



**Greek National Commission for Human Rights (GNCHR)**

**Input to the OHCHR study on human rights monitoring in the context of migration, including at international borders**



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*The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection and the National Human Rights Institution (NHRI). It was established with Law 2667/1998 in accordance with the UN Paris Principles and is governed by Law 4780/2021. Its members are persons appointed by twenty institutions (independent Authorities, third level trade unions, NGOs, universities and research institutions)*

## **Table of Contents**

<b>I. Introduction.....</b>	<b>4</b>
<b>II. The Greek National Commission for Human Rights (GNCHR) .....</b>	<b>4</b>
<b>III. The Recording Mechanism of Incidents of Informal Forced Returns.....</b>	<b>4</b>
Objectives.....	4
Members.....	5
Methodology .....	5
Findings.....	7
Recognition .....	8

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## **I. Introduction**

Based on resolution A/HRC/RES/57/14, the Office of the High Commissioner for Human Rights (OHCHR) was requested to prepare a study on human rights monitoring in the context of migration, including at international borders, presenting good and promising practices on how to integrate monitoring into migration governance. In terms of preparation of this study, the OHCHR requested input from National Human Rights Institutions (NHRIs). The present contribution responds to the OHCHR's request by presenting a GNCHR initiative on monitoring at borders which **has been already recognized as a promising practice towards enhancing accountability for human rights violations at borders**, namely the establishment and operation of a **Recording Mechanism of Incidents of Informal Forced Returns** with the collaboration of civil society and the support by the UNHCR Office in Greece.

## **II. The Greek National Commission for Human Rights (GNCHR)**

The Greek National Commission for Human Rights (GNCHR) was established by Law 2667/1998 as the independent advisory body to the Greek State in accordance with Paris Principles (General Assembly Resolution A/RES/48/134, 20.12.1993) and is the NHRI in Greece. The founding legislation of the GNCHR was amended by Law 4780/2021, the provisions of which now govern the operation of the Greek National Commission. Under these provisions, the GNCHR has acquired legal personality, functional, administrative and financial independence. Since 2001, the GNCHR, was accredited as an A' status NHRI (full compliance, in accordance with the UN Paris Principles) by the competent GANHRI Sub – Committee on Accreditation, in recognition of its substantial independence and effective fulfillment of its role. The last re-accreditation took place in November 2024.

## **III. The Recording Mechanism of Incidents of Informal Forced Returns**

### ***Objectives***

The GNCHR has established the [Recording Mechanism of Incidents of Informal Forced Returns](#) (hereafter 'the Recording Mechanism') by a decision of its Plenary in September 2021 following two major findings: a) the absence of an official and effective data collection mechanism of informal forced returns; and b) the need for coordination among organizations who record on their own initiative any alleged incidents of informal forced returns from persons who recourse to their services.

The main objective of the Recording Mechanism is the promotion and consolidation of respect for the principle of non-refoulement in Greece, which is the cornerstone of international

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\* This document reflects GNCHR standard positions and recommendations. It has been prepared by Eva Tzavala, Head of the Scientific Unit with the assistance of Kassiani Beleri, Human Rights Trainee.



refugee law, enshrined also in the Charter of Fundamental Rights of the European Union (Art. 19) and EU Directives of the Common European Asylum System, as well as the safeguarding of guarantees and legal procedures provided by EU law such as access to asylum (Art. 18). In addition, the Recording Mechanism will strengthen accountability for alleged human rights violations occurring during informal forced returns of third-country nationals, which lies at the core of the fundamental value of the rule of law. By adopting a coherent, transparent and scientific recording methodology, the Recording Mechanism aims at enhancing the credibility of the reported incidents. Respect for human rights, diversity, multiculturalism, and tolerance, as well as action to promote third-country nationals' rights, are prerequisites for being a member of the Recording Mechanism.

### ***Members***

Members of the Recording Mechanism have legal personality and are legally represented in Greece. The validation of their legal personality and the alignment of their operational objectives with those of the Recording Mechanism, requires submission of their statutes to it. The Recording Mechanism operates under common rules applicable to all its members, who have adopted its Founding Act, which stipulates their rights and obligations are bound by the commitment to pursue its shared objectives, use its instruments, and apply its methodology. So far, the following Civil Society Organizations (CSOs) are listed as members of the Recording Mechanism: Greek Council for Refugees (GCR), Hellenic League for Human Rights (HLHR), Network for Childrens' Rights, Medical Intervention (MedIn), METAdrasi – ACTION FOR MIGRATION AND DEVELOPMENT, Transgender Support Association (SYD), Refugee Support Aegean (RSA), HIAS Greece, Legal Centre Lesbos, Equal Rights Beyond Borders and International Rescue Committee Greece. Amnesty International is an observer to the Recording Mechanism. The UNHCR Office in Greece within the framework of its mandate, contributes its expertise and technical support to the Recording Mechanism, as a cooperating Agency.

### ***Methodology***

The Recording Mechanism records, and reports on incidents of informal forced returns of third-country nationals from Greece to third countries regardless of their legal status in Greece, i.e., irrespective of whether they are irregular migrants, registered or unregistered asylum seekers or recognized refugees. The Recording Mechanism applies a standardized, transparent, and scientific recording methodology to increase the credibility of the reported incidents. Each member organization designates recording officers who are trained by the Supervisor of the Recording Mechanism on the methodology of the Recording Mechanism.

The recording methodology of the Recording Mechanism is designed along the five following pillars.

1. Definition of an Informal Forced Return (IFR) incident



The cornerstone of the methodology of the Recording Mechanism is the definition of the incident of IFR, as developed in joint consultations with its Members and adopted by them in its Founding Act. No recording shall be finalised by the Recording Mechanism, unless the facts reported comply with this definition. For the scope of the Recording Mechanism an incident of IFR is defined as the informal deportation, removal, 'pushback' or return, by summary proceedings outside the legal framework, of third-country nationals, including asylum seekers and holders of legal residence titles in Greece, from the Greek territory, without individual examination of international protection or other needs, and without the possibility of having recourse to legal remedies, which may lead to a direct or indirect breach of the principle of *non-refoulement* as stipulated in Article 33 of the Geneva Refugee Convention, Article 3 of the International Convention against Torture, Article 3 of the European Convention on Human Rights, or the principles of international customary law.

## 2. Personal Interview

Testimonies are being recorded through personal interviews with the alleged victims of IFR incidents, conducted by the recording officers, designated by the Members of the Recording Mechanism, usually in the support of interpreters, to ensure mutual understanding. Following an identity check of the alleged victims, the interviews are conducted by any appropriate means in a safe environment. The recording officers, whether social, legal, or scientists of other disciplines, professionals or volunteers, are designated by the Members and subsequently trained by the Supervisor of the Recording Mechanism. The Recording Mechanism shall not record in the Recording Forms indirect testimonies or narrations, or claims by third parties, that is, persons who are not themselves victims of IFR incidents. Optional exemptions are permitted, in cases where testimonies are provided by third persons when: a) the alleged victim, on grounds of force majeure or vulnerability (such as invisibility, disappearance, serious illness, imprisonment or death), is unable to participate itself in the interview, b) the person giving the testimony is in a position to reasonably justify that he/she has personal knowledge of the facts upon which he/she is giving the testimony and c) the testimony must be confirmed by a direct testimony of another alleged victim involved in the same IFR incident.

## 3. Consent

Before the interview the alleged victim's prior written consent is required, after having been fully informed in a language they understand about the content of the Consent Form, as well as on the purpose of the interview and the way their personal data and testimony will be used.

## 4. Common Recording Form of an IFR incident

Testimonies are recorded on a common Recording Form as developed by the Recording Mechanism in joint consultations with its Members and the UNHCR. In order for the Recording Form to meet the needs of recording a rather complex phenomenon including multiple stages of management (detection or informal arrest, informal detention or restriction

on freedom of movement, physical removal), is divided into corresponding modules and sections, with the purpose of gathering detailed information on the identity of the alleged perpetrators, the place and time referring to each stage of the incident, from the detection of the alleged victims in the Greek territory to their fate after their removal from the country, and recording the alleged perpetrators' *modus operandi*. Finally, any intention of the alleged victim to take further steps regarding their case, for instance, whether he/she has made or wishes to lodge a complaint before the competent Authorities, shall be recorded in the Recording Form.

## 5. Quality Control

The Recording Forms shall be subjected to quality control performed by the Recording Mechanism. The quality control applies to the correct filling in of the Recording Form in accordance with the relevant Instructions, and the correspondence of the facts to the indicators of informality included in the IFR definition, as set out in the Founding Act of the Recording Mechanism.

## *Findings*

The latest findings of the Record Mechanism are demonstrated in its most recent [2023 Annual Report](#) of June 2024 and confirm the ones presented in its two previous [January 2023 interim report](#) and [2022 Annual Report](#). The Recording Mechanism will publish its 2024 Annual Report in the following couple of months.<sup>1</sup>

To showcase some basic quantitative data, from January to December 2023, the Recording Mechanism recorded **testimonies about 45 IFR incidents**, reportedly occurred in the period between January 2022 and December 2023, through personal interviews with 37 alleged victims. According to testimonies about 45 IFR incidents, the total number of the alleged victims, is estimated to a minimum of 1.438 persons, including at least 158 women, 190 children and 41 persons having special needs, such as persons with medical conditions, elderly people, people with disabilities etc. The countries of origin of the alleged victims are countries whose nationals are granted international protection status in Greece and the rest of the EU at significant rates (Syria, Palestine, Türkiye, Iraq, Iran, Somalia, Cameroon, Mali and Democratic Republic of Congo).

The main characteristic of these incidents, as has been presented in the aforementioned reports, is **gradualness** (gradual, step-by-step implementation procedure). As it follows from the testimonies, the alleged victims are initially detected by a group of people in uniform or in civilian clothes (detection stage), subsequently, in most cases they are taken to a place where they are informally kept under guard (informal detention stage) and eventually, they are transferred from the place of detection or detention to the location where the physical removal operation is conducted and the IFR operation is completed (physical removal stage).

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<sup>1</sup> All published reports are available at <https://nchr.gr/en/reports.html>

## Recognition

The Greek National Commission presented the Recording Mechanism at a **Press Conference** held at its premises in January 2023. During the Conference, the Recording Mechanism's mode of operation and methodology were presented as well as preliminary findings recorded in its **first Interim Report**. The event was attended and addressed by the Director of the European Union Agency for Fundamental Rights – FRA, Michael O' Flaherty through a video message, the Deputy Fundamental Rights Officer of the European Border and Coast Guard Agency – Frontex, Grigorios Tsioukas, the Chief of Mission of the IOM in Greece and Regional Response Coordinator, Gianluca Rocco, and the Representative of the UNHCR in Greece, Maria-Clara Martin.

The establishment of the Recording Mechanism and the presentation of its Interim Report were positively welcomed by **the Ministry of Migration and Asylum**, which issued a press release underlining the need for the existence of a reliable recording mechanism of IFRs.<sup>2</sup>

At European Union level, several bodies have underlined the importance of the operation of the Recording Mechanism and its findings. The **European Commission's** 2023 Rule of Law Report on its country chapter for Greece made a reference to the Recording Mechanism describing it as **a positive development** aiming to boost accountability for reported human rights violations alleged to have occurred during informal forced returns of third-country nationals from Greece to other countries.<sup>3</sup> The need to support and promote all initiatives aimed at **enhancing transparency** of migration management issues, such as the Recording Mechanism, has been also highlighted by the Committee on Civil Liberties, Justice and Home Affairs (LIBE), in its Report submitted to the **European Parliament**, following its visit to Greece from 6 to 8 March 2023.<sup>4</sup> Furthermore, **the EU Agency for Fundamental Rights** pointed out that the establishment and the initiation of the Recording Mechanism constitute **a good transparency practice** for the reported complaints.<sup>5</sup> In addition, the Recording Mechanism has been highlighted as **a promising practice** by the same institution (FRA) in its 2024 Guidance on investigating alleged ill-treatment at borders.<sup>6</sup>

In 2024, the GNCHR received a request by the **European Court of Human Rights (ECtHR)**, to submit a written intervention as regards the cases of *G.R.J. v. Greece* (application no 15067/21) and *A.R.E. v. Greece* (application no 15783/21). The cases were related to two

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<sup>2</sup> Ministry of Migration and Asylum Press Release, 24.01.2023, available only in Greek at: <http://tinyurl.com/4a42t29k>

<sup>3</sup> EU Commission, 2023 Rule of Law Report - Country Chapter on the rule of law situation in Greece, available at: <http://tinyurl.com/muyxw2a>

<sup>4</sup> European Parliament - Committee on Civil Liberties, Justice and Home Affairs, Draft Mission Report following the LIBE mission to Athens, Greece, 6 to 8 March 2023, 11 April 2023, p.15, available here: <https://tinyurl.com/yw7zp2uk>

<sup>5</sup> FRA – EU Agency for Fundamental Rights: Asylum and migration: Progress achieved and remaining challenges, available at: <http://tinyurl.com/5f85uay9>

<sup>6</sup> FRA – EU Agency for Fundamental Rights: Guidance on investigating alleged ill-treatment at borders, 30 July 2024, available at <https://tinyurl.com/5h6uzb8j>



applications against the Greek Authorities, lodged with the ECtHR by individuals requesting international protection on reported incidents of informal forced returns for the period 2019 – 2020. The GNCHR substantiated its answer to the Court’s question on the Recording Mechanism’s findings.<sup>7</sup> The question was whether there has been “*a systematic practice of refoulement of foreign nationals by the Greek authorities to Türkiye at land and sea borders*”. The judgment on *A.R.E. v. Greece* and the decision on *G.R.J. v Greece* were published on 7 January 2025. In the ECtHR Judgments, significant reference is made to the third-party intervention submitted by the GNCHR, as well as to the 2022 and 2023 Annual Reports of the Recording Mechanism.<sup>8</sup>

The Recording Mechanism has also received a warm welcome by the **Greek civil society** active on refugee and migrant matters. The Recording Mechanism, following a decision taken by the Organising Committee of the Walk Against Discrimination #WAD2024, was awarded with the baton of the “*Anti-racism Janetos Antypas Award*” for 2024 on the International Day for the Elimination of Racial Discrimination.<sup>9</sup>

### **Recommendations**

The GNCHR support the recommendations formulated by the Recording Mechanism.

The Recording Mechanism recommended in 2024 to the Greek Authorities to:

1. Investigate in an independent and efficient manner, all complaints lodged by persons alleging to have been subjected to IFR incidents and other incidents of serious human rights violations at the borders, by applying, *mutatis mutandis*, the provisions laid down in the Circulars of the Prosecutor of the Supreme Court No 1/2023 and No 18/2023, underlining that any failure to act in this regard is not only contrary to the obligations of the Greek Authorities pursuant to international human rights law and the European Convention on Human Rights (ECHR), but risks to put the country on an embarrassing spot and ends up to new convictions by the ECtHR.
2. Ensure compliance with the procedures provided by law and guarantee that those responsible for any illegal actions are brought to justice.
3. Guarantee, through the use of technological equipment and other means of operational action, that objective evidence, such as the metadata derived from mobile phones, GPS devices/applications, photos and videos, are collected and subsequently delivered at the disposal of the law enforcement agencies and judicial Authorities, for the effective investigation of the reported IFR incidents.

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<sup>7</sup> The full text of the GNCHR Written Intervention is available at [https://nchr.gr/images/Synedries/2024/4.4.2024/final\\_Written\\_submission\\_to\\_ECHR.pdf](https://nchr.gr/images/Synedries/2024/4.4.2024/final_Written_submission_to_ECHR.pdf)

<sup>8</sup> ECHR, *A.R.E. v. Greece* (application no 15783/21), judgment of 7 January 2025, paras. 143-145, available at <https://hudoc.echr.coe.int/?i=001-238636> ; *G.R.J. v. Greece* (application no 15067/21), decision of 7 January 2025, paras. 126-128, available at <https://hudoc.echr.coe.int/eng?i=001-240283>

<sup>9</sup> Press Release of the Organising Committee of the Walk Against Discrimination #WAD2024, 19 March 2024, available here: <https://tinyurl.com/5n833ekh>

4. Make use of the powers and tools provided for in the *Greek Code of Criminal Procedure* and in the *Council of Europe Convention of 1959 on mutual legal assistance in criminal matters*, where necessary.
5. Take measures to ensure effective access to justice and protection for the victims, by applying *mutatis mutandis*, the same provisions applied in cases of other victims of criminal acts, like victims of human trafficking and victims of forced labour, paying particular attention to victims living abroad.
6. Guarantee that all state bodies fully respect the principle of *non-refoulement* and act in compliance with it.
7. Guarantee that the competent state bodies carry out rescue operations in the maritime zone of their responsibility, promptly, as required by international law.
8. Guarantee that all asylum seekers in the Greek territory, have access to asylum procedures and are protected against pushbacks and every form of IFR incidents.
9. Provide third-country nationals or stateless persons finding themselves at border crossing points or in detention facilities, with information on the opportunity to file an asylum application, to offer them the possibility for interpretation appropriate for the access to the asylum procedure and to ensure access of organisations and individuals who provide information and advice to the applicants in line with the provisions of Article 8 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast).
10. Follow the recommendation of the concluding observations of the UN Committee on the Rights of the Child (CRC), encouraging the Greek State to terminate IFR incidents and ensure personal identification, registration and protection of third country nationals, especially of children, through the effective access to asylum procedures and free of charge legal and other humanitarian aid, pursuant to Articles 6, 22 and 37 of the Convention on the Rights of the Child.
11. Ensure training of officials working at the borders, in services/agencies like the Reception and Identification Service (RIS), the Asylum Service, the Police, the Border and Coast Guard Agencies as well as the adoption of binding codes of conduct for their staff.
12. Launch, in association with the competent EU bodies, the establishment of an independent and effective national mechanism, responsible for the monitoring of compliance with fundamental rights at EU external borders, in accordance with the Guidelines of the EU Agency for Fundamental Rights and the 10 relevant points jointly notified to the Greek Authorities by the UNCHR, the OHCHR and the European Network of NHRIs (ENNHRI).

13. Reform the legislative framework on the Composition of the Ministry of Migration and Asylum Task Force for Fundamental Rights Compliance, so that the participation of the GNCHR in it, is harmonised with the independent advisory role, on human rights issues, entrusted to it by the State.
14. Guarantee an enabling environment for the development of CSOs and human rights defenders action plans.
15. Show zero tolerance for harassment, attacks, hate speech and any other form of targeting of human rights defenders by official state bodies, by adopting a coherent policy to prevent such phenomena, in line with the recommendation made by the Racist Violence Recording Network to promote actions to address hate speech and institutional racism against refugees and migrants and their defenders.
16. Immediately revise the requirements for the registration of NGOs and their members by the Ministry of Migration and Asylum, so as not to disproportionately affect the activities of the organisations, in line, inter alia, with the recommendation of the European Commission's Report on the Rule of Law in Greece in 2022.
17. Refrain from conducting criminal prosecutions against organisations or other groups of human rights defenders for providing humanitarian aid to third-country nationals or performing their duties (e.g. lawyers, journalists, doctors and rescuers).
18. For those human rights defenders who already have criminal proceedings pending, to guarantee their rights and delivery of judgements, pursuant to an expedited procedure, in accordance with the guarantees of, inter alia, Article 6 of the ECHR. For attorneys at law specifically, harmonize the way they are treated by the competent state bodies with the requirements and recommendations of the Athens Bar Association.