

- 1. Please provide information on any relevant legislation or policy in relation to the right to asylum to seek and enjoy in your country, which guarantees that migrants including asylum seekers' protection needs are examined individually, and they are not pushed back at the international border without access to this assessment and other relevant procedures. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.**

EU Directives on Asylum (EU Procedural Directive, Qualification Directive and Reception Directive) have been transposed into the Greek order and relevant legal standards are part of the Greek legal framework. Greek law provides that any third country national or stateless person has the right to seek asylum (Art. 65 L. 4636/2019 transposing Articles 6 and 7 Directive 2013/32/EU). The Law prescribes the procedure to be followed after the expression of the will of the person to apply for asylum in case that the will is expressed before a non-competent authority, including the Hellenic Police and the Hellenic Coast Guard (Art. 65 L. 4636/2019). According to Art. 65(12) L. 4636/2019, the person who express the will to apply for international protection is an "asylum seeker". Article 4 L. 4636/2019 (transposing Article 4 of the Directive 2011/95/EU) provides that the assessment of an application for international protection is to be carried out on an individual basis and includes taking into account *inter alia* all relevant facts related with the country of origin, the relevant statement and documentation presented by the applicant, the individual position and personal circumstances of the applicant.

- 2. Please provide information on any existing good practices or measures taken (such as screening and referral mechanisms at borders) in your country to ensure that persons crossing international borders in mixed movements are protected according to international human rights law. Please indicate any specific measures aimed at reducing vulnerabilities of migrants, including by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach.**

National legislation (Article 39 L. 4636/2019) provides that all newly arrived third country nationals are subject to reception and identification procedures which include the provision of information, registration and medical checks, including identification of person belonging to vulnerable groups, referral to the asylum procedure and further referral and transfer to other reception or detention facilities depending on the circumstances of the case. For this purpose, newly arrived persons are transferred to Reception and Identification Centers (RICs), where according to the law they may remain up until 25 days under a decision imposing "a restriction of liberty with in the premises of the RIC". Currently there are five RICs on the Aegean Islands (Lesvos, Chios, Samos, Kos, Leros) and one in Filakio, Orestiada in Evros Region (Greek Turkish land borders). Significant delays and shortcoming have been occurred in the identification of vulnerable applicant in RICs due to *inter alia* lack of qualified staff.¹ Moreover, the imposition of geographical limitation for those arriving on the Greek islands has led to overcrowding and substandard reception conditions in Islands' RICs,² persisting in Samos, Chios and to a certain extend in Lesvos, as of the time of writing.

¹ see AIDA, Report on Greece, update 2019, pp. 106-110

² see AIDA Report on Greece, update 2019, pp. 152-153, 157-16.

3. Please provide information on existing restrictions or limitations in law and in practice in relation to the right to claim and seek asylum at international borders in your country (e.g., border controls, restricted access to territory) and elaborate the impact of these restrictions on the protection of the rights of migrants crossing international borders.

In March 2020 Greek Authorities have issued an Emergency Legislative Order (Πράξη Νομοθετικού Περιεχομένου/ΠΝΠ) by which access to the asylum procedure has been suspended for persons entering irregularly in the country during March 2020.³ Pursuant to the Emergency Legislative Order “[t]he lodging of the asylum application from persons who enter the county illegally (*sic*) since the entry into force of the present Order is suspended. These persons are returned in their country of origin or transit without registration”. Thus and on the basis of said Emergency Legislative Order, persons arriving in Greece during March 2020 were deprived in law and in practice of the right to seek asylum, they were arrested and kept in detention with a view to be removed. The Emergency Legislative Order has been largely criticized by *inter alia*, the UN Special Rapporteur on the human rights of migrants,⁴ UNHCR,⁵ the Greek National Commission for Human Rights⁶ and civil society organizations.⁷ Moreover, and during the period that the Emergency Legislative Order was in force a number of newly arrived persons have been convicted with criminal charges on illegal entry. As reported, *inter alia* “between 28 February and 14 March 2020, the single-member Misdemeanors Court in Orestiada [Evros Region] sentenced 103 persons to imprisonment under the above-mentioned regulation. In 19 cases which concerned women, the sentences were suspended and the administrative procedure for deportation was applied [...] In the remaining 84 cases, 79 men were sentenced to periods of up to four years of imprisonment and a fine of 10,000 Euros and five women were sentenced to three or three and a half years of imprisonment and a fine of 5,000 Euros. The cases were all referred to the Court under the procedure of ‘flagrante delicto’ and hence dealt with within 24 hours of the person’s apprehension”.⁸ According to Greek legislation, illegal entry may be a criminal offence punishable by a prison sentence of at least of 3 months and up to 5 years and a monetary penalty of at least 1500 euros (Art. 83(1) L. 3386/2005), while the Public Prosecutor may abstain from criminal proceeding, pursuant to the discretionary clause of Art. 83(2) L. 3386/2005.

³ Emergency Legislative Order as of 2 March 2020, Gov. Gazette A/45/2 March 2020.

⁴ UN Special Rapporteur on the human rights of migrants, Greece: Rights violations against asylum seekers at Turkey-Greece border must stop, 23 March 2020, <https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25736&LangID=E>

⁵ UNHCR, UNHCR statement on the situation at the Turkey-EU border, 2 March 2020, available at: <https://bit.ly/2Q62sWN>.

⁶ Greek National Commission for Human Rights, Reviewing asylum and immigration policies and safeguarding human rights at the EU borders, 5 March 2020, available at: <https://bit.ly/39HtXh3>;

⁷ Open Letter of 152 organizations regarding the current developments at the Greek border, 4 March 2020 available at: <https://bit.ly/2vWgnrr>.

⁸ Council of Europe, 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, CPT/Inf (2020) 35, <https://rm.coe.int/1680a06a86>, para. 17.

During the previous years there has been consistent allegations of push back practices at the Greek-Turkish land borders of Evros. These allegations have been multiplied over the past year. Since early 2020, there is an increasing number of allegations of push back practices both at the Greek Turkish land border in Evros Region and at the Greek Turkish sea borders (Aegean sea). As UNHCR noted in June 2020 “such allegations have increased since March and reports indicate that several groups of people may have been summarily returned after reaching Greek territory [...]the number of reported pushbacks, particularly at sea, has been rising”.⁹ Moreover a number of allegations of push back practices of asylum seekers or persons living in reception facilities on the Greek mainland have been reported during this period.¹⁰

According to the allegations these practices include:

- arbitrary arrest of newly arrived persons in Evros region, *de facto* detention and summary return to Turkey, without any official registration or possibility to apply for asylum or assessment of the protection needs.¹¹
- return of persons at sea who have reached the Greek territorial waters.¹²
- returns by sea of persons who have disembarked on Greek shores and have thereafter been towed back to sea.¹³
- Summary return of persons from the Greek mainland.¹⁴

An non-exhaustive compilation of main reports of push backs and other violations of human rights at the Greek-Turkish sea borders since March 2020, has been recently published online.¹⁵

A number of about 59 push back reports on the Greek-Turkish land border of Evros, since 2019 onwards, are included in the 1500 pages Black Book of Pushbacks, issued in December 2020.¹⁶

⁹ UNHCR, UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey, 12 June 2020, <https://www.unhcr.org/news/briefing/2020/6/5ee33a6f4/unhcr-calls-greece-investigate-pushbacks-sea-land-borders-turkey.html>

¹⁰ [Border Violence Monitoring Network and Wave Thessaloniki and Mobile Info Team “Press release”, 06 May 2020, available at: https://www.statewatch.org/news/2020/may/greece-documented-pushbacks-from-centres-on-the-greek-mainland/](https://www.statewatch.org/news/2020/may/greece-documented-pushbacks-from-centres-on-the-greek-mainland/); Complaint to the European Commission concerning infringements of EU law by Greece on behalf of WeMove Europe and Oxfam International, 22 September 2020.

¹¹ See *inter alia* Council of Europe, 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, CPT/Inf (2020) 35, paras. 53 seq.

¹² See *inter alia* UNHCR, UNHCR concerned by pushback reports, calls for protection of refugees and asylum-seekers, 21 August 2020, <https://www.unhcr.org/gr/en/16207-unhcr-concerned-by-pushback-reports-calls-for-protection-of-refugees-and-asylum-seekers.html>.

¹³ *Ibid.*

¹⁴ *Inter alia* HRW, "Greece: Investigate Pushbacks, Collective Expulsions", 16 July 2020.

¹⁵ See Refugee Support Aegean/Proasyl, 29 December 2020, Push backs and violations of human rights at sea: a timeline, <https://rsaegean.org/en/push-backs-and-violations-of-human-rights-at-sea-a-timeline/>

¹⁶ The Black Book of Pushbacks, December 2020, Vol. I, pp. 529-669, <https://www.guengl.eu/issues/publications/black-book-of-pushbacks-volumes-i-ii/>.

The practice of the alleged pushbacks has been on the spotlight of national and international organization over the past years, however up today no proper investigation has been taken place by the Greek Authorities. Already in 2017, the Greek Ombudsman has initiated an *ex officio* investigation into the cases of alleged pushbacks, which is still -by the time of writing- pending.

An indicative list of public statements and other materials of national and international human rights bodies includes:

- UN Committee Against Torture, Concluding Observations on the seventh periodic report of Greece, 3 September 2019, CAT/C/GRC/CO/7, paras. 16-17
- UN Working Group on Arbitrary Detention: Preliminary Findings from its visit to Greece (2 - 13 December 2019),
- Council of Europe, Commissioner for Human Rights, Time to immediately act and to address humanitarian and protection needs of people trapped between Turkey and Greece, 3 March 2020
- UN Special Rapporteur on the Right to Migrants, Greece: Rights violations against asylum seekers at Turkey-Greece border must stop, 23 March 2020
- EU Commissioner for Home Affairs, Intervention in European Parliament LIBE Committee on the situation at the Union's external borders in Greece, 2 April 2020
- IOM, IOM Alarmed over Reports of Pushbacks from Greece at EU Border with Turkey, 10 June 2020
- UNHCR, UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey, 12 June 2020
- Greek National Commission for Human Rights, Statement with regards the alleged push back practices, 9 July 2020,
- UNHCR, UNHCR concerned by pushback reports, calls for protection of refugees and asylum-seekers, 21 August 2020
- Council of Europe, 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, CPT/Inf (2020) 35, 19 November 2020, paras. 53 seq.

In November 2020, the European Commission has called for an extraordinary Frontex Management Board meeting, as a reaction to reports of complicity of the European Border and Coast Guard Agency (Frontex) in alleged pushback operations in Greece.¹⁷ *Inter alia*, in the Conclusion of the Management Board's meeting on 20-21 January 2021, it is mentioned

¹⁷ Politico.eu, "Commission calls for Frontex meeting over migrant pushback reports", 28 October 2020, <https://www.politico.eu/article/migration-pushback-eu-frontex-meeting/?amp;amp>.

that further inquiry is needed with regards five of the examined incidents.¹⁸ Moreover as reported, OLAF, the EU Anti-Fraud Office, has launched an investigation over Frontex.¹⁹

The Greek Council of Refugees (GCR) has filed numerous criminal complaints before Greek Penal Justice, with regards alleged pushbacks incidents over the past years. *Inter alia*, a complaint was filed by GCR Legal Unit before the Prosecutor of the Court of Appeals of Thrace, in August 2018, concerning a push-back incident of 13 third-country nationals –Yemen, Syria, Soudan, Iraq and Somalia– from the region of Didimoticho, Evros, in May 2018. The complaint led to the initiation of an *ex officio* criminal investigation, however the outcome is not accessible to GCR due to the procedural rules followed in this procedure (lack of legal standing).

In June 2019 GCR filed one lawsuit regarding 5 families of Iraqi Asylum seekers alleging that they were pushed back in March and September 2018, and three lawsuits regarding the alleged push back of Turkish citizens (different groups) in April 2019 before the competent Prosecutor of Orestiada and the Prosecutor of the Supreme Court.²⁰ In one of these case, the complainant, a Turkish woman who tried to flee her country of origin in order to seek asylum and allegedly was pushed back in Evros Region, is reported to be imprisoned in Turkey following her return. The pre-trial investigation has been dismissed on the grounds that *“the Greek Police does not proceed to such refoulement operations to the Turkish coast, having a specific mandate and clear orders to follow the procedures and submit the files to the local prosecutorial offices”*. Criminal investigation was only limited to the collection of testimonies from the witnesses involved and thus never evaluated the full evidence of the case (ex. testimony of an eye – witness lawyer, maps, photos, “print-screens” of chats, videos in social media).

4. Please provide information on any concrete instances of pushbacks, including an analysis on the circumstances of the event.

See above

5. Please indicate any specific challenges that your Government has encountered, in the context of the COVID-19 pandemic, on ensuring the human rights of migrants crossing international borders, either by land or by sea.

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¹⁸ Frontex, Conclusions of the Management Board’s meeting on 20-21 January 2021 on the preliminary report of its Working Group on Fundamental Rights and Legal Operational Aspects of Operations in the Aegean Sea, 21 January 2021, <https://frontex.europa.eu/media-centre/management-board-updates/conclusions-of-the-management-board-s-meeting-on-20-21-january-2021-on-the-preliminary-report-of-its-working-group-on-fundamental-rights-and-legal-operational-aspects-of-operations-in-the-aegean-sea-GnFalc>.

¹⁹ Kathimerini.gr, OLAF raided EU border chief’s office over migrant pushback claims, 14 January 2021, <https://www.ekathimerini.com/261205/article/ekathimerini/news/olaf-raided-eu-border-chiefs-office-over-migrant-pushback-claims>.

²⁰ Part of the complaint is available at:

<https://www.statewatch.org/media/documents/news/2019/jul/greek-council-for-refugees-Push-backs%20April-June%202019.pdf>

5. Please indicate any challenges and/or obstacles faced by Governmental institutions or civil society organizations and individuals in protecting the human rights of migrants at international borders, including those in distress at sea and in situations where pushbacks or pullbacks are likely to take place.

- Lack of effective investigation of allegations with regards push backs on administrative and criminal level.
- Lack of specific protection of victims of alleged push back practices.
- Difficulties in obtaining evidence, disproportionate burden on the victims in order to prove the allegations

Athens, 1 February 2021
Greek Council for Refugees