

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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Statement on the reported practices of push backs

09.07.2020 ¹

The Greek National Commission for Human Rights (GNCHR), an independent advisory body to the State in matters of human rights protection, has the duty, within the competencies recognized by its founding law, to monitor human rights issues, to take care of public information and to develop initiatives to raise public awareness, to examine the adaptation of the Greek legislation to the provisions of international law for the protection of human rights by expressing a relevant opinion to the competent State bodies.

In this regard, the GNCHR over the last years and taking into account an increasing number of complaints concerning informal push backs has proceeded to issue a *Statement*² and subsequently a *Declaration*³, calling upon the Greek authorities to respect the principle of non-refoulement and investigate complaints immediately. As the GNCHR repeated in September 2019, “the suspicion of existing and operating on a systematic basis state or parastatal channels of unlawful management of migration and refugee flows undermines any concept of rule of law and exposes the country at an international level” and called the Greek authorities to take all measures in order to ensure: 1. the respect of the principle of non-refoulement; 2. the unhindered, timely and effective access to international protection procedures for all foreigners with irregular entry without discrimination based on race, religion, ethnicity, participation in a social group or political opinion; and 3. the timely and thorough investigation of all complaints on informal, violent push backs in Evros.⁴

¹ This Statement was adopted by the GNCHR Plenary on 07.07.2020. Rapporteurs: Spyros Apergis, Chair of the Third Sub-Committee of the GNCHR, Alexandros Konstantinou, Vice-Chair of the Third Sub-Committee of the GNCHR and Elli Varhalama, Second Vice-President of the GNCHR. Editor: Eva Tzavala, Human Rights/Legal Officer at the GNCHR.

² GNCHR, [Statement on the allegations of irregular movements in Evros](#) [in Greek] (July 2017).

³ GNCHR, [Statement on complaints regarding informal push-backs at the region of Evros](#) (2018).

⁴ [GNCHR's Recommendations on Refugee Protection](#) [Annex to GNCHR's Reference Report on Refugees], October 2019.

At the same period (September 2019), the **UN Committee Against Torture**, in its Concluding Observations in follow up of the examination of the seventh periodic report of Greece underlined: “the Committee is seriously concerned at consistent reports that the State party may have acted in breach of the principle of non-refoulement during the period under review. In particular, the reports refer to repeated allegations of summary forced returns of asylum seekers and migrants, including Turkish nationals [...] of the Evros region, with no prior risk assessment of their personal circumstances”.⁵

In December 2019, the **UN Working Group on Arbitrary Detention**, in follow up to its visit in Greece has stressed that: “the Working Group was informed that some newly arrived persons in the Evros region are arrested, detained in very poor conditions, and summarily returned across the Greece-Turkey land border without being given the opportunity to apply for international protection in Greece”. Following these, the Working Group urged the Government “to ensure that such practices, including any possible acts of violence or ill-treatment that has occurred during such incidents, are promptly and fully investigated”.⁶

In March 2020, the **Council of Europe Commissioner for Human Rights** stated: “regarding the situation in the Aegean Sea, I am alarmed by reports that some people in distress have not been rescued, while others have been pushed back or endangered. I recall that the protection of the lives of those in distress at sea is one of the most basic duties which must be upheld, and that collective expulsions constitute serious human rights violations”.⁷

In June 2020 the **International Organisation for Migration (IOM)** and the **UN High Commissioner for Refugees (UNHCHR)** have publicly called Greece to investigate the late reports on push backs at the Greek-Turkish borders. In particular, the IOM is deeply concerned about persistent reports of push backs and collective expulsions of migrants, in in some cases violent, at the European Union (EU) border between Greece and Turkey.⁸ The UNCHR has continuously addressed its concerns with the Greek government and has called for urgent inquiries into multiple reports of push backs by Greek authorities at the country’s sea and land borders, possibly returning migrants and asylum seekers to Turkey after they had reached Greek territory or territorial waters.⁹

On 18 June 2020, the GNCHR’s Sub-Commission for the application of human rights to aliens held a **hearing of public bodies and persons** under the Commission’s founding law, via video conference. The hearing was attended by representatives of the Government, the competent security forces, international organizations, independent authorities and civil society

⁵ UN Committee Against Torture, **Concluding Observations** on the seventh periodic report of Greece, 3 September 2019, CAT/C/GRC/CO/7.

⁶ Working Group on Arbitrary Detention, **Preliminary Findings** from its visit to Greece (2 - 13 December 2019).

⁷ Council of Europe, Commissioner for Human Rights, **Statement**: Time to immediately act and to address humanitarian and protection needs of people trapped between Turkey and Greece, 3.3.2020.

⁸ **IOM Alarmed over Reports of Pushbacks from Greece at EU Border with Turkey**, 11.6.2020.

⁹ **UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey**, 12.06.2020.

organizations.¹⁰ The Greek public authorities, during official statements before national and international bodies,¹¹ **fully deny the reports on push backs at the borders with Turkey** while they note that any press releases are fake news and serve other purposes. The representatives of the state bodies that participated in the hearing have stated that they have no knowledge of any recent complaints on violent push backs and have called anyone that has evidence to inform the competent authorities in writing. More analytically, the representative of the Ministry for Migration and Asylum has declared that there is no issue of push backs while he disputes whether recent incidents in Evros can constitute a “refoulement” under the Geneva Convention Relating to the Status of Refugee. The representative of the Hellenic Police made it clear that “the reported practices of informal push backs are outside the operational framework of the Hellenic Police”. Likewise, the representative of the Coast Guard stated that “push backs do not belong to the operational practice of the Coast Guard”. The officers that attend the hearing explained to the GNCHR their operational mode of action at the land and sea borders in cases of detection of foreigners entering irregularly. They attributed the rumors of push backs to an attempt to put pressure on Greece to relax the securing of its external borders. Finally, they have reassured the Committee that any complaints submitted in the past have been investigated in a substantial way and have proven unfounded. A Frontex representative did not attend, although invited. However, the Head of the Frontex Agency, in a meeting of the European Parliament where he attended,¹² clarified in relation to the incident occurred in early March and took publicity – regarding wrong orders of the Greek Coast Guard to Danish vessels of Frontex – that is is a “misinterpretation” and that the Greek Coast Guard acknowledged the mistake. He conveyed the reality from the field, stressing that operations on the Greek-Turkish borders are difficult given the complex geopolitical situation and the growing pressure from Turkey.

The Vice-President of the **European Committee of the Council of Europe for the Prevention of Torture** (CPT) participated in the GNCHR hearing. He was the Head of the CPT’s Mission that visited Greece in mid-March.¹³ The CPT has notified its Preliminary Remarks to the Greek Government while it prepares its final Report. During its visit in Greece, the CPT examined

¹⁰ See GNCHR’s [Press Release](#), Hearing of public authorities and persons on refugee and migrant issues during the meeting of the Third Sub-Commission of the GNCHR, 19.06.2020. Written contributions by: UNCHR, Greek Council for Refugees, Amnesty International, Equal Rights Beyond Borders, Refugee Support Aegean, Human Rights 360, Legal Centre Lesbos, HIAS.

¹¹ Statements of the Minister for Citizens’ Protection and Minister for Migration and Asylum during the Meeting of the LIBE Committee of the European Parliament on July 6th, 2020 with item on the agenda “The situation at the Greek/Turkish border and respect for fundamental rights”. Statements of the Minister for Migration and Asylum at the Greek Parliament on 6.7.2020 during the discussion on the Question nr. 23/12/28.5.2020 of 66 Parliamentarians of the Parliamentary Group of SYRIZA with subject “The policy implemented by the Government in refugee matters is dangerous and ineffective”.

¹² LIBE Committee of the European Parliament on July 6th, 2020, *idem*.

¹³ The CPT made a five-day rapid reaction visit to Greece to examine the way in which persons attempting to enter the country and apprehended by the Hellenic Police or Coast Guard have been treated, notably since 1 March 2020, when inter alia the processing of asylum requests was suspended. The visit took place between 13 and 17 March 2020. For more information see the relevant [Press Release](#).

complaints on push backs and informal detention places (facilities in Poros outside Ferres, a vessel in Lesvos). According to the CPT, “push back” is any summary return of people in the other country without knowing who they are, without being informed on their rights and without being given the opportunity to submit an asylum application.

The representative of the Greek Ombudsman who attended the hearing noted that the Ombudsman carries out already since 2017 an ex officio investigation for the reported incidents of illegal push back in Evros of Turkish citizens from political parties and organisations. Later on, the Ombudsman expanded the investigation to include third-country nationals. As the investigation is ongoing, the data are not public at this stage, however the Ombudsman is in cooperation with the competent Greek authorities in this matter.

Moreover, representatives of the judicial authorities were invited to the hearing of public bodies and persons, who unfortunately did not attend.

On the part of the organizations participating in the hearing, which provide services in the field to refugees and migrants, there was **an increase in reported cases of individual or group push backs** at the land border of Greece with Turkey, culminating in the period 28.02.2020–2.3.2020. In addition, some of the organizations that are active in the islands of the Eastern Aegean have recorded in recent months (March-June 2020), through testimonies of their beneficiaries, **cases of group push backs at sea using life-threatening practices for foreigners**. Furthermore, organizations providing legal support to refugees and migrants, such as Equal Rights Beyond Borders, have reported cases of disappearances, loss of life and injuries in Evros that they are handling following an authorization provided by the victims. Similarly, Amnesty International, which recorded in a Report published on 3 April 2020 various testimonies of human rights violations of foreigners during the period 28.02.2020-02.03.2020 in Evros, is following the judicial development of the case of the disappearance of a Syrian woman while trying to cross the Greek-Turkish borders on 29.02.2020. **It is worrying, according to GNCHR, that all the organizations that participated in the hearing had recorded recent incidents of push backs at the land and / or sea borders of Greece with Turkey**. At the same time, there are increasing reports of cases of group push backs by the Greek authorities **after the entry of foreigners into Greek territory** and either being detained in informal detention centers (Legal Center Lesvos) or staying for a long time in mainland (Greek Council for Refugees).

Emphasis was placed during the discussion on **the lack of effective investigation of the alleged incidents** but also on the impossibility of effective judicial control of these practices due to, among other things, as mentioned by the Refugee Support Aegean, lack of objective evidence regarding the facts and electronic recording or audiovisual recording material of the Coast Guard operations. The UN High Commissioner for Refugees has forwarded reports to the competent Greek authorities, requesting their investigation and the adoption of appropriate precautionary measures so that there is no room for doubt or doubt as to the observance of

international refugee law by the state bodies. The Greek Council for Refugees has in the past but also recently filed complaints and reports before the Greek judicial authorities for a number of criminal offenses during the conduct of informal violent push backs, which are pending in Greek justice. Other organizations, such as HumanRights360 and ARSIS, have in the past published reports, notified them to the competent bodies of the State, the Ombudsman and the Prosecutor's Office for further investigation, but for various reasons they have been fruitless. The ECtHR was further informed that HumanRights360, in order to effectively highlight and address this "practice" developed in the Evros region, had lodged an urgent appeal with the Office of the UN High Commissioner for Human Rights according to the Special Procedures for a case in which there are numerous photographs, videos and geographical locations proving that the person in question was in Greece seeking international protection. Moreover, it is in the final stage of filing an appeal with the Committee of the UN International Covenant on Civil and Political Rights (Human Rights Committee) regarding the case of a man who legally visited Greece, being a recognized refugee in Germany and was pushed back to the border of Evros with Greece more than one (1) time.

Finally, the GNCHR monitors the development of two recently brought applications before the European Court of Human Rights by Syrian nationals against Greece, alleging violations of ECHR provisions due to their alleged push back to Turkey in February 2020.¹⁴

It should be noted that in the context of the multi-year monitoring by the GNCHR of complaints on push backs and in follow up to the recent hearing of public bodies and persons on 18.6.2020, there is clearly a gradual but steady consolidation of the characteristics of the phenomenon, as evidenced by the records of organizations, that also now acquires fixed references to the same or similar methodology of informal push backs. This fact in combination with the absence of complaints, according to the competent authorities, is of particular concern to the GNCHR, as the lack of an official independent mechanism for recording and monitoring complaints of informal push backs is essential and must be of immediate concern to the State due to serious human rights violations. that this involves.

Recalling that

- The sovereign right of states, as enshrined in international law, to control the entry, residence and expulsion of foreigners must be exercised in accordance with their obligations under international human rights law and international refugee law.¹⁵
- It is the duty of States, in accordance with their obligations under international law as well as the core of rule of law, to conduct a prompt and effective investigation into

¹⁴ ECtHR, *L.A. a.o. v. Greece and A.A. v. Greece*, Applications nos. 12237/10 12736/20, [Communicated Case](#), 12.05.2020.

¹⁵ See *inter alia* ECtHR, *N.D. and N.T. v. Spain*, Applications nos. 8675/15 και 8697/15, [Judgment](#) [Grand Chamber] of 13.2.2020.

credible allegations of ill-treatment / exposure to inhuman or degrading treatment and /or disproportionate use of violence.

The GNCHR calls upon *the Greek authorities*

- 1) to ensure that **all state organs comply with the non refoulement principle** without exception, act in conformity with it and carry out rescue at sea operations in a timely manner, as required by international law;
- 2) to **establish an official independent mechanism for recording and monitoring informal push backs complaints**, due to the most serious human rights violations involved. The GNCHR can help in this direction, given its experience from the establishment and operation of the Racist Violence Recording Network in terms of setting up a framework for recording life-threatening incidents through practices with consistent methodological features;
- 3) to **effectively investigate allegations** of informal push backs, disproportionate use of force and lethal injuries, underlining that any failure to do so not only contravenes international human rights obligations binding Greek authorities but also exposes the country under international human rights law;
- 4) **to bring those responsible** for any such illegal act **to justice**;
- 5) to ensure, through the use of technological equipment and other ways of operational action, **the collection of objective data** available to the police and judicial authorities for the effective investigation of complaints on push backs;
- 6) to ensure **an effective cooperation with the judicial authorities** as required in the context of investigations of complaints on push backs;
- 7) to take measures on the **effective access of victims to justice** and their protection similarly to other victims of crime, such as victims of trafficking in human beings and victims of forced labor.

In addition, the GNCHR *calls FRONTEX to ensure that its operations at the EU external borders with Turkey comply with the non refoulement principle and the duty to rescue persons in distress at sea*. In this regard, *the GNCHR has already proposed to the EU Member States to strengthen the role of National Human Rights Institutions as independent human rights monitoring bodies at EU borders*.¹⁶

¹⁶ European Network of National Human Rights Institutions (ENNHRI), [Stronger human rights monitoring at Europe's borders – why NHRIs are part of the solution](#), 27.05.2020.