 'The Victory Party will come, refugees will go!'[84] Özdağ founded the party in August 2021, as a spin-off from the Good Party (İYİ Party), the latter being criticised, among other reasons, for not having a solid political plan regarding the deportation of refugees. The founding manifesto of the Victory Party labels the current migrant situation in Turkey the 'Hidden Invasion'.[85] Özdağ commissioned a nine-minute short film on YouTube with a similar name ('Silent Invasion'). It describes a dystopic future where Turks become second-class citizens in their own lands, while Arabs dominate cultural and economic life.[86]

The party also pursues a version of welfare chauvinism, blaming immigrants for a lack of welfare services and poor quality of life, and pledging to offer these services exclusively to natives of Turkey. On 5 September 2022, Özdağ presented his 'Anadolu Fortress Project'. Earlier, in April 2022, he had said that he would start talks with the Assad regime in order to carry out this project.[87]

The project pledges to forcefully expulse asylum seekers and people under temporary protection *in toto*. Özdağ's party also contemplates a brutal border security plan to place anti-personnel landmines along the borders, which could kill all irregular migrants. For this purpose, Ümit Özdağ promised the withdrawal of Turkey from the 1997 Ottawa Convention that prohibits such use of land mines.[88]

The question of whether this political party will gain the support of the voters may generate confusing responses. According to a public survey for August 2022 the party could gain 2.2 per cent of the votes in the upcoming dual elections of June 2023. This would be a significant increase from its initial figures following the party's foundation (0.2 per cent).[89] Yet an update of the same survey, published in October 2022, showed that support of the party was at less than 1 per cent and a more recent update in December 2022 showed that it increased again up to 1.6 per cent.[90] Despite this fluctuating public support, Özdağ's manipulative use of social media and political discourse steers the debate on Syrians and is thus likely to considerably impact the political landscape.[91]

Public opinion is against Syrians across all sociological layers in Turkey. According to a recent survey on the capacity of Turkish society to co-exist in the current polarised society, the most noticeable groups among marginalised people were Syrians. Those who live in close quarters with Syrians are mostly against Syrians because their economic interests intersect and conflict, while those who almost never meet them are against Syrians for political reasons. Syrians were commonly labelled as being lazy, exploiting the country's resources by receiving unjust aid from the state and having too many children.[92]

## Change in the government's refugee politics

As the dual elections are fast approaching, AKP and President Erdoğan have had to revise Turkey's open-door policy and discourse regarding Syrians. In the face of growing discontent, Erdoğan has had to shift his ostensibly absolute pro-refugee stance to a rhetoric of dignified and voluntary return.

In February 2022, the Ministry of Interior announced its new plan to relocate Syrians and limit foreign residency in certain neighbourhoods in order to stop the 'ghettoisation' of these places by foreigners. To this end, sixteen cities, including Istanbul, Bursa, Ankara, Antalya, Izmir and Hatay, that have relatively higher Syrian populations, stopped issuing residencies for newly arrived foreigners.[93]

At the beginning of May 2022 Erdoğan announced his government's plan to expatriate 1 million Syrians to northern Syria, a region out of Assad's reach. As of August 2022, Turkey had completed the construction of more than 60,000 houses in Idlib, as part of the government's plan to support the return of Syrian refugees. The Interior Minister Süleyman Soylu shared a video of these newly constructed buildings and commented that these were for the 'dignified, safe and voluntary return of the Syrians'.[94]

Yet a lack of standardised procedures and arbitrariness continue to mark the administration of the refugee issue. In June 2022, ECtHR found Turkey guilty by upholding an applicant's allegation that 'he had been subjected to forced and unlawful expulsion to Syria by the Turkish authorities under the guise of a "voluntary return"'. [95]

The ECtHR found Turkey guilty of several violations, including of the right to effective remedy (ECHR Art. 13) and the right to liberty and security (Art. 5), as well as inhuman or degrading treatment (Art. 3). These violations concerned both the deportation itself and the treatment that the applicant was subjected to during procedures in Turkey.[95]

On 24 October 2022, HRW reported that 'Turkish authorities arbitrarily arrested, detained, and deported hundreds of Syrian refugee men and boys to Syria between February and July 2022.' According to statements made by these deported Syrians to the HRW, Turkish authorities violently arrested them in their homes, workplaces and on the street. They claimed to have been detained in poor conditions, beaten and ill-treated, forced to sign voluntary return forms and sent back to northern Syria at gunpoint. [96]

## CONCLUSION

The earlier NCHS paper concluded that 'the whole asylum regime of the free and democratic world is on the brink of collapse'. [97] The state practices mentioned in that paper in violation of the foundational human rights principles right to life and freedom from torture and inhuman treatment have, however, continued. What is even more appalling is that public opinion in some countries has been increasingly manipulated, with society groomed to express and find acceptable blatant racism.



Irresponsible pundits and right-wing populist politicians have been constantly adding fuel to this fire. Except for the case of Afghanistan (cautiously) mentioned in Section 3,[98] not only right to asylum per se, but all-encompassing values and principles, such as equality, rule of law and human dignity, are being exclusively applied to white Christian Europeans. The fate of 'others' is considered a matter of security, as if 'others' make up flocks of hazardous species to be sent to the remotest places possible.

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