

National Report on the situation of human rights of migrants at the borders



Greek National Commission for Human Rights

Executive Summary

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The **Greek National Commission for Human Rights (GNCHR)** is the National Human Rights Institution in Greece, accredited with A-status since 2001 as in full compliance with the UN Paris Principles. The GNCHR is entrusted with the mandate of protecting and promoting human rights in Greece and acts as the independent advisory body on these matters. The GNCHR attaches, since its establishment, particular importance to the enjoyment of rights by refugee and migrant population residing in Greece. Therefore, it has institutionalised a standing Sub-Commission for the protection of human rights to aliens.

This Report covers mainly the GNCHR's activities on the protection of migrants' rights at borders in 2020, taking into consideration all major developments such as the entry into force of a new legal regime on international protection, tensions occurred at the Greek-Turkish land borders and the spread of the COVID-19 pandemic. During this period, the GNCHR conducted monitoring activities at borders, convened several meetings with relevant national and international stakeholders to address the critical situation faced by asylum seekers and migrants and advised the Greek government and Parliament on all amendments of laws on international protection. It also provided its expert opinion on national reports submitted before UN bodies for periodical review, took initiatives to fill protection gaps and harmonise national law and practice with international standards and made public interventions in cases of immediate endangerment of migrants' rights.

Returns and violence at the borders

During the reporting period, the GNCHR received information on individual or group pushbacks at the Greek-Turkish borders as well as on the use of life-threatening methods in the course of deterrence operations at sea. Allegations on pushbacks are considered credible by international and European organisations and human rights bodies (such as the UN Committee Against Torture, the UN Working Group on Arbitrary Detention and the Council of Europe Commissioner for Human Rights)/. The allegations are dismissed as unverified by the Greek government, which has denied on several occasions being aware of any recent official complaint on such alleged violations. Only two pushbacks cases were investigated in 2020 by the Hellenic Police and four cases by the Greek Prosecutor, but no case of pushback has ever resulted in a trial before a court.

The GNCHR has recommended the Greek authorities to establish an official independent mechanism for recording and monitoring informal pushbacks complaints and to effectively investigate allegations of pushbacks and disproportionate use of force in order to hold those responsible accountable and protect victims. The GNCHR will soon launch a new Mechanism for recording incidents of pushbacks to contribute to filling this accountability gap.

Effective, fair and transparent asylum procedures

In February 2020, a GNCHR delegation visited the Asylum Service and the Regional Asylum Office of Attica to identify the problems and challenges faced by applicants

for international protection and the staff of the Services, as well as to discuss with the Director ways to improve the asylum system.

Based on the concerns raised by NGOs working on the field, GNCHR expressed its reservations on the extensive use of the option to service decisions to a third person and not the applicant himself. In addition, the introduction of an e-service system for decisions on asylum applications raises concerns as to its compatibility with the right to appropriate notification of a decision and of the reasons for that decision in fact and pursuant to EU law.

The provision of free legal aid at the appeal stage of an application for international protection has been deemed seriously deficient, with only 33% of asylum seekers having effective access to it.

A recent law has abolished the automatic suspensive effect of the appeal for certain categories of appeals which may call into question the compliance with the right to an effective remedy within the meaning of Article 13 of the European Convention on Human Rights (ECHR).

Regarding vulnerable asylum seekers, the GNCHR has noted certain irregularities in the screening process (identification) of victims of torture and/or other serious forms of psychological, physical or sexual violence or exploitation, as well as major gaps in the provision of adequate psychosocial support to them. GNCHR called on the cessation of the accelerated border procedure applicable only in the Aegean islands since the entry into force of the EU-Turkey Statement and the exclusion of vulnerable people from such procedures.

Deprivation of liberty at the borders

Recent legislative developments have further restricted the freedoms of applicants for international protection and detention has become de facto a mainstream measure with detention pilot programs being implemented in Aegean Islands of Lesbos, Kos and Leros. The possibility of challenging the legality of detention before the administrative courts is limited. No individual assessment is carried out before the imposition of detention and this measure is implemented without exception, even against vulnerable persons such as families with children, persons suffering from mental illnesses, and victims of torture, while alternative to detention measures are not examined or applied in practice, contrary to the recommendations of the GNCHR. In Kos in 2020, all new arrivals are being detained in the pre-removal centre, irrespectively of whether migrants have expressed their will to apply for asylum.

Due to the travel restrictions taken during Covid-19 pandemic, all returns to Turkey are suspended since March 2020. International organisations and human rights bodies have called for the release of all migrants in detention and the use of alternatives due to lack of prospect for removal and in line with international and regional organs recommendations as a preventive measure against Covid-19

Living conditions in reception centres and makeshift camps at borders

During the on-site visit carried out by the GNCHR in Samos at the Reception and Identification Centre (RIC) of Vathy and the makeshift camp that has been created in the surroundings, the GNCHR delegation concluded that the reception system had

collapsed. In Samos, while the RIC was designed to host up to 648 persons, in January 2021 the number of people in the centre or its surroundings (containers, tents and makeshift shacks) reached 7.208 persons.

Applicants for international protection are obliged to live under dire or even undignified living conditions during the processing of their international protection claims, which can take up to several months or years. The most alarming finding was the lack of control by the authorities over a large part of the informal camp outside the RIC where security incidents are frequently noted, such as violent confrontations and injuries among rival communities, extortion from traffickers or other organized groups, arson for reasons of trespassing of forest land or other reasons, rapes of women and minors, incidents of domestic violence and human trafficking.

The GNCHR noted a big gap in the provision of health and psychological services due to lack of staff and appropriate services such as interpretation and shortage of medicines. As a result, the population of the camp is often affected by diseases and health problems.

Access to formal education was almost non-existent for the refugee and migrant population residing in Vathy as the Reception Facilities for Refugee Education (DYEP), which provide afternoon preparatory classes for all school-age children aged 4 to 15, never started to operate because the recruitment process for teachers has never taken place. The children who lived in the hotspot (around 1500) in practice had access only to non-formal education provided by various NGOs.

According to the information collected during the GNCHR's monitoring visit, 330 unaccompanied children were registered by the RIC of Vathy and they were found to be living in unsuitable conditions, often sleeping outdoor. Extortions from smugglers and rapes of unaccompanied minors residing outside the camp had been reported.

After a fire destroyed the Moria camp in Lesvos in September 2020, the GNCHR called on the Greek State to immediately take all necessary measures to secure a decent accommodation, basic necessities and the provision of health care to the thousands of asylum seekers who remain trapped in Lesvos. Subsequently, all asylum seekers were transferred to a temporary camp in Mavrovouni of Lesvos ("Moria 2.0") and although some improvements were observed, the living conditions remained substandard. The GNCHR has called on the European Union and the United Nations to take concrete action in light of the Moria camp disaster when addressing the Human Rights Council during its 45th session.

After the fire in Moria, a relocation program of unaccompanied children from Greece to other European States on a voluntary basis was launched and transfers were made, despite the Covid-19 pandemic. In addition, the decongestion of the islands has progressed, giving priority to those most vulnerable to the Covid-19 infection.

Enabling environment for work of other human rights defenders at the borders

Since 2016, NGOs active in Greece in asylum, migration and social inclusion matters are under the obligation to be registered in a special "Register of Greek and Foreign Non-Governmental Organizations (NGOs)", operating under the Ministry for Migration

and Asylum. New laws have made the requirements for registration and certification of these NGOs stricter, also requiring the registration of their members and employees (physical members) for anti-laundering purposes, which may produce a chilling effect on the activities of the NGOs.

In addition, the GNCHR is aware, through the Racist Violence Recording Network that coordinates with the Office of the UN High Commissioner for Refugees in Greece of specific racist and xenophobic attacks against newly entering refugees and migrants, employees in international organisations, NGOs and civil society actors, as well as journalists in Lesbos.

During the reporting period, criminal charges have been initiated against NGO members for formation and joining a criminal organisation, espionage, violation of state secrets and violations of the Immigration Code.



+32 (0) 2212 3175 • info@ennhri.org
Rue Royale 138, B-1000 Brussels, Belgium



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