

EXECUTIVE SUMMARY



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AT EUROPE'S BORDERS: BETWEEN IMPUNITY AND CRIMINALIZATION



**GREEK
COUNCIL
FOR
REFUGEES**

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While pushbacks are not a recent phenomenon, the number of cases of reported pushbacks at the land and sea borders of Greece with Turkey has increased since March 2020. At the same time, NGOs and human rights defenders who provide legal aid to victims of pushbacks are targeted, intimidated and criminalized by Greek authorities.

A pushback occurs when a state actor informally and forcefully removes a person or a group out of the country's territory without assessing their individual applications for international protection. Pushbacks not only violate the right to seek asylum, but often also involve arbitrary detention, physical violence and (in some cases) sexual violence. Pushbacks violate the EU Charter of Fundamental Rights, the European Convention on Human Rights, the EU Directive on common procedures for granting and withdrawing international protection as well as the 1951 Refugee Convention and other international human rights law.

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.

REPORT FINDINGS

Between 16 March and 22 October 2022, GCR successfully obtained interim measures by the ECtHR for 21 groups of asylum seekers that arrived in the Evros region. Said requests for interim measures were submitted because appeals to the Greek authorities for the search and rescue of these groups had been unsuccessful. Despite the Court's orders, most of these people were eventually pushed back to Turkey.

Perpetrators of pushbacks

In the Evros region, uniformed and armed personnel are apparently the first to locate the asylum seekers. The Greek police reportedly traces and unofficially apprehends the victims in the Evros mainland. Individuals with covered faces, dressed in black and carrying weapons, usually participate in multiple stages of the pushback operation. Arabic speaking collaborators of the authorities are involved in the final stage of the pushback operations, usually driving the boats and physically pushing back the asylum seekers to Turkey, following the orders of Greek authorities. In all instances, official police and port authorities collaborated with the masked men dressed in black, at various stages of the pushback operations.

Neglect and pushbacks

Asylum seekers located on islets of the

Evros river are often left there for several days, even when the Greek authorities are informed by human rights defenders and NGOs about the whereabouts of these groups who are in dire need of protection. On the islets, there is no shelter, nor access to food and clean water. In most cases, it takes days before the Greek authorities transfer the asylum seekers to the shore. They do so with unsafe, small, inflatable water crafts. From there, they are transferred to the site of their informal detention in minivans or military vehicles. Those discovered on the mainland report being transported to unofficial detention sites in police vehicles. Often, more than 100 people are grouped together and then divided into smaller groups. In all cases, the asylum seekers are subsequently pushed back to Turkey.

Arbitrary and illegal detention

In all cases detailed in the report, asylum seekers were arbitrarily held in official or unofficial detention sites, for periods ranging from a few hours to a full day before eventually being pushed back. Official detention procedures are not followed, no one is officially registered, and asylum seekers do not have access to water, food, phone calls or lawyers. In three cases, people identified the Neo Cheimonio Border Guard Station as the site of their informal detention.

Physical violence

The report provides graphic details of physical and mental abuse that victims of pushbacks suffer at the hands of the persons conducting them. Said

abuse includes beatings and the threat of and actual use of electroshock batons and other weapons. In one of the cases presented, the guards in the unofficial detention site drag the bodies of the refugees on the floor, tie their legs and leave them in this state for approximately 6-7 hours. In several cases the beatings take place in front of children and in one of the cases men in military uniforms beat children on their heads and backs.

Sexual Violence

In all the reported cases, asylum seekers were subjected to strip search during their unofficial detention. In at least three cases, people reported incidents of sexual violence, ranging from humiliation to sexual assault and rape. In another case, women and men were ridiculed 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.

Criminalization of human rights defenders

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.

CONCLUSIONS AND RECOMMENDATIONS

This research demonstrates that unless EU and Greek authorities finally eradicate these illegal migration and border policies, those will only become more violent and widespread. Just like pushbacks and criminalization of human right defenders, 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 demonstrated 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.

We call upon 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** entering into 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.

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. 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 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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