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AT EUROPE'S BORDERS: BETWEEN IMPUNITY AND CRIMINALIZATION

This report from the Greek Council for Refugees (GCR) contributes to an existing body of extensive evidence of the Greek state's illegal pushbacks practice, by providing particularly detailed descriptions of eleven pushback cases at the Evros border region and the Aegean islands, and two cases of pullbacks by the Turkish authorities in Evros. All cases included in this report are legally represented by GCR and submitted before the European Court of Human Rights (ECtHR) and / or the Greek Public Prosecutor. These testimonies, which all share very similar descriptions of what people had to endure during a pushback operation, offer a disturbing insight into the organized and systematic nature of these illegal practices. The report also describes how the Greek state intimidates, stigmatizes and criminalizes human rights defenders who support pushback victims. We highlight statements of senior Greek politicians wherein they link NGOs, including the Greek Council for Refugees, to smuggler networks, accuse them of cooperation with Turkey, assert that said NGOs are undermining Greek national sovereignty, and label them enemies of the state. These false accusations have created a repressive environment wherein the support for asylum seekers and their rights has become incredibly difficult.

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Report authored by Alkistis Agrafioti
Chatzigianni and Kleio Nikolopoulou.

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For further information on the issues raised in this report please email Kostas Vlachopoulos: k.vlachopoulos@gcr.gr

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TABLE OF CONTENTS

1. INTRODUCTION	p.4
2. PUSHBACKS AS AN ESTABLISHED POLICY	p.5
2.1. Definition of Pushbacks	p.5
2.2. Documented pushbacks in Greece	p.6
3. PUSHBACK CASES IN EVROS	p.9
3.1. The Situation in Evros	p.9
3.2. Pushback cases before the ECtHR	p.11
A. EVROS ISLETS	p.13
I. The emblematic pushback case from the Evros mainland to an islet- before the shift of the pushback practice	p.13
II. The pushback case involving rape of men and women	p.16
III. Asylum seekers injured by commandos' attacks on the islet in the pushback case of 20 April 2022	p.19
IV. Use of migrants as authorities' auxiliaries in the pushback operation of 25 April 2022	p.20
V. The pushback case of the 38 syrians stranded on an Evros islet divided by a Greek-Turkish border line that creates a Greek and a Turkish part	p.21
B. EVROS MAINLAND	p.26
I. The pushback and torture case of the 5 Turkish asylum seekers	p.26
II. The case of 7 Turkish asylum seekers detected between Orestiada and Neo Cheimonio and pushed back on 27 June 2022	p.28
III. The case of 5 Turkish asylum seekers detected in the vicinity of Orestiada and pushed back on 4 July 2022	p.29
IV. The pushback case that led to the imprisonment of the Turkish asylum seeker after the forced "repatriation" to Turkey	p.30
C. THE PULLBACK OPERATIONS DESCRIBED IN PUSHBACK VICTIMS' TESTIMONIES	p.32
I. Pulled back to Turkey with the use of tree trunks	p.32
II. Pushed back with the use of firearms before being violently pulled back	p.33
4. PUSHBACK CASES AFTER ARRIVAL ON GREEK ISLANDS BROUGHT BEFORE THE PUBLIC PROSECUTOR	p.35
I. Pushback after entry into a government-run facility in Lesbos	p.36
II. Pushback of recognized Palestinian refugees on the Eastern Aegean Island of Kos	p.38
5. CRIMINALIZATION OF NGOS ASSISTING THE NEWLY ARRIVED ASYLUM SEEKERS IN EVROS	p.41
A. Targeting of NGOs operating in Evros	p.41
B. Shifting the focus away from the violent pushback of the 38: Stigmatization, Targeting, Intimidation	p.43
6. CONCLUSIONS	p.46
7. RECOMMENDATIONS	p.48

1. INTRODUCTION

Recent years have seen countless reports of pushbacks at Greece's land and sea borders with Turkey. The Greek state continuously fails to launch adequate investigations or accept responsibility despite their complicity in these illegal operations being well-documented. The findings of this report demonstrate that **pushback operations and the concomitant targeting of those working to defend the rights of victims in Greece are not isolated incidents, but an unofficial migration and border policy** implemented by Greek state actors and their auxiliaries.

To shed light on this systematic state policy, the report firstly recounts pushback cases in the Evros border region, brought before the European Court of Human Rights (ECtHR) between March 2022 and October 2022. The report then presents two pushback cases that occurred in the Eastern Aegean islands, that are significant as in both cases some of the pushback victims managed to re-enter Greece and file official complaints before the Public Prosecutor. All of the cases included in this report are legally represented by GCR and submitted before the ECtHR and/or the Public Prosecutor. The details presented herein are based on the testimonies of the pushback victims.

By detailing the multiple similar testimonies of pushback victims in Greece, combined with evidence of pushbacks outlined in relevant reports and publications, this report aims to firstly

demonstrate that said illegal practices **constitute a systematic, meticulously planned and comprehensive policy of the Greek state, involving multiple actors and operational steps.** Moreover, this report aims to counteract the argument perpetuated by Greek and EU authorities, that there is a lack of evidence on the existence and/or perpetrators of pushbacks, which has led to a situation of chronic impunity for the perpetrators and a lack of access to justice for victims of these rights violations at Europe's borders. Furthermore, this report sheds light on the Turkish authorities' involvement in the violent management of asylum seekers in the Evros region, leading to the conclusion that the policies of multiple EU and non-EU state authorities are at play in these rights violations at the EU's external border.

Lastly, this report also highlights another aspect of the Greek state's policy of deterrence and violence against those seeking protection at its borders, i.e. the systematic targeting of human rights defenders (HRDs), by presenting in detail the intimidation and attempted criminalisation of HRDs involved in legal actions to support the pushback victims of the cases presented in the report.

We hope that this report will contribute to ending the ongoing impunity of those perpetrating grave human rights violations against migrants and refugees seeking protection in Europe, as well as the increasing attempts to silence and intimidate human rights defenders.

2. PUSHBACKS AS AN ESTABLISHED POLICY

2.1. Definition of Pushbacks

“Pushbacks” is the illegal state practice of informally and forcefully removing a person or a group of persons out of the country’s territory without assessing their claims for entry or protection.¹ Pushback operations take place both at land and sea borders and can be conducted not only during the crossing of the border, but even after the arrival of the individual or the group to the territory.

The Special Rapporteur on the Human Rights of Migrants defines “pushbacks” as *“various measures taken by States which result in migrants, including asylum seekers, being summarily forced back to the country from where they attempted to cross or have crossed an international border without access to international protection or asylum procedures or denied of any individual assessment on their protection needs which may lead to a violation of the principle of non-refoulement”*.²

Pushbacks are also known as illegal forced returns, illegal collective expulsions, illegal refoulements, illegal forced removals. However, these are all ways to describe the unlawful practice of informally removing a person or group of persons from a country to another without applying legal frameworks and procedural safeguards.³ Pushbacks are in violation of the main principle of asylum and refugee law, **the principle of non-refoulement**.

In particular, according to Article 33 (1) of the 1951 Refugee Convention:

No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.⁴

The principle of non-refoulement is part of Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection. The Court of Justice of the European Union (CJEU) has also recognized the principle of non-refoulement, specifically under

¹ See relatively the definition of “pushbacks” provided by ECCHR, European Center for Constitutional and Human Rights, available at: <https://www.ecchr.eu/en/glossary/push-back/>

² UN Human Rights Council, Special Rapporteur on the human rights of migrants, Report on means to address the human rights impact of pushbacks of migrants on land and at sea, 12 May 2021, available at: <https://bit.ly/3GRUOnt>

³ Note from the authors: The term “pushback” is going to be used throughout the Report in order to describe the aforementioned practice of illegal forced removals from the Greek territory.

⁴ The principle of non-refoulement has been reaffirmed in a series of international conventions, among others the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984 by the General Assembly resolution 39/46 prohibits refoulement in Article 3, according to which: “No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” According to UNHCR, the principle of non-refoulement has become a norm of customary international law.

article 4 (prohibition of torture and inhuman or degrading treatment or punishment) and article 18 (right to asylum) of the EU Charter. The ECtHR has recognized the same core principle, namely under article 3 (prohibition of torture, and inhuman or degrading treatment or punishment) of the European Convention of Human Rights. Furthermore, pushback operations in Greece include arbitrary arrest and detention, theft and damage of personal items, abduction, verbal, psychological and/or physical violence, sexual violence, torture, exposure to risk likely to cause harm or death, all criminal offenses under the Greek Penal Code.

2.2. Documented pushbacks in Greece

Pushbacks of asylum seekers take place mostly in the Evros region and the Aegean islands. There have also been reports regarding incidents including informal arrests of persons in Greek territory, mainland and islands, who have been pushed back, even though some possessed documents proving their le-

gal presence in Greece.⁵ In recent years, reports of pushback operations both at the land and the sea border of Greece with Turkey have been increasing.⁶ During 2020-2021, UNHCR recorded 539 incidents of 'informal enforced return' at land and sea borders (referred to as pushback or driftback), involving at least 17,000 people, during which potential violations of a number of rights were reported.⁷ Between early 2020 and February 2022, UNHCR formally submitted 59 cases of informal enforced returns at land and sea borders through 17 official letters addressed to the Greek authorities, requesting investigations.⁸ Moreover, in December 2021, 32 applications of pushback incidents from Evros, Crete, Kos, Kalymnos, Lesbos, Samos or the sea before the victims reached any island were communicated by the ECtHR to the Greek Government.⁹

However, **pushbacks at the borders is not a recent phenomenon. On the contrary, such operations have been reported for a long time.**¹⁰ A milestone ECtHR case concerns the tragic ship-

⁵ One of the most characteristic cases of such an operation concerns an Afghan national, legally residing in the European Union and employed by the E.U. border agency, Frontex as an interpreter. He has reported how Greek border guards mistook him for an asylum seeker and forcibly and illegally expelled him to Turkey: The New York Times, E.U. Interpreter Says Greece Expelled Him to Turkey in Migrant Roundup, 1 December, 2021, <https://www.nytimes.com/2021/12/01/world/europe/greece-migrants-interpreter-expelled.html>

⁶ See indicatively: Joint Statement on pushback practices in Greece, 1 February 2021, available at: <https://bit.ly/3GZOr8d>, The Greek Ombudsman, Alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection- Interim report (updated up to 31 December 2020), <https://bit.ly/3GGZLnQ>, EU Agency for Fundamental Rights (FRA), Migration: Fundamental rights issues at land borders, 8 December 2020, <https://bit.ly/3kfkZBA>

⁷ UNHCR, Submission by the Office of the United Nations High Commissioner for Refugees in the case of S.A.A. and Others v. Greece (No. 22146/21) before the European Court of Human Rights, available at: <https://www.refworld.org/pdfid/62f39cb44.pdf>

⁸ Ibid.

⁹ ECRE, AIDA Report - Greece 2021, p.33, available at: https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-GR_2021update.pdf

¹⁰ See indicatively past reports of previous years on the issue of pushbacks in Greece: Human Rights Watch, Greece: Investigate Pushbacks, Summary Expulsions, 30 January 2014, <http://bit.ly/3khSinW>, PICUM, EU Migration Policy: A Push Back for Migrants' Rights in Greece?, June 2014, <https://bit.ly/3w22Gm6>, ECRE, AIDA Country Report- Greece, November 2015, p. 30-33 <https://bit.ly/3CIHp4A>, GCR, Reports of systematic push-

wreck off Farmakonisi in the Eastern Aegean on 20 January 2014, where 8 children and 3 women died. The survivors reported that the boat sank during a pushback operation conducted by the Greek Coast Guard. Unfortunately, the case was quickly closed and filed. On 7 July 2022 the ECtHR finally issued the **landmark decision** on the application that was lodged by human rights organizations on behalf of the survivors.¹¹ The ECtHR found a violation of the right to life, due to the authorities' failure to responsibly and effectively investigate such serious allegations. Moreover, the ECtHR found a violation of the right to life due to the omission of actions that the Greek authorities should and could have taken to protect human lives and prevent the tragic incident. The Court also held that Coast Guard officers had inflicted degrading and inhuman treatment against shipwreck survivors.¹²

Recently, a series of reports were issued on the systematic conduct of pushback operations mainly at the land border of

Greece with Turkey, in the Evros region. In June 2021, Amnesty International published a new report on pushbacks in Greece documenting 21 incidents of unlawful and violent returns from Greece to Turkey.¹³ In March 2022, Human Rights Watch published a revealing report about Greek security forces and unidentified men who assaulted, detained, robbed asylum seekers and forced them to return to Turkey.¹⁴ In August 2022, Medecins sans Frontieres (MSF) published a report thoroughly documenting violent pushbacks in the North Eastern Aegean island of Samos against people seeking international protection.¹⁵ In October 2022, MSF reported findings of a group of newly arrived asylum seekers handcuffed and injured from beatings in Lesvos.¹⁶

The UN High Commissioner for Refugees even issued a statement in February 2022, stating: ***“We are alarmed by recurrent and consistent reports coming from Greece’s land and sea borders with Turkey, where UNHCR***

backs in the Evros region, 20 February 2018, <http://bit.ly/3X6UXiM>, GCR, The new normality: Continuous pushbacks of third country nationals on the Evros river, 12 December 2018, <http://bit.ly/3ZB6h8g>, European Center for Constitutional and Human Rights, (ECCHR), Analyzing Greek Pushbacks: Over 20 Years of Concealed State Policy Without Accountability, <https://bit.ly/3iwwZhV>

¹¹ The organizations that represented the case before the Court are the Greek Council for Refugees, Refugee Support Aegean (RSA) / PRO ASYL, Network of Social Support to Refugees and Migrants, the Hellenic League for Human Rights and the Group of Lawyers for the Rights of Refugees and Migrants

¹² ECtHR, *Safi and Others v Greece*, App No 5418/15, Judgment of 7.7.2022, available at: <https://bit.ly/3FFqzv9>

¹³ Amnesty International, Greece: Violence, lies, and pushbacks – Refugees and migrants still denied safety and asylum at Europe’s borders, 23 June 2021, available at: <https://www.amnesty.org/en/documents/eur25/4307/2021/en/>, Needs to be noted that already 8 years ago, in 2013, Amnesty International reported for the first time that the Greek authorities put the lives of refugees in danger by unlawfully returning them to Turkey: Amnesty International, Greek authorities put lives in danger by pushing refugees and migrants back to Turkey, 9 July 2013, available at: <http://bit.ly/3P7tk65>

¹⁴ Human Rights Watch, Greece: Violence Against Asylum Seekers at Border Detained, Assaulted, Stripped, Summarily Deported, 17 March 2022, available at: <https://www.hrw.org/news/2020/03/17/greece-violence-against-asylum-seekers-border>

¹⁵ MSF, Fear, beatings and forced returns for people seeking safety on Greek island of Samos, 9 August 2022, available at: <https://www.msf.org/fear-beatings-and-pushbacks-people-seeking-safety-greek-island-samos>

¹⁶ MSF, People found handcuffed and injured on the Greek Island of Lesvos, 25 October 2022, available at: <https://bit.ly/3ukUz3e>

has recorded almost 540 reported incidents of informal returns by Greece since the beginning of 2020.”¹⁷ This

alarming statement was published a year and a half after the UNHCR had called upon the Greek authorities to investigate the numerous reports of pushbacks at its borders,¹⁸ and urged for the protection of asylum seekers.¹⁹

In early 2022, ECRE (the European Council on Refugees and Exiles) issued a briefing on Greece for the year 2021, stressing that pushbacks prevent arrivals and push people towards more deadly routes.²⁰ The European Commissioner for Home Affairs, Ylva Johansson, has also urged Greece to promptly and thoroughly investigate all pushback allegations. The Commissioner, during her speech at the Plenary debate on pushbacks at the EU external borders, stated that:

“Violence at our borders is never acceptable. Especially if it is structural and organized”.²¹

¹⁷ UNHCR, News Comment: UNHCR warns of increasing violence and human rights violations at European borders- This statement is attributed to UN High Commissioner for Refugees Filippo Grandi, 21 February 2022, available at: <http://bit.ly/3OOOqrn>

¹⁸ UNHCR, UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey, 12 June 2020, available at: <http://bit.ly/3FhzvRz>

¹⁹ UNHCR, UNHCR concerned by pushback reports, calls for protection of refugees and asylum-seekers, 21 August 2020, available at: <http://bit.ly/3udlNHM>

²⁰ ECRE, Greece: Deadly End to 2021, Pushbacks Prevent Arrivals and Drive People Towards More Deadly Routes, Closed Controlled Camps Again Face Legal Scrutiny and Criticism, 14 June 2022, available at: <http://bit.ly/3igH8hZ>

²¹ European Commission, Commissioner Johansson's speech at the Plenary debate on pushbacks at the EU external border, 20 October 2021, <http://bit.ly/3Uvj9t6>

3. PUSHBACK CASES IN EVROS

3.1. The situation in Evros

The Evros Landscape: The Evros River forms an approximately 200 km natural border between Greece and Turkey. The Evros islets are not permanently above water and consist of small, mostly deserted pieces of land with no shelter or access to food or potable water. Furthermore, the area adjacent to the Greek-Turkish borders in Evros is a military zone, not accessible to civil society organizations.

The Evros Border Fence: In August 2022, the Greek Minister of Migration and Asylum announced the government's plans to extend the 40km long fence along the Greek-Turkish border at Evros as part of efforts to control border crossings of migrants.²³ Earlier in May 2022, the Minister had sent a request to the European Commission arguing that Greece is legally allowed to use EU funds it receives through DG Home's Border Management for the extension of the Evros border fence²⁴, despite the fact that the Commission has repeatedly opposed demands to use EU funds for building border fences with the argument that they *'are not the most efficient tool to improve border management'*.²⁵



Image 1: Giannis Papanikos / AP / picture alliance, as published by DW.²²

²² DW, Is Greece failing to use EU-funded border surveillance, 9 August 2022, available at: <https://bit.ly/3XRjIGX>

²³ Infomigrants, Greece Stops Large Number of Migrant Crossings at Evros border, 22 August, 2022, available at: <https://bit.ly/3XLIC4h>, GreekCityTimes, Evros: Greek-Turkish Border fence to be extended by 80km, 19 August 2022, available at: <https://bit.ly/3izZuuJ>, GreekReporter, Border walls of Evros to be expanded 80km, 20 August 2022, available at: <https://bit.ly/3OTYIVt>

²⁴ Politico, Brussels Playbook: EPP reshuffle — Greece wants wall — Sanctioning Schröder, 19 May 2022, available at: <https://politi.co/3BHwSW>

²⁵ EPRS, European Parliamentary Research Service, Walls and Fences at EU Borders, October 2022,

In early January 2023, the Minister of Citizens' Protection announced that a first 35km (out of 140km) extension of the fence had been approved by the Ministry of Finance and would cost the state budget 100 million euros.²⁶

The Border Surveillance System in Evros: Moreover, a border surveillance system on the Evros land border with Turkey, funded by the EU Internal Security Fund (DG Home) has been operational since November 2021. It consists of a network of cameras and long-range radar systems installed along the border, transmitting real time images and data on the conditions in the area.²⁷ The pushback cases of asylum seekers at the Greek-Turkish border presented below raise concerns about the Greek authorities' possible misuse of EU funded surveillance technology in Evros. Instead, this technology should be used to support search and rescue missions and ensure access to territory and asylum.²⁸

Formal Detention & Official Reception and Identification Procedures in Evros: Persons entering Greece through the Greek-Turkish

land border in Evros are subject to reception and identification procedures at the Reception and Identification Center (RIC) of Fylakio, Orestiada, which operates as a closed facility.²⁹ However, depending on the number of arrivals, newly arrived asylum seekers, including families and children, once detected, are apprehended [arrested] by the authorities and may first be transferred to a border guard police station or the pre removal center in Fylakio, where they remain in detention pending their transfer to the RIC Fylakio. In 2021, the Greek Asylum Service registered 3,123 asylum applications in Fylakio, Evros.³⁰

The Neo Cheimonio Border Guard Station: The last visit of the Council of Europe's European Committee for the Prevention of Torture (CPT) to Police and border guard sites in the Evros region, including the Neo Cheimonio Police and Border Guard Station, took place between 13 and 17 March 2020, almost 3 years ago.³¹ According to the CPT report (published in November

available at: <https://bit.ly/3Wkclclt>

²⁶ Greek Reporter, Greece Ready to Extend Turkey Border Fence by 35 kilometers, available at: <https://bit.ly/3GyXsmP>, Documentonews, Αντιμεταναστευτικό κρεσέντο κυβέρνησης- Θα δώσουν 100 εκατ. ευρώ για φράχτη στον Έβρο, 7 January 2023, available [in Greek] at: <https://bit.ly/3XGyDfR>, Tvxs, Θεοδωρικάκος: Ξεκινάει άμεσα η επέκταση του νέου φράχτη στον Έβρο, 20 January 2023, available [in Greek] at: <https://bit.ly/3iVUhX5>

²⁷ Ekathimerini, Surveillance system ready to go in Evros, 22 October 2021, available at: <https://bit.ly/3B6lqCZ>

²⁸ DW, Is Greece failing to use EU-funded border surveillance, 9 August 2022, available at: <https://bit.ly/3XRjIGX>

²⁹ ECRE, AIDA Report - Greece 2021, pp. 47-48, available at: https://asylumineurope.org/wp-content/uploads/2022/05/AIDA-GR_2021update.pdf

³⁰ Ibid, p. 51.

³¹ COE, CPT, Anti-torture Committee undertakes rapid reaction visit to Greece to examine treatment of migrants, 17 March 2020, available at: <https://bit.ly/3hQTASJ>

2020) to the Greek Government *“At the time of the visit, Soufli and Neo Cheimonio stations were not holding any migrants. Both had, however, held significant numbers of persons in the two weeks prior to the visit. It was noticeable that at Neo Cheimonio, in particular, the sanitary annexes were very dirty, with human faeces smeared on the floor in several of them”*.³²

The report further highlights that *“the CPT again received consistent and credible allegations of migrants being pushed back across the Evros River border to Turkey”*, also it referred to *“a number of allegations by migrants that they had been ill-treated by members of the Hellenic Police and/or Coast Guard either upon apprehension or after being brought to a place of detention”*.³³ The findings of this report show that 3 years later, the Neo Cheimonio Border Guard Station continues to be used as a place of detention where human rights are being violated and crimes are being committed against the detained asylum seekers.

Number of Formal Arrivals & Arrests in Evros border: According to the UNHCR, between the beginning of 2022

and the end of November 2022, **5,561 people arrived** in Greece through the Greek-Turkish land border of Evros, compared to a total of 4,826 in 2021.³⁴ According to Greek police statistics, **3,787 arrests** were carried out in 2021 for irregular entry across the Evros land border with Turkey.³⁵ However, the registered number of entries under-represents the number of people actually entering Greek territory, considering that cases of pushbacks at the Greek-Turkish land borders have been systematically reported.³⁶ Furthermore, according to one of the most recent public statements of the Greek Minister of Citizens' Protection, **“over 250,000 illegal migrants were prevented from entering Greece through the Evros border in 2022”**.³⁷

3.2. Pushback cases before the ECtHR

Between 16 March 2022 and 22 October 2022, GCR successfully filed interim measures (see box) at the European Court of Human Rights (ECtHR) under Rule 39 of the Rules of the Court for 21 groups of asylum seekers that arrived in the Evros region, following ineffective written interventions made by GCR towards the Greek authorities for the search and rescue of these particular groups of people³⁸; the authorities

³² COE, CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, available at: <https://rm.coe.int/1680a06a86>

³³ COE, Council of Europe's Anti-Torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, 19 November 2020, available at: <https://bit.ly/3F4GA6S>

³⁴ UNHCR, Operational Data Portal, Mediterranean Situation: Greece, available at: <https://bit.ly/3VfRcql>

³⁵ Information provided by the Directorate of the Hellenic Police, 8 March 2022.

³⁶ ECRE, AIDA Report - Greece 2021, p. 18.

³⁷ Greek Reporter, Greece Ready to Extend Turkey Border Fence by 35 kilometers, available at: <https://bit.ly/3GyXsmp>

³⁸ GCR, Information Note on interventions and on interim measures granted by the ECtHR in cases

either did not respond to the interventions or they responded claiming that they could not locate said groups. **Despite the Court's order to the Greek government not to remove the asylum seekers from the country's territory and provide them with food, water and proper medical care, most of these people were pushed back to Turkey.**

THE ECtHR'S INTERIM MEASURES ARE BINDING ON THE STATE CONCERNED

- The European Court of Human Rights (ECtHR), under Rule 39 of its Rules of Court, grants requests for interim measures only on an exceptional basis, when applicants would otherwise face a real risk of serious and irreversible harm. Such measures are then indicated to the respective Government.³⁹
- State Parties are under an obligation to comply with the Court's interim measures.
- According to Article 34 of the ECHR: "The Court may receive applications from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties [State Parties] of the rights set forth in the Convention or the Protocols thereto. The High

Contracting Parties undertake not to hinder in any way the effective exercise of this right."

- **A State's noncompliance with an interim measure constitutes a violation of article 34 (right of individual application to the ECtHR) of the ECHR irrespective of the subsequent finding of a violation of other material provisions of the ECHR by the Court.⁴⁰**

In addition to the interim measures, during the period from mid-March to the end of October 2022 GCR filed applications before the Court for violation of the ECHR articles for 8 cases, pursuant to Article 34 of ECHR. The examination is currently pending.

In addition to the procedures before the Court, since early 2022, GCR alone has sent approximately 150 interventions to the Greek authorities. GCR requested search, rescue and access to registration and asylum procedures for more than 900 refugees coming from Syria, Turkey, Iraq and Afghanistan, including children and people with severe vulnerabilities. Only in about half of these cases did the Greek authorities respond positively. Regarding the other half either they did not reply or they responded by stating that they failed to locate the refugees. In some of the cases, the refugees or their relatives later contacted GCR and stated that they had been

regarding pushbacks, <http://bit.ly/3fmrabb>

³⁹ ECHR, Factsheet-Interim measures, available at: <https://bit.ly/3uiENWP>

⁴⁰ See ECtHR, Case Mamatkulov and Aksarov v. Turkey, Applications 46827/99 and 46951/99, Judgment 4 February 2005, available at: <https://bit.ly/3XLqXtz>

illegally and forcibly returned to Turkey by the Greek authorities.⁴¹ Moreover, the Greek National Commission for Human Rights (GNCHR) intervened by sending a letter to the Ministry of Citizens' Protection for each case.

In this chapter we present the pushback operations of the cases for which GCR has filed applications for violations of the ECHR before the ECtHR. We report the testimonies of the pushback victims as communicated to the ECtHR, chronologically and relative to the location of the pushback operation (sections A. Evros islets and B. Evros mainland, below, pp. 13,26). Subsequently, we present two cases where the Turkish authorities pulled back the asylum seekers from the islets to the Turkish riverbank, indicating the role of the Turkish authorities in the violent "management" of migrants at the Evros border (section C. Pullback Cases, below, pp. 32).

A. EVROS ISLETS

All cases presented below - except the first - concern the arrival of asylum seekers on Evros islets and subsequent pushback operations. The first case concerns the arrival of different groups of asylum seekers in the Evros mainland and their subsequent gathering, forced transfer and abandonment by the Greek authorities on an Evros islet as part of the pushback operation. We present all cases under the same Chapter "Evros

Islets" to underline the shift in the illegal Greek state practice.

In 2021, Amnesty International documented incidents of Greek and Turkish authorities forcing asylum seekers onto islets in the river Evros, likely as a tactic to eschew responsibility for them and their safety.⁴² A similar practice of forced transfer, placement and abandonment of asylum seekers in places with no means of safe escape and survival has been documented in the Aegean Sea, when the Greek coast guard transferred and abandoned the asylum seekers on a rocky islet.⁴³

The first pushback case (to an islet) presented below is indicative of this tactic, while the next pushback cases (from the islets) reveal a change in tactic following the issuance of the first interim measures decision of the ECtHR that ordered the Greek State to immediately rescue the people stranded on the islet, acknowledging its legal responsibility to do so. After this decision, we notice that the Greek authorities push people back to the Turkish riverbank instead of transferring them on Evros islets, which ECtHR decisions in many cases have recognized as areas under the Greek State's responsibility for search and rescue.

I. The emblematic pushback case from the Evros mainland to an islet - before the shift of the pushback practice

⁴¹ GCR, Information Note on interventions and on interim measures granted by the ECtHR in cases regarding pushbacks, <http://bit.ly/3fmrabb>

⁴² Amnesty International, Greece: Violence, Lies and Pushbacks, June 2021, available at: <https://bit.ly/3H5OG36>

⁴³ Wearesolomon, Dark Water of the Aegean: 1,018 illegal pushbacks carried out by the Greek State, 15 July 2022, available at: <https://bit.ly/3H4f4Zp>

Date of arrival: 11 and 12 March 2022

Date of ECtHR's interim measures: 16 March 2022

Date of final pushback stage: 12 March 2022

Relevant application(s) before ECtHR: A.A. and Others v Greece

Alleged violations of the Convention: Art. 2, 3, 13, 5 ECHR

Essential aspects of this case: forced placement of asylum seekers on the islet by the Greek authorities, drowning of a 4- year old boy during the pushback operation



Image 2: Google maps, GPS Coordinates: 41°41'07.8"N 26°26'14.4"E, as shared by the asylum seekers

Overview: This is the first case of interim measures being granted, ordering the rescue of a group of asylum seekers stranded on an Evros islet after the Greek authorities had gathered them from various locations of the Evros region in the Greek mainland, had placed them there and abandoned them. The case concerns 30 Syrians who entered Greece on 11 and 12 March 2022 as part of different groups of asylum seekers and were subsequently grouped together for the pushback operation. They had all been victims of previous pushback operations. The asylum seekers were confined for 7 days on the islet after being placed there by the Greek

authorities on 12 March. The organizations that represented their case were informed of their situation on 14 March by the newspaper Efsyn. The organizations repeatedly appealed to the competent authorities for the rescue of the group, but without success.

Serious risks to life on the islet: The asylum seekers, including one pregnant woman and six children, did not have access to water, food, medical care, or items to keep them warm. For days, they were exposed to cold and humid weather on a small islet in the Evros river. In a video sent to their lawyers, it is reported that they were eating garbage left on the islet by those who had previously followed this route. They reported the tragic drowning of the 4-year-old son of one of the refugees. On 16 March, the ECtHR granted interim measures and ordered the Greek authorities to rescue the asylum seekers.

Informal arrest and detention and forced placement on an Evros islet:

According to the various testimonies of the asylum seekers, all 30 Syrians entered the Greek territory in the Evros mainland as members of different groups on 11 and 12 March. They were informally arrested by policemen dressed in black wearing full face masks. They were all led either by foot or in cars and police buses into an abandoned building with 2 rooms and without toilet facilities that was used as an informal detention site. Inside the building, there were more informal detainees, all Syrian refugees previously informally arrested in different places. Unidentified men dressed in

black were guarding the informal detention site and acted in an aggressive manner; they beat and kicked some of the asylum seekers and insulted them. No food or water was provided. In the evening, the asylum seekers were transported in small vans by men dressed in black, holding knives and bats, to the Evros river bank where there were more Syrian refugees. The asylum seekers reported that they saw these men in black collaborating with the Greek authorities. The men in black took the asylum seekers' money under the threat of knives before they made them enter a boat. At the shore there were two boats waiting with four more men in black clothes and full-face masks. They went back and forth to the islet where they abandoned the asylum seekers.

Inhuman and degrading treatment led to the reported drowning of a 4-year-old child: On the islet, a pregnant Syrian woman was in a distressing condition. She was bleeding and eventually fainted. Another Syrian woman, a single mother, had been boarded from the Greek river bank onto the boat with her three children (one 2-year-old and two twin 4-year-old boys). While on board, a Syrian asylum seeker was holding the 2-year-old in his arms, helping the mother who was already holding her twins. The boat was driven by two masked men who did not speak at all. A few meters before the islet, the 2-year-old moved and a masked man raised his oar and hit the Syrian man who was helping the mother, causing the boat to rock; as a result one of the twins fell into the water. The mother started scream-

ing, but the masked men did not offer any help and did not stop the boat. The Syrian man immediately jumped into the icy waters together with the 2-year-old child that he was holding, reached the nearby islet, left the 2-year-old child safely there and returned to the water to look for the 4-year-old who had fallen. The mother did the same with the child she was holding and dived into the water desperately looking for the other twin who had fallen in the river. They would never find the child in the absolute darkness and icy rushing waters.

Inhumane conditions on the islet: On the islet, where they remained for six days, it was very cold and there was no food, apart from some dates and old pieces of bread that had been left there by the people who were previously on the islet. The adults gave the bread to the children and they ate dates once a day. In the last days they had nothing to eat. They drank water from the river and tried to start a fire to warm themselves. It was raining and very windy at night. Both adults and the children suffered from food poisoning. While they were on the islet, men in military uniforms from the Turkish side of the river several times threatened that they would return them to Syria should they go back to Turkey. In the morning of 16 March, men in black formal uniforms appeared from the Greek side of the river and at some point there was also a drone flying above the islet. However, the Greek authorities continued to report to the organizations that had undertaken the case that they could not locate the asylum seekers.

The rescue of the 30 Syrians: Meanwhile, on 15, 16 and 17 March, the UNHCR intervened towards the Greek authorities. On 17 March the Greek National Commission for Human Rights intervened as well with a letter directed to the Ministry of Citizen Protection. The 30 Syrian asylum seekers were eventually rescued on 18 March, transferred to the Border Police Department Kyprinou and subsequently to the Pre-Removal Center of Orestiada. On 22 March they were transferred to the RIC of Orestiada and, following registration of their asylum applications, they were released on 12 April. An application for ECHR violations has been submitted before the ECtHR and its examination is pending.

II. The pushback case involving rape of men and women

Date of arrival: 12 April 2022

Date of ECtHR's interim measures: 19 April 2022

Date of pushback operation: 14 April 2022

Relevant application(s) before ECtHR: A.D. and others v. Greece

Alleged Violations of the Convention: Art. 2, Art. 3, Art. 5 ECHR

Essential aspects of this case: rape of men and women



Image 3: Google maps, GPS Coordinates: 41°19'48.6"N 26°36'06.1"E, shared by the asylum seekers.

Stranded on Evros islet without water or food: On 12 April 2022, at approximately 5:00 am, 37 Syrians, including 17 children, entered Greece from Turkey via the Evros river, seeking international protection. The asylum seekers found themselves on an islet in Evros River, at the location indicated above, which they communicated to GCR via WhatsApp. Among the group there were a 6-month pregnant woman, two infants and a child with serious respiratory problems supported by an oxygen tank. On 13 April, the group managed to communicate with GCR, stating that they had been on the islet for a day without water, food, or any way of meeting their basic needs. They also expressed their fear of being illegally pushed back to Turkey where their lives would be at risk. They stated their wish to apply for asylum in Greece. GCR immediately informed all the competent authorities about the group of asylum seekers, their whereabouts and conditions. GCR requested the Greek authorities' immediate actions to rescue the asylum seekers and provide humanitarian assistance, as well as access to the reception, identification and asylum procedures. Following a new phone call intervention by GCR lawyers, the Integrated Border Management and Migration Centre of Orestiada of the Greek Police replied that the authorities had been informed and vehicles had been dispatched in search of the group. Likewise, on 14 April, UNHCR addressed a letter to the Greek authorities requesting the asylum seekers be identified and subjected to the procedures provided for by law. On 14 April, at 13:58, the Greek authorities replied to GCR that "it was

not possible to locate the Syrian nationals". Meanwhile, on the same day GCR lost communication with the group and had no news of them until 28 April. On 15 April, GCR lawyers once again sent a request for information to the Greek Authorities to which the latter replied that *"there is no new development regarding the location of the aforementioned group of persons"*. On the same day, GCR requested interim measures from the ECtHR. On 19 April, the Court granted interim measures and ordered that the asylum seekers should not be removed from Greece. By that time, it was already too late, as GCR would later discover that people had been pushed back to Turkey on 14 April, as described in detail below.

Inhuman treatment on the islet: According to the asylum seekers' testimonies shared with GCR on 28 April, on 14 April between 22:00 to 23:00, four Greek-speaking men in military uniforms and black full face masks, carrying flashlights and weapons, appeared on the islet. When the uniformed men realized that the people could not understand Greek, they started speaking in poor English, urging them to stand up and form lines. Two masked men were pointing guns at the asylum seekers, the other two were conducting body searches at gunpoint, including on women and children. They also illegally confiscated their mobile phones, money and other valuable items like watches and jewelry. During the body search, the women were sexually harassed, with the men groping their breasts and genitalia. In one case, the uniformed men tore a woman's jacket

and discarded it in the mud because she was refusing to take it off in front of them. The temperatures that night were extremely low and the woman had no other clothes to keep herself warm. The people reiterated their request for international protection. The men in military uniforms started beating everyone, including the children, on their heads and backs.

Violent transfer to the Greek river bank: An hour later, approximately at midnight, the uniformed men led at gunpoint the asylum seekers to an inflatable boat near the river. When they arrived near the river, the asylum seekers saw approximately 14 more people, of whom 10 to 11 wore military uniforms. Others were described as members of the police force, their uniforms displaying a police badge. All of them wore full face masks. The asylum seekers were separated into 6 groups. Two of the men in military uniforms got into the inflatable boat and transferred the first group to the Greek river bank. The boat returned and repeated the trip five more times with the remaining members of the group. A member of the group who refused to get on the boat was beaten on his arms and back with a piece of wood by an unknown number of uniformed men. All the other members of the group were too scared to react after the violence they had suffered and witnessed. They feared that the authorities would throw them in the river. Immediately after disembarking at the river bank, the asylum seekers were violently placed in two minivans with a maximum capacity of 10 people.

Use of sexual violence during informal detention: After 20 to 25 minutes, at approximately 01:00, they arrived at a Border Police Station, a building with 2-3 floors, probably Neo Cheimonio in Orestiada. The asylum seekers were told, in English, to get out of the vans quickly and quietly. When they exited, they saw some of the men in military and police uniforms, all of them holding guns. Once again the people were separated into a group of women and children and a group of men. They were ordered to take off their clothes, underwear and shoes. The women and men were mocked and harassed by approximately four men in military uniforms who used a stick to scratch their genitalia. Afterwards, they used the same stick to rape the men, while they used their fingers to rape the women in front of the children. Subsequently, they assaulted them by throwing ice cold water on them. A woman in police uniform led the women and children inside the building and ordered them to put their clothes back on quickly. They never got their shoes back. The men got back only their clothes, and were taken inside the building to a small room with a squat toilet, which could not be used. Soon after, men, women and children were locked up in one room. Everyone was asking desperately for water and food, but to no avail.

Final stages of the illegal and violent operation: All asylum seekers remained unofficially and unlawfully detained until the early morning, when the final stages of the pushback operation to Turkey began. After being forced out of the building, they saw

30 more informal detainees stripped of their clothes and shoes. A larger military van transported the group together with other asylum seekers to an unknown location near the Evros river. There were more than 100 passengers in the military van. When they arrived near the river coast, people were violently forced out of the van. They saw a large number of people wearing uniforms and full face masks. A woman in the group summoned the courage to speak up, saying *"We want to apply for international protection in Greece"* and begged them not to push them back to Turkey. However, one of the men closed her mouth with his hand, ordering her to remain silent. Another asylum seeker was carrying his son, who started crying with fear. The masked men were enraged and ordered the father to make his child stop crying. A person that refused to exit the van, was beaten violently. When everyone was out of the van, they started shouting "asylum", but to no avail. Once again, the asylum seekers were divided in groups and were forcibly returned to Turkey.

After the Pushback of 14 April: On 10 June, GCR submitted before the ECtHR an application against Greece for violation of articles 2, 3 and 5 of the Convention. Some of the 37 victims of the aforementioned pushback re-entered Greece three more times, and were stranded again on an islet in the Evros river. In two cases, they were pulled back by Turkish border guards together with two other groups of Syrians (see "Pullback Cases" below). The third time, while being stranded on an islet for 10

days (from 15 June to 26 June) together with other groups of asylum seekers⁴⁴, they were again pushed back to Turkey.

III. Asylum seekers injured by commandos' attacks on the islet in the pushback case of 20 April 2022

Date of arrival: 17 April 2022

Date of ECtHR's interim measures: 21 April 2022

Date of pushback operation: 20 April 2022

Relevant application(s) before ECtHR: K.M.I. and others v. Greece

Alleged Violations of the Convention: Art. 2, Art. 3, Art. 5, Art. 13 ECHR

Essential aspects of this case: death of a woman in need of dialysis on the islet and miscarriage for a pregnant woman, 2 asylum seekers severely injured after beating

Helpless on the islet - death of a vulnerable woman: On 17 April 2022, 39 people seeking international protection arrived on an islet in Evros river by rubber dinghy. Upon arrival, they were all in immediate danger lacking access to food, water, medicine, blankets and shelter. A 55-year-old Syrian woman was in urgent need of dialysis. She died without help or support approximately one day after arrival on the islet.

Inhuman treatment on the islet: In the morning of 20 April, after three days of harsh conditions on the islet, men dressed in black and dark green, hold-

ing weapons and bats, described by the asylum seekers as "commandos", arrived on the islet and approached the group. Immediately, the asylum seekers were subjected to a full body search and were forbidden to speak. The "commandos" burned some of the people's belongings and took their phones. The "commandos" beat up members of the group, especially the men, and pushed a pregnant woman to the ground. She subsequently suffered a miscarriage. Thereafter, the asylum seekers were transported by an unsafe watercraft to the river bank and transferred to an unknown location.

Informal detention, strip search and beatings:

The men and women were detained for a day and subjected to a strip search. On the same day, GCR submitted a request before the ECtHR for interim measures against Greece. On 21 April, the Court granted interim measures regarding the rescue of the asylum seekers. Unfortunately, in the evening of 20 April, the group had already been forcibly returned to Turkey following informal detention. Some of the men were beaten again when they were transferred from the detention area to the river before being pushed back.

What happened after the pushback of 20 April:

Following the pushback to Turkey, members of the group were detained and interrogated by the Turkish authorities, especially about the death of the 55-year-old Syrian woman on the Greek islet.

⁴⁴ Some of the refugees of the "S.S. and others v. Greece" case and the "F.R. and others v. Greece" case and a new group of 18 Syrians of the "M.A. and others v. Greece" case; cases for which the ECtHR had granted interim measures before people have been pushed back to Turkey.

Additionally, two men were hospitalized in a Turkish hospital, one for a broken arm and the other for a head injury, both caused by the “commandos” attacks on the Greek side during the pushback operation. Some of them entered Greece again and were formally arrested and registered. 29 of them, legally represented by GCR, submitted before the ECtHR an application against Greece for violation of articles 2, 3, 5 and 13 of the Convention [on 20 June].

IV. Use of migrants as authorities’ auxiliaries in the pushback operation of 25 April 2022

Date of arrival: 24 April 2022

Date of ECtHR’s interim measures: ongoing for the 32 since 21 April 2022

Date of pushback operation: 25 April 2022

Relevant application(s) before ECtHR: K.M.I. and others v. Greece, A.A. and others v. Greece

Alleged Violations of the Convention: Art.2, Art. 3, Art. 5, Art. 13 ECHR

Stranded on the islet: On 24 April 2022, 42 people seeking international protection were stranded on an islet in Evros river and spent the night there. 32 of them had been pushed back by the Greek authorities a few days prior (on 20 April) and managed to re-enter Greece (see section C. Pushback of 20 April 2022, above, pp. 32).

Inhuman treatment on the islet: In the morning of 25 April, two boats carrying approximately fifteen “commandos”

dressed in black and holding wooden bats arrived on the islet. The “commandos” beat some of the male asylum seekers and removed their clothing, forcing them to remain in their underwear. Subsequently, they ordered some members of the group to kneel and took humiliating photos of them. They threatened the asylum seekers with imprisonment if they tried to enter Greece again.

Ill-treatment during informal detention: Eventually the asylum seekers were transferred from the islet to the river bank in an unsafe watercraft and then to the Neo Cheimonio Border Guard Station in Orestiada before being forcibly and informally returned to Turkey. The group members described the horror of being detained together with approximately 100 more refugees on Greek soil without basic necessities and in constant danger of being pushed back to Turkey. Some of the male members of the group were beaten again during the arbitrary detention. Furthermore, the group was subjected to body search, while their clothes, shoes and the women’s jewelry were unlawfully confiscated.

Use of migrants in the pushback operation: People also mentioned that the driver of the boat and another man conducting the final stage of the pushback operation, i.e. the forced transfer by dinghy boat to the Turkish riverbank, spoke in Arabic.

What happened after the pushback of 25 April: Upon arrival on the Turkish side of the river, Turkish border guards in turn threatened the pushback vic-

tims with forced return to Syria if they did not return to Greece. Finally, some of them entered Greece again and they were formally arrested and registered an asylum application; they submitted before the ECtHR applications against Greece for violation of articles 2, 3, 5 and 13 of the Convention [on 20 and 29 June].

V. The pushback case of the 38 Syrians stranded on an Evros islet divided by a Greek- Turkish border line that creates a Greek and a Turkish part

NB: We would like to highlight the ongoing controversy over the allegations of the girl's death (see below). The information presented below, as for the other cases included in this report, reflects the testimonies of GCR's clients, as provided in the context of their legal representation before the Court and the Public Prosecutor for this pushback case.

Date of arrival: 14 July 2022

Date of ECtHR's interim measures: 20 July 2022 and 9 August 2022

Date of pushback operation: 26 July 2022

Relevant application(s) before ECtHR: K.A. and B.S. and others v. Greece and Turkey

Alleged Violations of the Convention: Against Greece: art 2, 3, 13, 5, 34, against Turkey: art. 2, 3 ECHR

Essential aspects of the case: Government disputes over Evros islet being Greek or Turkish territory, public controversy over the alleged death of a child.

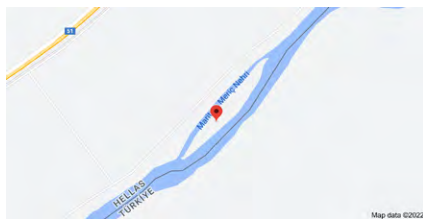


Image 4: Google maps, GPS Coordinates: 41°16'21.2"N 26°25'41.5"E, shared by the asylum seekers.

In the afternoon of 14 July 2022, approximately 70 Syrians were brought by the Turkish authorities to the Turkish side of Evros river. They were forced to enter small dinghy boats and cross the river. The boats were driven by Arabic speaking men dressed in black. The boats were overcrowded with no safety measures such as life-jackets.

Violent attacks on the islet: When they reached the Greek side of the riverbank, they were immediately attacked by 14 to 20 uniformed men wearing balaclavas, armed with guns, belts with bullets and tasers. Some of these men were speaking in poor English, while others were speaking in Arabic with a Syrian accent, according to the asylum seekers' understanding. All the asylum seekers experienced inhuman and degrading treatment. The men suffered physical violence and some of them were forced to take off their clothes and enter the water. The asylum seekers report that out of those who were stripped of their clothes and forced to enter the river, two persons drowned. The rest of the asylum seekers on the Greek river bank, mainly the women and children, were put in boats.

The boats were driven by the Arabic speaking men who had previously attacked them when crossing the river back towards the direction of the Turkish riverbank. They were abandoned on an islet in the middle of the Evros River with only their personal belongings.

The desperate plea for rescue: The asylum seekers were stranded on the islet for five days. On 19 July, they contacted human rights organizations, desperately asking for help and legal assistance. On 20 July, one of their lawyers sent an email to the Greek authorities. The lawyers informed them about the asylum seekers' location, their will to apply for asylum and their lives being at risk. On the same day, a request for interim measures was lodged before the ECtHR. The ECtHR reacted immediately and granted interim measures, ordering the Greek authorities to not remove the asylum seekers from Greece and to provide them with food, water and adequate medical care. The next day, 21 July, one of the lawyers of the asylum seekers notified by email the Court's decision to all competent authorities, including the Public Prosecutor of Orestiada. On 25 July, the lawyers informed the Greek authorities by email that the asylum seekers were still on the islet, and that their lives were at risk. Their presence was proven by a photo shared with the authorities with metadata information, which shows, *inter alia*, the exact location. During that time, the asylum seekers remained stranded in terrible conditions with no access to potable water, food and medical care. They had been stung by insects and had signs of allergies over their bodies.

The Greek police never replied to the emails in writing, however they responded telephonically on the same day, stating that they could not locate the asylum seekers.

Pushback operation of 26 July: On 25 July, the asylum seekers being in distress and feeling hopeless gathered on the shore of the islet opposite the Greek river coast and started shouting for help. Half an hour later, two unknown men appeared on the Greek riverbank and said to them "I am police", but did not provide any assistance. On 26 July between 01:00 and 02:00 AM, the asylum seekers were attacked by uniformed, armed Greek men. The asylum seekers were transferred to the Greek riverbank and then to two different unidentified detention sites on the Evros mainland. In the morning of 26 July, they were pushed back to Turkey. On the same day their lawyers reported the case to the Prosecutor of the Supreme Court.

What happened after the pushback of 26 July: pushed back and forth by Greek and Turkish authorities: When they arrived on the Turkish side of the river, Turkish border guards arrested and detained the asylum seekers for approximately 5 days. On 31 July, some members of the original group of asylum seekers were once again forced by the Turkish authorities to return to the Greek river bank by dinghy and were forcibly transferred to an Evros islet by the same Turkish authorities. On the islet they were severely beaten by the Greek army and police. One of the pushback victims described that they had experienced physical violence

and risk to their life. After being beaten they were pushed back to the Turkish bank. Once they arrived at the Turkish bank, they were arrested by the Turkish Army and detained in a military camp. On the next day, 1 August, the asylum seekers were once again transferred by Turkish soldiers to another islet in the Evros river. According to the asylum seekers: **“everyone plays with us like football back and forth”**. They were threatened by the Turkish soldiers to move on towards the Greek bank, otherwise they would be sent back to Syria. On 7 August, Turkish soldiers took them from there and transferred them by military trucks to another location on the Turkish bank. Under the threat of guns, they put them in boats and led them to the initial islet, where they had originally been transferred on 14 July.⁴⁵ On 8 August, one of the asylum seekers contacted their lawyers in Greece and informed them of their distressed condition and their location.

Asylum Seekers report the death of a five-year-old girl after a scorpion sting: On 9 August, the asylum seekers informed the lawyers about the death of a young girl. According to the asylum seekers' claims, the girl was stung by a scorpion and died. On the same morning, one of the lawyers informed the Ortestiada Public Prosecutor and the Greek police about the reappearance of the asylum seekers on the islet where they

had been originally stranded⁴⁶ and the alleged death of the young girl. A few hours later the lawyers informed the Greek Police about the decision of the ECtHR on interim measures. On 11 August, at 05:53, the lawyers once again sent the asylum seekers' GPS coordinates to the Greek authorities with an attached GPS metadata photo. On the same day, **the Greek National Commission for Human Rights sent a letter to the Ministry of Citizen Protection** underlining the importance of the Greek State's compliance with the Decisions of the ECtHR. In the afternoon, the Greek Police issued an official announcement stating that the islet where the asylum seekers were stranded was outside Greek territory. On 13 August, **the UNHCR stated that:** *“We continue to be gravely concerned for the safety and wellbeing of some 40 people allegedly stranded on an islet at the Greece-Türkiye border. According to reports received a child has tragically already died. Unless urgent action is taken, we fear further lives remain at stake”*.⁴⁷ In his initial statements the Minister acknowledged the death of the child, stating that the Greek Government would cooperate with the Red Cross to locate the burial point and offer the 5-year-old a respectful funeral.⁴⁸ However, the Greek Government did not take any such action, whereas in October 2022 the family's lawyers submitted an official request for an exhumation.⁴⁹

⁴⁵ The islet with the coordinates 41°16'21.2"N26°25'41.5"

⁴⁶ The islet with the coordinates 41°16'21.2"N26°25'41.5"

⁴⁷ UNHCR News on Twitter, 13 August 2022, available at: <https://twitter.com/refugeesmedia/status/1558363463168233473>

⁴⁸ Hellenic Republic, Ministry of Migration and Asylum, N. Mitarakis: The Turkish gendarmerie forced immigrants to cross illegally into Greece, 16 August 2022, (in Greek): <http://bit.ly/3tW8E73>

⁴⁹ GCR, Press release in continuation of the clarification of the border status of the Evros islet, 12 Octo-

This request remains without reply at the time of writing.

Der Spiegel Investigation and Controversy Over the Alleged Death of the Girl: In August, Der Spiegel published three articles relevant to the case of the aforementioned group of 38 asylum seekers and the alleged death of the child on the islet, commenting on the Greek state's responsibility.⁵⁰ On 27 August, a Der Spiegel correspondent stated that the previous week he had entered the RIC in Fylakio and had conducted interviews with members of the group, including the parents of the girl who allegedly died.⁵¹ On 28 August, the Greek Ministry of Migration and Asylum issued a short press release stating that a journalist from an international press medium was granted access to the RIC in Fylakio, where the group of 38 asylum seekers remained restricted after their official arrest and registration.⁵² According to the Ministry, he obtained access by not

disclosing his capacity as a journalist and presenting himself as a translator. The press release concerned the Der Spiegel correspondent, although he was not named, and stated that the Ministry would take legal action.⁵³ On 19 September, the Greek Minister of Asylum and Migration also sent a letter to Der Spiegel's editor-in-chief stating that the asylum seekers had never been on Greek territory and that there was no dead child. Following the ongoing controversy over the case and the alleged death, Der Spiegel launched a new investigation.⁵⁴ On 30 December, Der Spiegel published the findings of the investigation, concluding that it did not discover conclusive evidence of the death, nor of the child's existence. Der Spiegel therefore retracted its original articles on the case.⁵⁵

Territorial Status of the Islet: Initially, the Greek Government insisted that the islet where the refugees were stranded was not Greek but

ber 2022, (in Greek): <http://bit.ly/3Vn7xcd>

⁵⁰ Der Spiegel, Der Fall Maria – die Aufarbeitung, 30 December 2022, available [in German] at: <https://bit.ly/3XlyKYk>

⁵¹ https://twitter.com/g_christides/status/1563565601263472641

⁵² Hellenic Republic, Ministry of Migration and Asylum, Press Release, 28 August 2022, available in Greek: <https://migration.gov.gr/en/deltio-typoy-2/>; ECRE, Greece: Government Takes Another Crack at Preventing Free Press – Reports of Pushbacks and Non-Response Continue, 2 September 2022, <http://bit.ly/3Jc18hh>

⁵³ Regarding the entry of Der Spiegel correspondent in Fylakio, see: "Fylakio ist ein Lager, das die Geflüchteten nicht verlassen dürfen. Journalisten ist es nicht erlaubt, die Einrichtung ohne die Genehmigung der Behörden zu betreten. Der SPIEGEL-Korrespondent recherchierte ohne offizielle Erlaubnis trotzdem dort. Die Ressortleitung in Hamburg hatte dafür ihr Okay gegeben. Der Journalist, der auch freier Übersetzer ist, meldete sich für eine NGO in dieser Funktion unter seinem echten Namen an. So konnte er Ende August mit Mitgliedern der Flüchtlingsgruppe sprechen" in: Der Spiegel, Der Fall Maria – die Aufarbeitung, 30 December 2022, available [in German] at: <http://bit.ly/3Hl9VoM>. "In its latest crackdown on free press the Greek government has threatened Der Spiegel with legal action over its reporting of the tragic death of a child stuck on an islet in the Evros region with authorities unresponsive for an extended period despite interim measures from the European Court of Human Rights (ECtHR)" in: ECRE, Greece: Government Takes Another Crack at Preventing Free Press – Reports of Pushbacks and Non-Response Continue, 2 September 2022, <http://bit.ly/3Jc18hh>

⁵⁴ Der Spiegel, Der Fall Maria – die Aufarbeitung, 30 December 2022, available [in German] at: <https://bit.ly/3XlyKYk>

⁵⁵ Ibid.

Turkish territory, and that the Greek authorities could therefore not conduct a rescue operation.⁵⁶ Following a parliamentary question, in October 2022 the Greek Ministry of Defense Affirmed before the Hellenic Parliament that the islet is in fact divided by a border separating a Greek and a Turkish part of the islet.⁵⁷

Leaving the islet and reaching the Greek mainland:

The case was widely covered by Greek and international media as well as civil society organizations, urging the Greek authorities to rescue the asylum seekers.⁵⁸ On 14 August, the asylum seekers found an abandoned rubber dinghy, which they used to reach the Greek river bank by their own means. They stated that it was probably left by other people who had tried to cross the river previously.

Formal arrest and detention of the asylum seekers by the Greek authorities:

On 15 August, the group sent their new coordinates to their lawyers, who informed the Greek authorities about their new location on the Greek mainland. The Greek authorities went to this location where they finally formally arrested them. At about 04:00, they were detained in the border police station of Didimoteicho, where they were imme-

diately interrogated by the border police. They did not receive food or water for 8 hours. They were asked to sign documents without being informed about the content. They did not have access to their lawyers, and their mobile phones were confiscated. Subsequently, the group was transferred to the RIC at Fylakio where they remained restricted for 22 days. Two asylum seekers reported that during their permanence in the Fylakio RIC the authorities put pressure on them and subjected them to an unofficial interrogation.

Procedures before the Public Prosecutor:

Twenty of the 38 Syrians were invited to give their testimonies before the Public Prosecutor of First Instance based in Orestiada, in the context of a preliminary examination of the case initiated by the Prosecutor of the Supreme Court. Furthermore, on 23 September a report was submitted before the Public Prosecutor of the Supreme Court regarding the unofficial interrogation and the pressure the authorities put on the pushback victims.

What happened after the RIC procedures:

After the completion of the reception and identification procedures in Fylakio RIC, the asylum applicants were transferred to the Drama Open Accommodation Camp. GCR, on behalf

⁵⁶ Indicatively, see the following: Hellenic Republic, Ministry of Migration and Asylum, Notis Mitarakis: Submitted evidence to the Prosecutor of the Supreme Court - "Information about third party involvement in the Evros case", 1 September 2022, (in Greek), available at: <http://bit.ly/3V4vsgV>

⁵⁷ Official Letter-Response of the Greek Minister of Defense to the Hellenic Parliament, Answer on the issue of "sovereignty on an islet in Evros", 7 October 2022, <http://bit.ly/3i2P8mB>

⁵⁸ See indicatively: Efsyn, Ongoing Crime in Evros, 10 August 2022, available in Greek at: https://www.efsyn.gr/ellada/dikaiomata/355170_egklima-diarkeias-ston-ebro, CNN Greece, Evros The 39 refugees remain stranded on the islet - International concern and reactions, 14 August 2022, available in Greek at: <http://bit.ly/3GYzqDt>, BBC News, Turkey-Greece migrants: 38 people found stranded on tiny, unnamed island, 16 August 2022, available at: <https://www.bbc.com/news/world-europe-62561578>, The Guardian, Greece finally aids refugees stranded on scorpion and snake-infested islet, 17 August 2022, available at: <http://bit.ly/3AZuNoW>

of the 38 asylum seekers, filed an application before the ECtHR against Greece and Turkey regarding violations of their right to life, liberty and security and inhuman and degrading treatment.

B. EVROS MAINLAND

I. The pushback and torture case of the 5 Turkish asylum seekers

Date of arrival: 26 May 2022

Date of ECtHR's interim measures: 27 May 2022

Date of pushback operation: 26 May 2022

Relevant application(s) before ECtHR: V.E. and Others v. Greece
Alleged Violations of the Convention: art. 3, art. 5., art. 13 ECHR

Essential aspects of the case:
Forced stripping, beatings with electroshock batons, torture

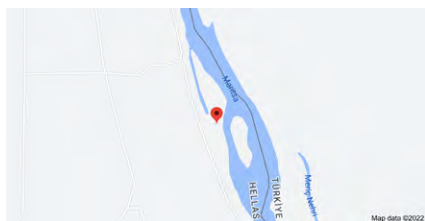


Image 5: Last GPS coordinates shared with the authorities, 41°31'03.6"N 26°35'37.6"E

Arrival in Greece of 5 Turkish asylum seekers: On 26 May 2022, 5 Turkish citizens entered Greece crossing the land border of the Evros river and stated their wish to request international protection from the Greek authorities. They sent their geographical location (near Orestiada city and near Neo Cheimonio border police station) and a video to the Kurdish Association in Athens.

They asked human rights organizations for legal aid and stated their wish to apply for international protection from Greece. The first applicant sent a video and asked for help, stating the following in poor English:

"Hallo. My name is [...]. I have just passed the Greek border and now I am in Greece, I am with 4 friends and we are standing a point together. We came to Greece because of political reasons and danger of life and freedom. We are all of us political activists. Therefore, we are asking from all organizations for your help and to seek asylum in Greece."

Loss of communication: The last contact with them was at 12:02. Their last geographical location was near Neo Cheimonio / Orestiada Border police station. On the same day, the lawyers of GCR and the Refugee Support Aegean (RSA) sent letters to the competent police and asylum authorities on behalf of the five refugees informing them of the geolocation and asking for the registration of their asylum application. No written response was provided by the Greek authorities. The lawyers contacted by phone the border police in Orestiada (Neo Cheimonio). The Greek authorities responded that these particular refugees had never been arrested and detained. On the same day, the lawyers filed interim measures before the ECtHR that were granted on 27 May, while the whereabouts of the 5 Turkish asylum seekers was still unknown.

Reestablishment of contact: On 7 June, two members of the group informed

the Greek lawyers that they had been pushed back to Turkey on 26 May, but somehow they managed to avoid arrest by the Turkish police authorities in the border area. They stressed the fact that had they been apprehended by the Turkish police after the pushback by the Greek authorities, they would have been immediately imprisoned by the Turkish authorities as they had violated the suspended sentence conditions imposed by past decisions of the Turkish Courts, which had forced them to flee their country.

Informal detention, informal confiscation of belongings: Subsequently, after their unofficial arrest by the Greek police in the Orestiada region, the group was deprived of their mobile phones and had no access to telephones, legal or medical aid. The group was kept in custody without any official registration. During their arrest and informal detention, they repeatedly told the police that they were political activists. They said they want to register an asylum application before the Greek authorities. They also told them that they had informed lawyers and asked for help in Greece. The police never registered their personal details nor their request to apply for international protection, even though the authorities were aware of their details as they were carrying identity cards. Between 12:00-12:30, they were transferred in a closed van to the border police station of Orestiada (Neo Cheimonio). They were informally detained for about 4 - 5 hours in an open fenced space inside the yard of the border police station. The police took all of their belongings except for

their money. They even took the identity cards of two members of the group. The group asked for asylum and to access their lawyers. They asked for water, but received no response. The group, together with an Iranian and an Afghan person were transferred in a closed van to an informal or an abandoned / unofficial detention site.

Inhuman treatment: At said site, they saw masked officers carrying regular and electroshock batons. **They were forced to strip naked in front of the authorities and were ordered to look at a wall, while the officers assaulted them with their batons.** They felt humiliated and insulted. Thereafter, they were detained in a cell of the detention site. The detention site consisted of filthy cells and a corridor. Messages in different languages were written on the walls. The police did not provide food or water to the detainees. People of different nationalities, men, women and children, some seriously injured, were being detained. **The police threatened and beat the detainees with electroshock batons.** The cell was overcrowded with more than 30 people crammed in a small cell. They repeatedly asked for help and asylum. Thereafter, the group and the other detainees were violently forced out of the cells. Once again they were beaten with electroshock batons. They were able to witness the severe beatings of other detainees, feeling helpless and hoping for some mercy from the officers.

Violent treatment by the river bank: They were transferred in a closed, overcrowded van to a location near the river,

where they witnessed border police officers, officers in green, military officers with heavy weapons (some of the officers were fully masked) and fully masked people without uniforms in black (who appeared to be under the command of the officers, for example driving the boat). The five Turkish citizens found themselves in a group of approximately 150, women, men and children, some of whom were vulnerable and injured. The authorities violently and aggressively divided them into groups of five. One of the masked men bodily searched all detainees, taking their money and other belongings. The asylum seekers were ordered by the officers in green, fully masked and with military boots, to kneel. They were beaten, and then violently forced to get in the boat without shoes and socks, mobile phones, money or other belongings. The boats were driven by the masked men to the Turkish side of the river. They were afraid that if they were arrested by the Turkish authorities their safety and even their lives were at risk. The group was forcibly and illegally expelled by the Greek authorities to Turkey between 22:00 and 22:30 on the night of 26 May 2022.

What happened after the pushback of 27 May: On 8 June, two members of the initial group managed to re-enter Greece. The lawyers sent letters to the competent authorities asking them to comply with the pending interim measures by the Court. The Public Prosecutor of Orestiada was also informed and his intervention was requested. The asylum seekers duly informed the ECtHR. They were apprehended by the Orestiada Police Directorate and transferred to

the Border police station of Orestiada / Neo Cheimonio (which was identified by the applicants as the place where they had been informally detained for 4-5 hours before their pushback of 27 May). Subsequently, they were transferred to the Fylakio RIC, where their asylum applications were registered. A few days later they were released from formal detention without having been given the required reception conditions. An application has been filed before the ECtHR for ECHR violation, on behalf of the two pushback victims that managed to return to Greece.

II. The case of 7 Turkish asylum seekers detected between Orestiada and Neo Cheimonio and pushed back on 27 June 2022

Date of arrival: 27 June 2022

Date of ECtHR's interim measures: - (contact with GCR established after the pushback)

Date of pushback operation: 27 June 2022

Relevant application(s) before ECtHR: D.O. and others v. Greece
Alleged Violations of the Convention:
Art. 2, Art. 3, Art. 5, Art. 34 ECHR

Arrival of 7 Turkish asylum seekers between Orestiada and Neo Cheimonio: On 27 June 2022 at approximately 04:00, 7 people entered Greece via the Greek-Turkish land borders and the Evros river to ask for international protection from the Greek authorities. Upon their arrival in a location between Orestiada and the village of Neo Cheimonio, they requested assistance from human rights organizations, including GCR.

They provided information on their situation, their location (with a photo attached) and their will to apply for international protection in Greece. They were afraid of being forcibly pushed back to Turkey.

Detected by the Greek authorities: At approximately 06:00 in the morning, the asylum seekers were detected by the Greek authorities. They repeatedly told the authorities that they wanted to apply for asylum and that they were Turkish in fear of persecution by the Turkish government. However, they were never allowed to apply for asylum and their asylum applications were never registered. Instead of being processed following the legal procedures, they were informally arrested and their mobile phones were illegally confiscated. They were detained for a few hours with no external contact. On the same day, they were pushed back to Turkey, after being stripped of their clothes, documents and 12.000 euros; only their IDs were returned.

Non-response by the authorities to GCR's Intervention: On the same day at 11:08, GCR informed the authorities about the newly arrived asylum seekers and explicitly stated that they face a real risk of persecution in Turkey. GCR requested the authorities to immediately provide humanitarian assistance to the group and access to the asylum procedure. However, the Greek authorities never replied to this written intervention. Ultimately, GCR was unable to locate the asylum seekers in any official detention site or other reception and identification facility. Subsequently, GCR was made aware that the group was pushed back to Turkey.

What happened after the pushback of 27 June: Two of the group managed to reenter Greece and were violently pushed back for a second time. After their second pushback (see section C. Pushback of 4 July 2022, below) on 12 September they filed before the ECtHR an application against Greece for violation of articles 2, 3, 5 and 34 of the Convention.

III. The case of 5 Turkish asylum seekers detected in the vicinity of Orestiada and pushed back on 4 July 2022

Date of arrival: 4 July 2022
Date of ECtHR's interim measures: 5 July 2022
Date of pushback operation: 4 July 2022
Relevant application(s) before ECtHR: D.O. and others v. Greece
Alleged Violations of the Convention: Art. 2, Art. 3, Art. 5, Art. 34 ECHR

Arrival of 5 Turkish asylum seekers in the vicinity of Orestiada: Early in the morning of 4 July 2022, 5 people seeking international protection entered Greece crossing the Greek-Turkish land border, near Orestiada. In the afternoon, they were detected by the Greek authorities near the town of Orestiada. They were transferred and unlawfully detained with no external contact for a few hours. Their mobile phones, clothes, documents and 2.000 euros were unlawfully confiscated. On 4 July, GCR submitted a request for Interim Measures to the ECtHR. On 5 July, the Court granted the Interim Measures requested, indicating to the

Greek Authorities “that the Applicants should not be removed from Greece and be provided with food, water and adequate medical care as needed”. However, by that time, the asylum seekers had already been pushed back to Turkey.

What happened after the pushback of

4 July: On 12 September two members of the group filed before the ECtHR an application against Greece for violation of articles 2, 3, 4, 5, and 34 of the Convention.

IV. The pushback case that led to the imprisonment of the Turkish asylum seeker after the forced “repatriation” to Turkey

Date of arrival: 7 July 2022

Date of ECtHR’s interim measures: 8 July 2022

Date of pushback operation: 7 July 2022

Relevant application(s) before ECtHR: B.U. v. Greece

Alleged Violations of the Convention: art.2, art. 3, art. 5, art. 13 ECHR

Essential aspects of the case: Imprisonment in Türkiye after the pushback operation

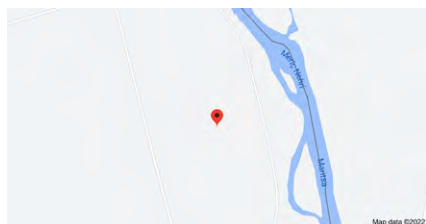


Image 6: GPS Coordinates, 41°30'22.4"N 26°35'45.2"E

Arrival of 11 Turkish citizens in Orestiada:

In the morning of 7 July 2022, 11 Turkish citizens, including two children, entered Greece from Turkey via the river Evros, seeking international protection in the Orestiada region. One of the asylum seekers contacted GCR and declared that she was afraid of being pushed back to Turkey. She requested GCR to inform the Greek authorities and proceed to any relevant legal action, including a request for interim measures and an appeal before the ECtHR. The asylum seeker also sent GCR her ID and some of the court documents related to her persecution in Turkey. Moreover, she mentioned that 3 of her compatriots had already begun walking towards the Police Station of Orestiada. She and the rest of the group were hiding in the forest in the Orestiada region for 4 hours.

Alerting all competent authorities about the case:

On the same day, the lawyers who took over the case immediately informed all competent Greek authorities about the asylum seekers, expressly stating that they face a real risk of persecution in Turkey and requested their immediate actions to rescue and provide them with immediate humanitarian assistance, as well as access to the reception, identification and asylum procedures. The authorities did not respond in writing. Later, in a telephone communication, the asylum seeker informed her lawyers that they were moving towards the nearest Police Station, which, according to their geographical location, was the Police Station of Orestiada.

Abrupt cessation of all communication:

The last communication of the lawyers with the Turkish asylum seeker took place on 7 July at 13:38 when the communication with her was abruptly interrupted. While speaking on the phone with her, the lawyers heard a male voice speaking in poor Turkish with a Greek accent. The lawyers heard the asylum seekers repeatedly and desperately asking: "Will you take us to the police station?" The man replied, "Yes, yes, come on". Immediately afterwards, the communication with the asylum seeker was interrupted, as her mobile phone was switched off. The lawyers had lost contact with the group. The Greek authorities did not respond to the written intervention. The lawyer repeatedly contacted the authorities in order to find out whether the Turkish asylum seeker had been located and arrested or not. The lawyers communicated via telephone with the Police Directorate of Orestiada, the Integrated Border Management and Migration Centre of Orestiada of the Greek Police and the Border Guard Stations of Orestiada (Neo Cheimonio), Kyprinos and Didymoteicho. The Greek authorities replied orally that they were aware of the GCR intervention, but the asylum seeker had not been detected by the police authorities. The Police Directorate of Orestiada informed the lawyers that even though they had conducted a search and rescue operation, they were unable to locate the asylum seekers. All Border Guard Stations informed GCR by phone that they had not made any arrests of Turkish nationals on that day. The following day, the lawyers once again contacted the Greek authorities, who

informed them that the asylum seeker had not been arrested.

Granting of interim measures by the ECtHR:

On 7 July, a request for Interim Measures was submitted to the ECtHR and granted the following day. The Court indicated to the Greek Government, *"that until further notice, the Applicants should not be removed from Greece and be provided with food, water and adequate medical care as needed"*. After numerous attempts to contact the Turkish asylum seekers, on 9 July the lawyers were informed by relatives of one of the asylum seekers that all members of the group had already been pushed back to Turkey on 7 July.

Unofficial arrest and detention in Greece:

After crossing the border to Greece on 7 July, the Turkish asylum seeker waited for about 4 hours. Thereafter, she started walking towards the nearest police station. After a while, she was unofficially arrested by a Greek police patrol. They took her to an unspecified police station, where she remained illegally detained until 20:00, when the illegal and forced repatriation (push-back) began and she and other asylum seekers were transferred by police officers to the border. She was handed over by police officers to an unidentified group of armed men with full face masks, who were obviously acting in collaboration with the Greek authorities. The armed men illegally confiscated her personal belongings and money and put her with other asylum seekers in a boat. In the middle of the river, they threw all the asylum seekers into the water.

What happened after the pushback of

7-8 July: According to information provided by the asylum seeker's family and her lawyer in Turkey, after her forced return to Turkey, she was arrested by the Turkish authorities and imprisoned in Edirne (Adrianoupoli) in Turkey. She was arrested by Turkish soldiers at 00:45 on 8 July after she managed to swim and reach the Turkish bank of the river. On July 9, the 10th Criminal Court of Diyarbakir issued a warrant for her arrest, attached in the Edirne Prosecutor's Decision. On 11 August, she was transferred to İmraçlı Women's Closed Prison in İzmir, Turkey, where she remains detained at the time of writing. There is no information regarding the whereabouts of the other victims of this pushback operation. An application has been filed for this particular pushback victim before the ECtHR against Greece for violation of articles 2, 3, 5, and 13 of the Convention.⁵⁹

C. THE PULLBACK OPERATIONS DESCRIBED IN PUSHBACK VICTIMS' TESTIMONIES

In certain cases, the detailed testimonies of asylum seekers (victims of pushbacks) shared with GCR and the ECtHR in the context of the aforementioned applications and interim measures proceedings before the Court, describe the Turkish authorities' pullback operations in addition to the Greek authorities' pushback operations. During said "pullback" operations, the asylum seekers were pulled back from islets in the Evros river to Turkey by Turkish border guards.

I. Pulled back to Turkey with the use of tree trunks

Date of arrival: 27 April 2022

Date of ECtHR's interim measures: 29 April 2022

Date of pullback operation: 30 April 2022

Relevant application(s) before ECtHR: A.D. and others v. Greece

***Relative interim measures:** S.S. and others v. Greece

Essential aspects of the case: pullback with the use of tree trunks, sexual assault of female asylum seekers inside Turkish informal detention facilities.

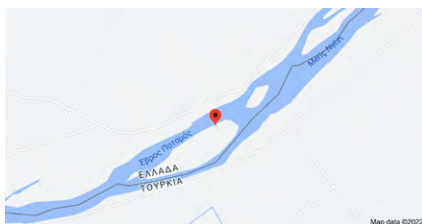


Image 7: GPS Coordinates: 41°19'34.9"N 26°35'44.8"E, as shared by the asylum seekers

Stranded again on an islet after the pushback of 14 April: On 28 April 2022, a group of asylum seekers that were pushed back to Turkey on 14 April (see section B. Pushback of 14 April 2022, above, pp. x), contacted and informed GCR, via WhatsApp, that 28 of them, together with a group of 12 Syrian refugees, re-entered Greece and found themselves once again stranded on an islet in the Evros river (see graphic). GCR immediately informed the Greek

⁵⁹

See Tables in the Annex with the main aspects of the above presented cases categorized.

authorities of their restrandings on an islet, once again requesting their rescue, access to reception, identification and asylum procedures, as well as compliance with the ECtHR's relevant interim measures decision, already granted since the first time they entered Greece and extended.⁶⁰ On 29 April, the Court also granted interim measures for the group of the 12 Syrian refugees, including three children, who were stranded on the same islet. However, according to asylum seekers' testimonies (shared with GCR on 3 May while in Turkey), the following happened on 30 April, around 11 a.m.: People were still on the islet with no search and rescue operation by the Greek authorities. Vehicles appeared at the Greek river bank. The asylum seekers announced their presence and asked urgently for help. They were extremely afraid, distressed, thirsty and hungry. The Greek authorities threw in the river a motor boat that was not able to reach the group. The asylum seekers desperately tried to reach the boat, but to no avail. After 2 hours, at around 13:00, the Greek authorities left.

Involvement of the Turkish authorities on the islet and violent pullback to Turkey: Subsequently, three Turkish nationals in military uniforms appeared on the islet, while seven more were hiding in the trees. The Turkish uniformed men started violently pushing the people towards the river using tree trunks, while

beating them and pointing weapons and knives. Once on the Turkish side of the river bank, the asylum seekers were transported with a vehicle to a Turkish informal detention site, where they were separated by gender, and children remained with their mothers. According to survivors' information provided to GCR, some of the male refugees of the group were maltreated by the Turkish authorities and several women were sexually assaulted. The asylum seekers remained detained from 30 April until 2 May. The Turkish authorities gradually started releasing the asylum seekers of this group. It remains unknown at the time of writing if all the members of this group have been released or if they are still detained.

II. Pushed back with the use of firearms before being violently pulled back

Date of arrival: 10 May 2022

Date of ECtHR's interim measures: 11 May, 13 May and 16 May 2022 for different groups

Date of pushback & pullback operations: 14 May 2022

Relevant application(s) before ECtHR: A.D. and others v. Greece

***Relevant interim measures:** S.S. and Others v. Greece - 29 April 2022⁶¹, A.D. and Others v. Greece- 19 April 2022⁶², F.R. and Others v. Greece - 11 May 2022⁶³

⁶⁰ On 29 April, the ECtHR decided to prolong the interim measures previously indicated until 13 May in respect of the 28 Applicants who allegedly re-entered the Greek territory. On the same day, the Court also granted interim measures for the group of the 12 Syrian refugees, amongst whom 3 children, who were also stranded on the same islet (S.S. and Others v. Greece case – Application no: 21039/22).

⁶¹ ECtHR, Application no.21039/22.

⁶² ECtHR, Application no 18940/22.

⁶³ ECtHR, Application no 23128/22.

Alleged Violations of the Convention: Art.2, Art. 3, Art. 5 ECHR

Essential Aspects of the case: push-back with the use of firearms by the Greek authorities before the pull-back by the Turkish authorities

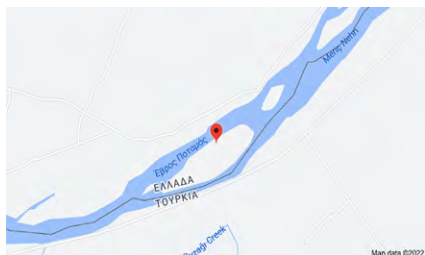


Image 8: GPS location of asylum seekers shared with GCR via WhatsApp on 10 May: 41°19'33.1"N 26°35'41.4"E

62 Syrians including 18 children

stranded helpless on the islet: In the early hours of 10 May 2022, GCR was informed that 62 Syrian asylum seekers⁶⁴ (among them 18 children), entered Greece again and were stranded on an islet in Evros river (see graphic). The asylum seekers told GCR that they did not have food, water or supplies to survive. GCR informed the Greek authorities about the presence of 62 people on the islet and asked them to comply with the previous, extended and new ECtHR interim measures decisions, to locate and rescue all of them and to provide them water, food and access to the asylum procedure. However, despite the fact that from 10 May until 14 May, the

asylum seekers were at the aforementioned location, indicated to the Greek authorities and the ECtHR, the Greek authorities did not locate or rescue the asylum seekers or grant them access to international protection. For all of these cases⁶⁵ ECtHR ordered the Greek government not to remove the asylum seekers from Greece until further notice and to provide them with food, water and adequate medical care as needed until further notice.

Detected but not rescued by the Greek authorities:

On 16 May, and while GCR had lost contact with the group, one of the asylum seekers⁶⁶ informed GCR that most of the refugees of the group had been in Turkey since 14 May. According to the description of the facts by the aforementioned asylum seeker: On 12 May, at approximately 13:00, Greek vehicles appeared but left without making contact with the asylum seekers. Subsequently, they appeared again at 16:00 and then at 20:00. The next day, Greek vehicles appeared once more at 8:30 and then at 11:00. The Greek vehicles re-appeared 2 or 3 more times during the day. Meanwhile, people were urgently asking the persons in the vehicles for help, they were extremely scared, distressed, thirsty and hungry. Some of the children needed urgent medical care. However, the Greek authorities did not intervene or rescue the asylum seekers.

⁶⁴ The aforementioned 62 asylum seekers were 16 people out of the 37 refugees of the A.D. and Others v. Greece, together with 7 out of 12 applicants in S.S. and Others v. Greece (21039/22) and the 39 applicants of the F.R. and Others v. Greece case (23128/22).

⁶⁵ Application no.21039/22 S.S. and Others v. Greece, Application no 18940/22 A.D. and Others v. Greece, Application no 23128/22, F.R. and Others v. Greece.

⁶⁶ Applicant in the S.S. and Others v. Greece case before the ECtHR.

Use of firearms by the Greek authorities to push back asylum seekers: In the morning of 14 May, the Greek vehicles appeared once again at the same location. The Greek authorities started pointing guns and shooting at the asylum seekers, who were forced to move 50 meters away from where they were standing in order to save their lives.

Pulled back and ill-treated at the hands of the Turkish authorities: After a while, according to the asylum seekers' testimonies shared with GCR and ECtHR, seven Turkish men in military uniforms appeared. Some of the male asylum seekers were beaten by the Turkish men. Several women were sexually assaulted by them in front of the rest of the group. The children were beaten by the Turkish authorities. Some asylum seekers tried to escape, others were arrested by the Turkish authorities. Others were transferred to a military hospital in Turkey because the ill-treatment they received from the Turkish authorities was so serious that they needed medical attention. GCR lost contact with the asylum seekers but on 20 May, GCR was informed that refugees continued to be beaten by the Turkish authorities during their hospitalization in the military hospital. One of them was deported to Syria. Two more asylum seekers were arrested, detained and tortured and one of them was sexually assaulted by the Turkish authorities.

4. PUSHBACK CASES AFTER ARRIVAL ON GREEK ISLANDS BROUGHT BEFORE THE PUBLIC PROSECUTOR

Following numerous reports of illegal pushbacks conducted by the Greek authorities on the Greek islands, especially since March 2020, the pushback cases presented below are both of significant interest. In contrast to the aforementioned cases, all of which are pushbacks of asylum seekers stranded at the border region, the cases below concern pushbacks of asylum seekers and refugees who were way beyond the stage of crossing the border region. The first story concerns the case of a group of asylum seekers, who were pushed back to Turkey upon their landing on Lesbos island and after entering a government-run quarantine facility for refugees in February 2021; and the second story concerns the kidnapping and illegal forced return of two recognized refugees who were legally residing in the Eastern Aegean Island of Kos.

In both cases, some of the victims of the violent pushback operations managed to re-enter Greece in 2022 and,

subsequently, filed an official complaint before the Public Prosecutor. In both cases, the victims were initially afraid to file an official complaint and to testify before the investigative authorities while they were waiting for a decision on their asylum claim or for their travel documents allowing them to leave the island where the pushback operation had taken place. People felt safe to testify only after receiving a positive asylum decision and/or the travel documents, and only before the Public Prosecutor and not the police.

I. Pushback after entry into a government-run facility in Lesbos

Date of arrival: 17 February 2021

Place of arrival: Lesbos island

Date of pushback operation: 18 February 2021

Essential aspects of the pushback operation: the pushback was carried out after the asylum seekers' entry into a government-run facility

Relevant legal procedures: ongoing criminal preliminary investigation before the Public Prosecutor's Office

Landing on Lesbos Island: In mid-February 2021, 13 Afghan asylum seekers, including a pregnant woman and 3 children aged between 1-5 years, were forc-

ibly removed and illegally sent back to Turkey by the Greek authorities, upon their landing on the island of Lesbos and after entering the government-run quarantine facility in Megala Therma.⁶⁷ A boat with 13 asylum seekers landed in northern Lesbos on 17 February, at approximately 19.00. At 20.00, the asylum seekers contacted Aegean Boat Report⁶⁸ asking for help, and ten minutes later they also sent their live location on WhatsApp. The Aegean Boat Report directed the asylum seekers to the nearest refugee camp - 300 meters from their location, the quarantine facility in Megala Therma.⁶⁹

⁶⁷ GCR & Oxfam, Lesbos Bulletin: April 2021, 21 April 2021, p. 3, available at: <https://bit.ly/3B334DK>, ECRE, AIDA Report -Greece 2021, Conditions in reception facilities, available at: <https://bit.ly/3H3ssxd>, Aegean Boat Report, "Small Children Left Drifting In Life Rafts In The Aegean Sea!", 22 February 2021, available at: <https://bit.ly/3Uqb34D>; EU Observer, "Afghan asylum family beaten in Greece, set adrift at sea", 25 February 2021, available at: <https://bit.ly/3dAA1ew>; The Guardian, "'We were left in the sea': asylum seekers forced off Lesbos", 19 March 2021, available at: <https://bit.ly/3mq5JyM>.

⁶⁸ Aegean Boat Report is an NGO that monitors and reports on issues related to people movement in the Aegean Sea, particularly actual incidents of people crossing the Sea and governments' responses to them. Find more information on the Aegean Boat Report here: <https://aegeanboatreport.com/about-aegean-boat-report/>

⁶⁹ Lesvospost, The contract for Megala Therma in "Diavgeia", 7 November 2020, available (in Greek) at: <https://bit.ly/3Fluvex>, MSF report, Constructing Crisis at Europe's Border, 9 June 2021, p.13, available at: <https://bit.ly/3FpIPsQ>

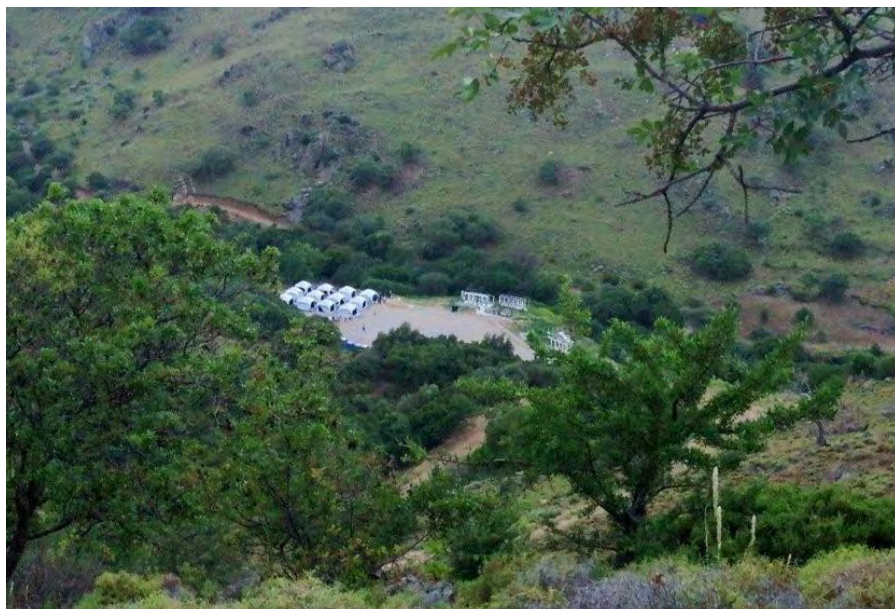


Image 9: Photo of the Megala Therma quarantine camp, as published by Aegean Boat Report⁷⁰

Arrival and entry of asylum seekers into the quarantine facility: Upon arrival outside the government-run facility of Megala Therma, the asylum seekers encountered two police officers on duty who led them inside the facility. The authorities did not give the newly arrived people any basic supplies or information. While waiting for instructions, the group of asylum seekers met and discussed with the camp residents, i.e. asylum seekers who had arrived in Lesbos the previous days; the latter gave them blankets and raisins. Subsequently, the group of asylum seekers were informed by the police officer that they would be taken to be tested for Covid-19, although it was too late at

night and the camp residents had told the asylum seekers that this process is carried out during the day. The officers ordered the newly arrived asylum seekers to hand over their phones and walk out of the facility towards a dirt path. They initially refused to leave the facility but realized they had no other option as the officers insisted and were carrying guns. A man of the group with mobility issues was denied medical care. Another man who asked for medical help for his pregnant wife was beaten.

Illegally detained in an isolated container on a hill: Soon after they arrived at a place uphill with one container, where vehicles arrived carrying men

⁷⁰ AegeanBoatReport, Small Children Left Drifting in Life Rafts in the Aegean Sea!, 22 February 2021, available at: <https://bit.ly/3EWB1XS>

both in uniforms and civilian clothes, according to asylum seekers' testimonies shared with the Aegean Boat Report, UNHCR, GCR, and Greek Helsinki Monitor and some of them also before the Public Prosecutor. Then, asylum seekers were forced and locked into the container. They remained locked inside for around an hour, during which one of them managed to send a video along with their location to the Aegean Boat Report using a mobile phone the asylum seeker had not handed over to the officers. After an hour of informal detention, masked men in fully black clothes came inside the container.

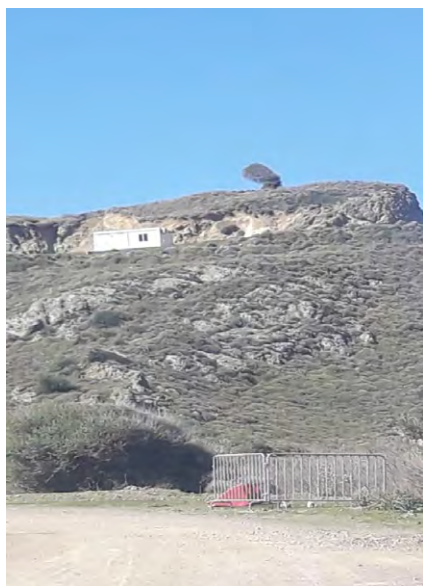


Image 10: Picture of the container that is located in the exact location where the refugees sent their location on WhatsApp, video is filmed inside, as published by the Aegean Boat Report.

"We remained in the container for around an hour, when [...] masked men in fully black clothes came inside and started searching us. They were very aggressive, we got so scared. They were violent to all except for the children. Our money, phones and bags were taken [...] Only one woman managed to hide a mobile phone on her child." Victim of pushback, Lesbos island.

According to a victim's testimony, the masked men hit the men and women in the container, when they were searching for their mobile phones.

During the body search, they also sexually assaulted and humiliated the women by groping their breasts. Afterwards, they ordered the people to get out of the container and forced them into a black van with dark windows and no seats. Finally, the van arrived at a port, where men in dark military uniforms and balaclavas forced the asylum seekers to board a high-speed boat. While at sea they were thrown from the boat into a life raft in which they were abandoned.

"They brought us to a port where there were many fishing boats, and forced us to board a speedboat. I do not recall much details after that as I was very scared. After a while at sea, masked men pulled out an inflated orange rubber, put it in the water and violently threw us all on it. They immediately departed after that." Victim of pushback, Lesbos island

What happened after the pushback of 18 February 2021: 3 of the 13 pushback victims managed to re-enter Greece in 2022. They testified before the Public Prosecutor regarding the criminal acts against them during the pushback operation of 17-18 February 2021. A criminal preliminary investigation is ongoing before the Public Prosecutor's Office of Mytilene. The Public Prosecutor of the Supreme Court is aware of and follows the case. **The Megala Therma government-run facility on Lesbos continues to be used today** for the quarantine of newly arrived asylum seekers who arrive at the northern part of Lesbos island. During the quarantine period, the newly arrived asylum seekers remain without access to reception conditions, including psychosocial and legal aid. The reception and identification procedures only start when they are moved out of quarantine and transferred to Mavrovouni RIC, at the other side of the island.⁷¹ During this period, no official registration of the asylum seekers takes place, which can leave space for arbitrary practices against the asylum seekers, including pushback operations as described above.

II. Pushback of recognized Palestinian refugees on the Eastern Aegean Island of Kos

Date of arrival: 28 February 2022

Place of arrival: Kos island

Date of pushback operation: 18 June 2022

Special characteristics of the pushback operation: the pushback victims were refugees recognized by the Greek Asylum Service, legally residing in Greece

Relevant legal procedures: A complaint has been filed before the Public Prosecutor

On 18 June 2022, two Palestinians - recognised by the Greek authorities as refugees and legally residing in Kos island - were walking in the city of Kos. Two men in civilian clothes stopped them, identified themselves as policemen, and requested to see their residence permits. The Palestinians showed their documents issued by the Greek authorities. The two men illegally confiscated the documents and the money that the refugees were carrying, and later, they illegally confiscated their cell phones as well, after having searched their content. After a while, a car arrived and the two men identifying themselves as police officers tied the hands of the two Palestinians in plastic handcuffs. They were forced into the back seat of the car. They were driven towards an unidentified direction and after some time the car stopped in order to have their eyes covered with duct tape.

Eventually, they arrived in a small storage room, where they remained for about half an hour. In that small room they were forced to take off all of their clothes, they were bodily searched and they were raped - one

⁷¹ GCR and Oxfam Briefing, Lesbos Bulletin Update on the EU response in Lesbos, 21 April 2021, available at: <https://bit.ly/3Vq8mBu>, see also the relevant press release, available at: <https://bit.ly/3VtVElf>

of them had a finger inserted in his anus. The body search lasted for about ten minutes and the Palestinian refugees realized that they were informally detained in a room with 4 or 5 other people. Someone violently kicked one of the Palestinians in the stomach. Approximately one hour later, they were moved to a bigger storage room, where a few more people were unofficially detained. They remained there for about 12 hours and they estimate that there must have been about 9 - 10 guards. During their unofficial detention they were beaten, causing serious injuries in the face, the back and the legs of one of the Palestinians. They were not provided with food or water. The guards threw water on their faces and the Palestinians were trying to drink some of the water drops to quench their thirst. The guards beat and severely mistreated the Palestinian refugees, dragging their bodies on the floor. The guards tied the legs of the people they were holding under unofficial detention in pairs of two and they left them like that for about 6-7 hours. After that time, the guards put all of them in a van that had no seats and drove them to the port of Kos. When they reached the port, the guards untied their blindfolds and their legs. It was late at night, when the guards boarded all the people in a Greek coast guard boat. The coast guard boat was boarded by 4 men, who must have been coast guard officers, since they were driving a boat belonging to the Hellenic Coast Guard.

"I explained again [to the Greek port police] that I have documents, I have family in Kos, we are recognized refugees. They replied "not our business"." Recognized refugee, victim of pushback.

They drove the boat to the middle of the sea and threw them all in the sea on a small half deflated raft, no longer than 1.5 meters. The refugees were floating in the sea for about 1-1,5 hours, when the Turkish coast guard police finally rescued them. They were arrested and detained for a few days for illegally entering the country.

What happened after the pushback of

18 June: The two Palestinians returned to Kos island after a few days. They managed to swim back to Greece from Turkey. One of the two refugees did not know how to swim, so, as he explains, he immediately started practicing while he was in Turkey. One of the Palestinians had his wife and two children in Greece, all of them refugees recognized by the Greek authorities. The case was referred to GCR by the UNHCR because of the disappearance of one of the pushback victims. His wife filed a missing person's report before the Greek police after she lost contact with her husband. Both Palestinians had previously been victims of other pushback operations (3 and 4 times), trying to enter Greece and request asylum in the country. An official complaint before the Public Prosecutor has been filed by GCR on behalf of the pushback victims and its examination is currently pending.

5. CRIMINALIZATION OF NGOs ASSISTING THE NEWLY ARRIVED ASYLUM SEEKERS IN EVROS

“Defenders in the country working to ensure the rights of refugees, asylum seekers and migrants are re-spected, are currently under severe pressure... At the tip of the spear are prosecutions, where acts of solidarity are reinterpreted as criminal activity, specifically the crime of people smuggling... The negative impact of such cases is multiplied by smear campaigns perpetuating this false image of [human rights] defenders”, UN Special Rapporteur on the situation of human rights defenders following her official visit to Greece, Athens, 22 June 2022.⁷²

The pushbacks mentioned in this report are part of a wider context in which those who are defending the rights of refugees, asylum seekers and migrants are targeted and increasingly under severe pressure from the Greek state.

This criminalization of human rights defenders comes in different forms and stages. Criminalization can involve the use of legal frameworks, political and (quasi) legal actions with the intention of treating the defense and protection of human rights as illegitimate and illegal. Criminalization aims to delegitimize the actions of persons who promote, protect and defend human rights. We therefore understand criminalization to derive from the intent to discredit, sabotage or impede the important work of HRDs through the abuse of the legal system and a targeted manipulation of the public discourse.⁷³

A. Targeting of NGOs operating in Evros

The criminalization of HRDs is not a new phenomenon. However, in the past years, it has become significantly worse. At the end of May 2022 and after two successive pushbacks of a group of 93 Syrians that were carried out by the Greek authorities in the Evros region⁷⁴, a series of media reports were published about NGOs that operate at the Greek-Turkish border providing assistance to people that have newly arrived and are trying to ask for asylum in Greece. According to those articles, anonymous sources in the Greek police revealed that thorough investigations were planned to investigate whether these

⁷² United Nations Human Rights Office of the High Commissioner, Press Releases, Greece: Migration policy having “suffocating effect” on human rights defenders says UN expert, 22 June 2022, available at: <https://bit.ly/3k3g2M9>

⁷³ For criminalization of human rights defenders, in general, see: IACHR (Inter-American Commission on Human Rights), Criminalization of Human Rights Defenders, 2015, available at: <https://bit.ly/3J1pgU4> , [Criminalization of Human Rights Defenders](#), [Human rights defenders and civic space – the business & human rights dimension](#)

⁷⁴ For a brief overview of the pushback case of the 93 Syrians, see: GCR- Oxfam- Save the Children, Greece: Bimonthly Bulletin on Refugees and Migrants, July 2022, p.3-4, available at: <https://bit.ly/3SycU74>

NGOs were cooperating with smuggling networks to illegally bring migrants to Greece. The organizations that were supposedly about to be investigated were not named and no connection was made with the organizations that had filed the interim measures before the ECtHR, namely GCR, the Border Violence Monitoring Network (BVMN), Human Rights 360 (HR360) and others. In the next months no investigations took place. Apparently the police comments to the media were part of a wider policy of labeling, intimidating and scaremongering people who are defending the fundamental rights of those seeking asylum.⁷⁵

In June 2022, the Minister of Migration and Asylum, Notis Mitarachi, in his speech before the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament, stated that: *“Smuggling networks have devised a new method of circumventing border controls and manipulating the European asylum and justice system. Smugglers abandon groups of migrants on islets created by the seasonal low flow of the Evros river, then they notify specific NGOs which specialize in border-crossing facilitation and these*

*NGOs then notify Greek Authorities and at the same time file with the European Court of Human Rights with the latter reacting by instigating interim measures which of course do not prejudice the merits of any case.”*⁷⁶

These comments raised great concern among civil society as well as independent media correspondents.⁷⁷ The **UN Special Rapporteur on Human Rights Defenders**, Mary Lawlor, expressed in her recent report following a visit to Greece, her concern about the ***“reports of human rights defenders, in particular those supporting migrants, refugees and asylum seekers, being targeted by hostile comments, including by key stakeholders in the government. They are described as traitors, enemies of the state, Turkish agents, criminals and smugglers and traffickers”***.⁷⁸ Moreover, concerns about the alleged intimidation, criminalization and restriction of the work of defenders of the rights of refugees, asylum seekers and migrants have been communicated to the Greek Government by multiple UN Human Rights Council experts on several previous occasions.⁷⁹

⁷⁵ Indicatively, see relevant articles here (available all in Greek): News Bomb, Evros: Investigation for illegal action of NGOs – Theodorikakos' [Minister of Citizen Protection] Message for border protection, 29 May 2022, <https://bit.ly/3xTg8dS>, TV Open, Under the microscope the action of NGOs in Evros, 29 May 2022, <https://bit.ly/3b6HYKU>, D News, Evros: Four NGOs 'locked' by the Authorities for strange tricks with migrants in the river, 29 May 2022, <https://bit.ly/3xw5Crr>, Newslit, Evros: Investigation of the actions of NGOs and their connection with the networks of irregular immigrants, 29 May 2022, <http://bit.ly/3inHDHb>

⁷⁶ Greek Minister of Migration and Asylum, Speech before the LIBE Committee, 27 June 2022, available at: <http://bit.ly/3Vtn8al>

⁷⁷ ECRE, Greece: Crack-down on NGOs and Criminalisation of Solidarity Continues, Government Announces “Blocking” Thousands of Arrivals in Evros Amid New Pushback Reports, 3 June 2022, available at: <http://bit.ly/3H1kC7l>

⁷⁸ UN Special Rapporteur on Human Rights Defenders, Statement on preliminary observations and recommendations following official visit to Greece, 22 June 2022, available at: <https://bit.ly/3iAOaAh>

⁷⁹ Mandates of the Special Rapporteur on the situation of human rights defenders; the Independent Expert on human rights and international solidarity and the Special Rapporteur on the human rights of migrants,

B. Shifting the focus away from the violent pushback of the 38: Stigmatization, Targeting, Intimidation

In August 2022, the case of the 38 Syrians (described in detail above, and in particular in Chapter E. The Pushback Case of the 38 Syrians stranded on an Evros islet divided by a Greek- Turkish border line, p. xx), attracted significant media publicity. The legal organizations, GCR and HR360, that took the case to the ECtHR are heavily intimidated and targeted by the Greek authorities. The Ministry of Migration and Asylum systematically used the “case of the 38” in order to fuel the already heavily polarized public discussion on the issue of the management of the arrivals of asylum seekers in Greece with press releases, interviews and statements before the Greek Parliament. The Ministry focused its attention on whether the islet where the asylum seekers were stranded was Greek or Turkish territory, and whether a child had died on the islet or not, amid ongoing controversy over the child’s alleged existence and death (see p. xx). However, in its essence, the case of the 38 remains a pushback case - illegal under international and EU law. The Greek State tries to conceal this in the public debate, by shifting the focus from the main issue - the Greek State’s responsibility for the violent pushback operations - to discrediting those who

filed interim measures before the ECtHR. To this day, the Government continues to question the role of these organizations.⁸⁰ In particular, the government officials through their public statements directly targeted GCR and HR360, the organizations that operate at the Greek-Turkish borders providing legal assistance to newly-arrived asylum seekers, describing NGOs as collaborating with smuggling networks, or with the Turkish authorities operating against Greek national interests.⁸¹ The current president of GCR was linked with the opposition party, attributing in this way hidden political motives to the work of legal aid organizations before the ECtHR.

“First, the smugglers, or even the Turkish authorities transfer migrants to the Turkish shore and then they move them in the river, before the fence that protects the Greek borders. The collaborating NGOs already have their personal information in detail as well as further supportive material. In order to achieve a positive decision on interim measures the “story” has to include two elements: Risk of stranding and one or more serious health issues. The NGOs appeal before the ECtHR and then international media, where journalists who, according to their

AL GRC 2/2022, 19 July 2022, with reference to previous mandates (GRC 2/2022, GRC 4/2021, GRC 1/2021 and GRC 2/2020) communicated to the Greek Government.

⁸⁰ See indicatively said statements: Hellenic Republic, Ministry of Migration and Asylum, Notis Mitarakis: Someone organized the 38 of Evros and then left in an unknown direction, 24 September 2022, (in Greek): <https://bit.ly/3RbDzFz>

⁸¹ The overall offensive and arbitrary references to supposedly humanitarian facades, to organizations collaborating with smugglers or with the Turkish authorities had been early on addressed with a Statement that was issued by GCR Board of Directors, GCR, Statement by the Board of Directors of the Greek Council for Refugees, 31 August 2022, available at: <http://bit.ly/3ASRhrU>

statements, are related to the NGOs that file the interim measures, work, give publicity to the incident so that the authorities will cross the [border] fence to find them and bring them to a registration center. In the particular case the interim measures were filed by two Greek NGOs; the president of one of them is a former General Secretary of the Ministry of Migration during SYRIZA⁸²” Minister of Migration and Asylum before the Greek Parliament, 30 August 2022.⁸³

“There are certain [NGOs] that operate in Greece and they have all the requirements [i.e. to be registered in the Ministry’s NGO Registry], however, they are not behaving as they should. You saw what happened with the Evros islet issue. Two NGOs appealed before the ECtHR, they presented the islet as Greek, in fact they played a very undermining role for national sovereignty and national security, and the risk

of causing a border incident there.” Deputy Minister of Migration and Asylum, 3 October 2022.⁸⁴

Within this context, the Greek Government initially started a controversy regarding the territorial status of the islet where the refugees were stranded by insisting that it was Turkish territory and therefore, Greece could not conduct a rescue operation.⁸⁵ Eventually, the Greek Ministry of Defense in reply to a parliamentary question acknowledged that the islet is divided by the Greek-Turkish border line, thus creating a Greek and a Turkish part.⁸⁶ However, the Greek Government has kept this acknowledgment quiet and continues the misinformation of the public.⁸⁷

According to media reports, as of late September 2022, the Anti-Money Laundering Authority started an investigation of the activities and the finances of HR360. The investigation was ordered as a priority by the President of the Anti-Money Laundering

⁸² The Syriza party formed the former Government in Greece and is the current government’s largest opposition party. By (wrongfully) linking the NGOs to the opposition party, the Greek state is suggesting hidden political motives to the legal aid work of these organizations before the ECtHR.

⁸³ Hellenic Republic, Ministry of Migration and Asylum, N. Mitarakis: “Significant inconsistencies in the case of the 38 immigrants in Evros, I will submit all the evidence to the Prosecutor’s Office”, 30 August 2022, (in Greek), available at: <http://bit.ly/3U1Qnju>

⁸⁴ SKAI FM, (in Greek): Sofia Vultepsi on ΣΚΑΙ 100,3 FM radio, min: 6:40- 7:54, 3 October 2022, https://www.youtube.com/watch?v=bNawv6MelU&ab_channel=SKAIRADIO100%2C3FM

⁸⁵ Indicatively, see the following: Hellenic Republic, Ministry of Migration and Asylum, Notis Mitarakis: Submitted evidence to the Prosecutor of the Supreme Court - “Information about third party involvement in the Evros case”, 1 September 2022, (in Greek), available at: <http://bit.ly/3V4vsgV>

⁸⁶ Official Letter-Response of the Greek Minister of Defense to the Hellenic Parliament, Answer on the issue of “sovereignty on an islet in Evros”, 7 October 2022, <http://bit.ly/3i2P8mB>. See also relatively: GCR, Press release in continuation of the clarification of the border status of the Evros islet, 12 October 2022, (in Greek): <http://bit.ly/3Vn7xcd>

⁸⁷ Civil society denounced the government’s systematic use of misinformation aimed at covering up illegal practices and targeting people and organizations that report pushbacks, in: Joint Press Release of 16 civil society organizations, 5 October 2022, available at: <https://bit.ly/3D6Lr7f>, Asylum Campaign (Καμπάνια για το Άσυλο), Press Release, It is the Greek Government’s responsibility to immediately put a stop to informal forced returns (pushbacks): They endanger human lives and breach the state’s international obligations, 5 October 2022, <http://bit.ly/3Vptwzg>, GCR statement in the aftermath of recent announcements on the case of the 38 refugees, 23 September 2022, <https://bit.ly/3BFN0py>

Authority, but only following reports about the case of the 38.⁸⁸ The initial media reports⁸⁹ referred to an investigation of serious criminal offenses⁹⁰ relating to threatening the integrity of the country and money laundering from criminal activities. However, the latest media reports⁹¹ referred to investigation on misappropriation of funds and the establishment of a criminal organization. HR360 made a public statement denying the allegations as inaccurate and false. HR360 has not received any information or notification by the investigative authorities.⁹²

BMVN, which also requested interim measures before the ECtHR to prevent further abuse of the stranded asylum seekers in the Evros Greek-Turkish border, has experienced similar intimidation and threats. The Greek government has targeted not only their activists but also their family members, forcing BVMN member projects to shut down. Many of its key staff members were forced to leave Greece.⁹³ As BMVN stated, this hindered their reporting work and forced them to reconsider the public visibility of some of their most exposed members.⁹⁴

The foregoing illustrates how the Greek government stigmatizes and publicly defames organizations that operate in defense of asylum seekers and who denounce the illegal policies and practices of the Greek authorities at the Evros border. The Greek government does so by: **i.** manipulating the public opinion against NGOs through the systematic use of misinformation, **ii.** linking their human rights work to hidden political motives, **iii.** presenting them as traitors, enemies of the State and threats to national security, or **iv.** ascribing them a “criminal status” and/or initiating criminal investigations against them.

The creation of this hostile environment is seriously hampering the work of these important organizations. Where legal assistance is targeted and criminalized by any means, directly or indirectly, it prevents asylum seekers and migrants from accessing courts to claim their rights or seek redress for violations.

⁸⁸ EleftherosTypos, Double Judicial investigation for the NGO “Human Rights 360” - Its profile and activities, 3 October 2022, available (in Greek) at: <https://bit.ly/3H05zdQ>

⁸⁹ EleftherosTypos, Double Judicial investigation for the NGO “Human Rights 360” - Its profile and activities, 3 October 2022, available (in Greek) at: <https://bit.ly/3H05zdQ>

⁹⁰ Namely, offenses described in Articles 138 and 139 of the Greek Penal Code.

⁹¹ Dikastiko.gr, Breaking: The Anti-Money Laundering Authority sends the NGO Human Rights 360 to the Prosecutor for “establishment of a criminal organization”, 22 November 2022, available (in Greek) at: <https://bit.ly/3VnHnGR>

⁹² Human Rights 360, Statements on allegations in the Press, 22 November 2022, available at: <http://bit.ly/3VCvnAQ>

⁹³ Border Violence Monitoring Network (BVMN), The Black Book of Pushbacks-INTRO, p.6, available at: <https://bit.ly/3XhwIht>

⁹⁴ Ibid, p. 31

6. CONCLUSIONS

A detailed analysis of witness testimonies on pushback cases in Greece over the period of one year, sheds light on these illegal activities as a comprehensive, systematic, and carefully planned migration and border policy of the Greek government. This becomes evident through the consistent patterns and characteristics of these complex operations as described by victims, which contradict the narrative of 'lack of evidence' on these rights violations that is still perpetuated by EU and Greek authorities.

The policy of pushbacks affects both asylum seekers and recognized refugees and involves both Greek and Turkish authorities. Numerous Greek authorities participate in the perpetration of pushbacks, from Greek police, uniformed and armed personnel, to Arabic speaking collaborators or 'police auxiliaries', Greek port authorities as well as masked men dressed in black. The operations involve considerable state resources, such as the means of transport used to forcibly transfer victims throughout various stages of the pushback operation - from dinghies to minivans, military and police vehicles to trucks. In addition to forced transfers, the pushback operations always involve periods of arbitrary detention during which victims are illegally detained without registration, information or access to rights and without basic supplies such as food and water. In some cases, it has been possible to identify one of the unofficial detention sites

as the Neo Cheimonio Border Guard Station. This was made possible when people managed to reenter Greece and were formally arrested by the Greek authorities; they were detained in the same detention site where they were detained before their pushback to Turkey. All pushbacks involve degradation, physical violence, intimidation, arbitrary confiscations of personal belongings as well as gender-based violence against victims - from strip searching to groping, forced nudity and rape. Violence and intimidation similarly characterize the testimonies of asylum seekers regarding their treatment by Turkish authorities in the Evros region.

This illegal migration and border policy evolves over time, as the Greek state adjusts its operational strategy in the perpetration of pushbacks in an attempt to circumvent relevant Court rulings, rather than ending the illegal practice. For example, since the ECtHR issued its first interim measures decision ordering Greece to rescue stranded asylum seekers on an Evros islet, the Greek authorities began pushing people back to the Turkish riverbank instead. A further evolution of this illegal border policy has been the recent expansion of its targets: where asylum seekers and refugees themselves are met with severe violence and denial of their right to seek asylum, human rights defenders working to support them and hold the Greek state accountable are met with intimidation, defamation and criminalization. This takes the form of systematic public misinformation, often through media or government announcements. The government's narratives frame human

rights defenders as traitors, security threats and enemies of the State; or as criminals involved in smuggling and organized crime.

This research shows that unless EU and Greek authorities finally put an end to these illegal migration and border policies, they will only become more violent and widespread. Just like pushbacks and criminalization of HRDs, impunity, institutional inaction and lack of accountability undermine European values, the rule of law and violate EU and international law. Pushbacks and border violence are, and have been for many years, a symptom of a broken European asylum policy, which will only be remedied when the EU and its member states establish a fair and mandatory solidarity mechanism that prioritizes relocation, as well as safe and regular routes for individuals seeking protection in Europe. In the short term, swift action must be taken to end these illegal practices, including the establishment of truly independent and effective border monitoring mechanisms as well as infringement proceedings when Member States systematically violate refugees' and asylum seekers rights. Recent developments have shown that this is possible in practice, and we hope that this is merely a first step toward a wider re-commitment to upholding human rights and defending civic space in Europe.

7.

RECOMMENDATIONS

We call on the European Union and its Member States to:

- **Ensure** through regular monitoring that EU funded border surveillance technologies are used for search and rescue operations and in support of the right of access to asylum and the right to life.
- **Enhance** the monitoring role of the FRONTEX Fundamental Rights Office, and specifically guarantee their access to relevant border areas and FRONTEX operations at the Greek-Turkish land and sea borders.
- **Enhance** the monitoring role of the European Union Asylum Agency (EUAA). Establish a complaint mechanism under the supervision of the newly appointed Fundamental Rights Officer, to report any evidence of possible misconduct or violations of EU and international law perpetrated by the Greek authorities at EU external borders.
- **Increase transparency** and scrutiny over the Greek authorities' use of EU funds for migration management purposes, to ensure that EU funds are not being misused to fund operations that endanger migrants and refugees or violate EU law. To this end, clarify the role of the EU Task Force on Migration Management and include regular scrutiny and reporting on said funding in their mandate.
- **Take disciplinary action and launch infringement proceedings** against the Greek state for well-documented, long-term, and systematic breaches of international and EU law in its treatment of asylum seekers, including during the conduct of pushback operations. Make the content and focus of the current infringement proceedings transparent.
- **Recognize** the shrinking civic space in Greece and the dangerous trend of criminalization of HRDs at EU's external borders as an urgent issue to address, and urge the Greek government to immediately put an end to these practices.
- **Urgently establish** an Independent Border Monitoring Mechanism that can effectively investigate human rights violations at the borders and hold perpetrators to account. Inform and involve relevant civil society in the establishment of the mechanism.
- **Stop** establishing non transparent and ineffective migration 'agreements' with non-EU countries. These deals undermine the adherence of the EU and its member states to their human rights obligations, make the EU and its member states skirt their responsibility for hosting refugees, and make the EU and its member states vulnerable to politicizing human mobility potential actions by third country governments.
- **Resist** any further attempts to codify the concept of 'instrumentalisation' in EU law, and refrain from

introducing this term and/ or corresponding derogations in other files proposed under the EU Pact on Migration and Asylum or other legislation.⁹⁵

We call on the Greek Government and the Greek judicial authorities to:

- **Stop** the illegal pushback operations and respect all binding interim measures decisions granted by the European Court of Human Rights on not removing asylum seekers from Greek territory, providing them with food, water, adequate medical care and transferring them immediately to reception centers.
- **Close the Neo Cheimonio Border Guard Station.** The Public Prosecutor should initiate a criminal investigation bringing to justice those accountable for the criminal offenses committed against the asylum seekers during the pushback operations.
- **Close the Megala Therma quarantine facility,** where the newly arrived asylum seekers remain for at least five days without any official registration, without access to legal or psychosocial assistance, without information on procedures and without the possibility to contact anyone outside the quarantine area, which could lead to arbitrary practices, such as pushback operations.

- **Hold** the Ministry of Migration and Asylum, and specifically, the administration responsible for the quarantine facility of Megala Therma accountable for the lack of registering the group of asylum seekers in February 2021 and their informal removal and transfer from the official facility to an informal detention site.
- **Guarantee access to justice** for victims of pushbacks, that manage to re-enter Greece, with regard to the violations of their rights during the pushback operations.
- **Ensure** that human rights defenders and civil society organizations can operate without undue interference, in accordance with the recommendations of the International Commission of Jurists.⁹⁶ Specifically, ensure that legal representatives of asylum seekers can provide legal assistance without hindrance and ensure individuals' access to judicial protection and redress before domestic and international courts.
- **Refrain** from criminally prosecuting individuals or organizations for providing legal and other practical assistance and support to asylum seekers.
- **Take measures** to publicly promote the work of human rights defenders in Greece, in particular those working with migrants, refugees

⁹⁵ European Commission, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL addressing situations of instrumentalisation in the field of migration and asylum, 14 December 2021, available at: <https://bit.ly/3DaFdml>. See relatively NGOs call on member states: Agreeing on the instrumentalization Regulation will be the final blow to a Common European Asylum System (CEAS) in Europe, 8 September 2022, available at: <https://bit.ly/3iw1sfF>

⁹⁶ International Commission of Jurists (ICJ) Briefing Paper, Criminalization of humanitarian and other support and assistance to migrants and the defence of their human rights in the EU, 22 April 2022.

and asylum seekers, in line with the recommendations of the UN Special Rapporteur on the situation of the human rights defenders.

- **Refrain from** making statements that stigmatize HRDs and suggest that defenders, as well as human rights organizations, act improperly or illegally, for carrying out their work to promote and protect human rights. Likewise, the Greek State should give precise instructions to government officials on this matter and take disciplinary action against those who fail to comply with such instructions.
- **Take into consideration** the findings of the newly established Recording Mechanism of Incidents of Informal Forced Returns by the Greek National Commission for Human Rights.
- **Ensure** with the support of the EU that the border procedures (reception and identification, registration, examination and overall processing of asylum claims) at the Greek-Turkish borders are conducted in compliance with human rights law and the principle of non-refoulement.
- **Establish** immediately, in close cooperation with the European Commission, the Independent Border Monitoring Mechanism (IBMM) with the necessary scope, mandate and expertise to investigate pushbacks and human rights violations at the Greek borders.
- **Ask for** the Greek Ombudsperson's and the Greek National Committee for Human Rights' significant contributions to the IBMM's establishment and its eventual functioning,

as national bodies with the necessary training, expertise and independence, to record and investigate pushbacks.

- **Communicate** immediately and proactively to relevant NGOs and civil society the progress on establishment of the mechanism, which stakeholders are involved and the procedure for engaging with the mechanism, specifically reporting pushback cases, as soon as the EU Fundamental Rights Agency's Fundamental Rights Officer is in place in Greece.

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