

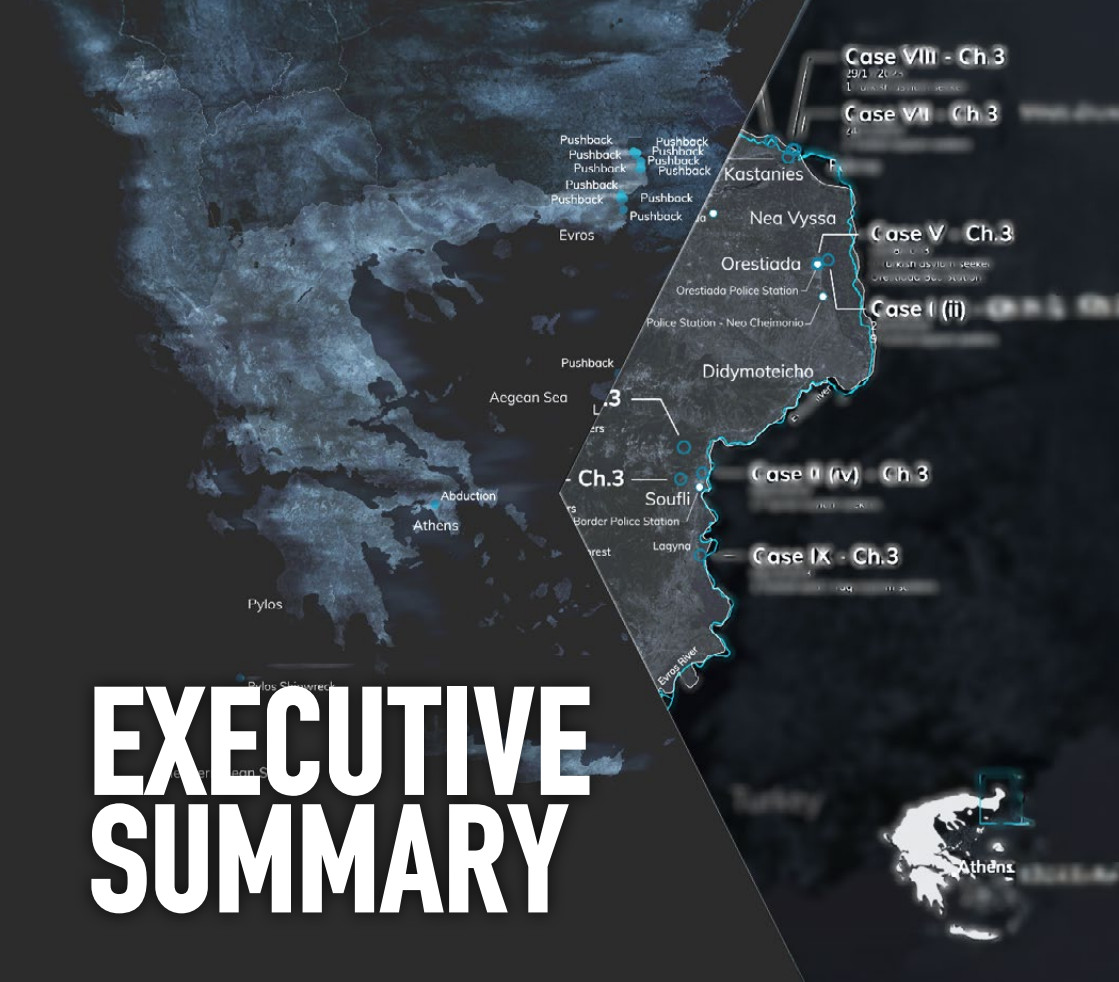
EXECUTIVE SUMMARY

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AT EUROPE'S BORDERS:
PUSHBACKS CONTINUE
AS IMPUNITY PERSISTS



**GREEK
COUNCIL
OF REFUGEES**



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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 also involve abduction, arbitrary arrest and detention, theft of personal items, physical violence, torture, sexual violence, exposure to risk likely to cause harm or death, which are criminal offenses under the Penal Code. Pushbacks violate the European and international law (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 documentation of the Greek state's illegal practice of pushbacks, by providing particularly detailed descriptions of twelve pushback cases at the Evros border region occurred in 2023 and legally represented by GCR before the European Court of Human Rights (ECtHR). These victims' testimonies offer a disturbing insight into the organized and systematic nature of these illegal practices of the Greek authorities, in consistency with the latest 2023-2024 reports from national and international human rights bodies, institutions and organizations, documenting the same modus operandi. The report also highlights the systemic issue of ineffective investigation into reports and complaints for pushbacks and rights

violations at the EU's external borders, that contributes to an environment of total impunity. It provides details of the investigation and the recent judicial developments in three pushback cases, legally represented by GCR before the ECtHR, as well as official statistics on Greek judicial investigations and cases brought before the ECtHR.

This report aims to raise the issues of the systemic human rights violations against migrants and refugees seeking protection in Europe at the EU's external borders and the ongoing impunity of the perpetrators, and to promote a human rights - based approach to the EU external migration and border policy.

REPORT FINDINGS

Pushbacks constitute a comprehensive, systematic, and carefully planned migration and border policy of the Greek state. The consistent patterns and characteristics of these pushback operations, as described by the victims in consistency with numerous credible reports from UN, European and national institutions documenting the same pattern, reveal a modus operandi of the Greek authorities and contradict the 'lack of evidence' narrative that is still perpetuated by EU and Greek authorities:



Pushback Cases in Evros

The map displays the locations (according to GPS coordinates) as shared by the asylum seekers before their pushback.

Perpetrators of Pushbacks

Numerous Greek authorities participate in the perpetration of pushbacks in the Evros region. In the majority of cases, uniformed and armed personnel (police and/or military) appear to first locate and informally arrest the asylum seekers. Individuals - with or without covered faces - dressed in military uniforms or civilian/black clothes and carrying weapons, usually participate in the multiple violent stages of the pushback operation. Additionally, men acting as auxiliaries of the Greek authorities, described as migrants by the victims, are often involved in the final stages of the pushback operations, usually operating the inflatable boats and physically pushing back the asylum seekers to Türkiye.

Arrival in the Evros mainland and hiding in forested areas

Most pushbacks take place upon the arrival of the asylum seekers in the Evros mainland, unlike 2022 where there were many cases of arrival or abandonment of asylum seekers on the Evros islets. The asylum seekers, after crossing the Turkish-Greek border, most often pass through or hide in forest areas of Evros before being detected and pushed back by the Greek authorities (see map). Most times pushbacks take place on the same day of the discovery and informal arrest of the asylum seekers by the Greek authorities.

Pushbacks in front of police stations and in public central areas

Pushback operations take place even in front of police stations and in public central areas, which is indicative of the environment of impunity wherein the authorities act arbitrarily, criminally and undisturbed.

In two cases, the victims were pushed back to Türkiye after having chosen to show trust and present themselves to the Greek police at their own initiative. Specifically, one Turkish asylum seeker was pushed back after presenting himself at the Orestiada Border Police Station.

In one case, the informal arrest of a Turkish asylum seeker by the Greek police took place - in plain sight - inside the cafeteria of a central Bus Station, one hour before his pushback.

Illegal detention

In addition to forced transfers, the pushback operations always involve periods of arbitrary detention. Asylum seekers are illegally detained - without registration, information or access to rights and without basic supplies - in closed or open detention sites inside police stations, unidentified locations, a stadium or even inside vehicles with no access to air, food and water.

State resources

The operations involve considerable state resources, such as human resources, infrastructure and facilities

used to detain the victims, means of transport used to forcibly transfer victims throughout the various stages of the pushback operation - from police vehicles to military camouflage jeeps, civilian vehicles to vans, pick-up trucks to dinghy boats.

Racist violence

Pushbacks involve degradation, theft of personal belongings, inhumane and humiliating treatment, physical and mental abuse, as well as gender-based violence against victims - from strip searching to invasive genital search and forced nudity. Moreover, pushbacks involve violent acts against children.

Arrest, detention, imprisonment and chain refoulement after the pushback

After their pushback to Türkiye, the victims are exposed to the risk of being arrested by the Turkish authorities, detained and/or imprisoned for entering a military zone and/or for former political convictions (in the case of Turkish asylum seekers), or even refouled back to their country of origin (i.e. in the case of Afghan asylum seekers).

Noncompliance with the European Court of Human Rights' decisions

Despite the fact that in the last two years the European Court of Human Rights has issued more than 80 interim measures aimed at the protection of newly arrived asylum seekers in the Evros region, the perpetrators continue

to feel untouchable in Greece, showing complete indifference to the Court's decisions.

From March 2022 to 7 October 2024, GCR filed 85 requests for interim measures (Rule 39) before the ECtHR, legally representing a total of 730 Syrian, 130 Turkish, 92 Iraqi, 56 Palestinian, 28 Afghan, 3 Egyptians and one Somali asylum seekers, including many children, requesting its clients be granted humanitarian assistance and access to the asylum procedure. The Court granted the requested interim measures for all cases and ordered the Greek government to not remove the refugees from the country's territory and, in the majority of the cases, to provide them with food, water and proper medical care. The ECtHR also requested to be informed by the Greek government, amongst others, on whether the asylum seekers have access to the asylum procedure and to legal assistance. In only 20 out of these 85 cases, the asylum seekers were formally arrested by the Greek authorities and formal procedures were followed. In 44 out of these 85 cases, the asylum seekers complained to GCR that they were pushed back to Türkiye. In 21 out of these 85 cases the asylum seekers went missing after the Court's decision and we are not aware of their whereabouts. In several cases, the victims have reported suffering more than one pushback.

In one of the cases described in detail in the report, the victims - before being pushed back - had shown the police authorities the ECtHR's decision on interim measures saved on their mobile phone.

In all pushback cases described in detail in the report, the official response of the Greek state to the ECtHR was that “despite all efforts, the applicant(s) was(ere) not located”.

An interim measure decision issued on 12 July 2023 concerned a Syrian recognized refugee in Greece, who was pushed back from Thessaloniki to Türkiye in October 2022. He has been repeatedly pushed back by the Greek police ever since – more than 20 times. The pushbacks occurred every time he tried to re-enter Greece from Evros to Türkiye, even after showing a copy of his passport and residence permit -issued in Greece.

Ineffective criminal investigations into pushbacks and rights violations

Despite the numerous reports on pushbacks of thousands of asylum seekers, recorded victims’ testimonies, as well as the witnesses and video evidence in some cases, not a single pushback case has been tried in a Greek court-room. Official statistics on Greek judicial investigations along with details of the investigation of cases represented by GCR, where no criminal prosecution was initiated against personnel of law enforcement agencies or other persons, reveal serious omissions of the competent authorities to investigate the incidents and disregard of victims’ testimonies and available evidence. They highlight a systemic issue of ineffective criminal investigation into alleged pushbacks and rights violations in Greece that contributes to an environment of total impunity.

CONCLUSIONS AND RECOMMENDATIONS

Despite numerous reports by international human rights bodies and independent authorities, recorded victims’ testimonies, growing evidence, and cases brought before the Greek Public Prosecutors, the Greek state continues to officially deny allegations of pushbacks. Not a single pushback case has been examined in a Greek court-room, while at the same time an increasing number of cases is filed with the European Court of Human Rights against Greece.

Official statistics on Greek judicial investigations along with details on the investigation of three cases, where no criminal prosecution was initiated against personnel of law enforcement agencies or other persons, highlight a systemic issue of ineffective criminal investigations into alleged pushbacks and rights violations in Greece.

Pushbacks, human rights violations and ill-treatment of people in need of international protection continue at the EU’s external borders as a systematic migration and border policy of the Greek state within the context of the broader EU migration policy focused on border control rather than on safe migration routes and the protection of the right to asylum and human rights. Huge amounts out of the EU budget continue to support border management activities in Greece, despite concerns raised by the European Parliament on

the rule of law situation in the country, and alarming reports, inter alia by the Council of Europe Committee against Torture (CPT) and the EU Agency for Fundamental Rights (FRA) for Greece, regarding the ill treatment of newly arrived asylum seekers and the systemic gaps and obstacles to investigating incidents of loss of life and ill-treatment at the EU's borders.

Simultaneously, the work of civil society and human rights organizations in Greece, especially those working on the promotion and protection of fundamental rights, channeling the voices of victims at the EU external borders, is obstructed by the Greek government. We strongly believe that independent, prompt and effective investigations will increase accountability for rights violations at the EU external borders and can end this cycle of violence. In parallel, public watchdogs, monitoring bodies and civil society should carry out their activities unhindered as they can have a significant impact on the proper functioning of a democratic society, ensuring respect for the rule of law.

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

- Create safe and legal routes for people on the move to and in Europe.
- Implement and/or pro-actively monitor and assure complete, regular compliance of Greek authorities' use of EU funds for migration management purposes with the EU's commitments to fundamental freedoms and human rights, to ensure that EU

funds are not being misused to fund operations that endanger migrants and refugees or violate EU law.

- The European Commission should 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.
- Ensure the establishment of safe and confidential mechanisms for reporting criminal offenses committed by public officials (e.g. violence by police and border guards) before independent competent authorities, as the victims may be afraid to testify before police or coast guard personnel.
- 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 potential human mobility actions by third country governments.
- Address the shrinking civic space and the dangerous trend of criminalization of HRDs at EU's external borders as an urgent issue and urge the Greek government to immediately put an end to these practices.

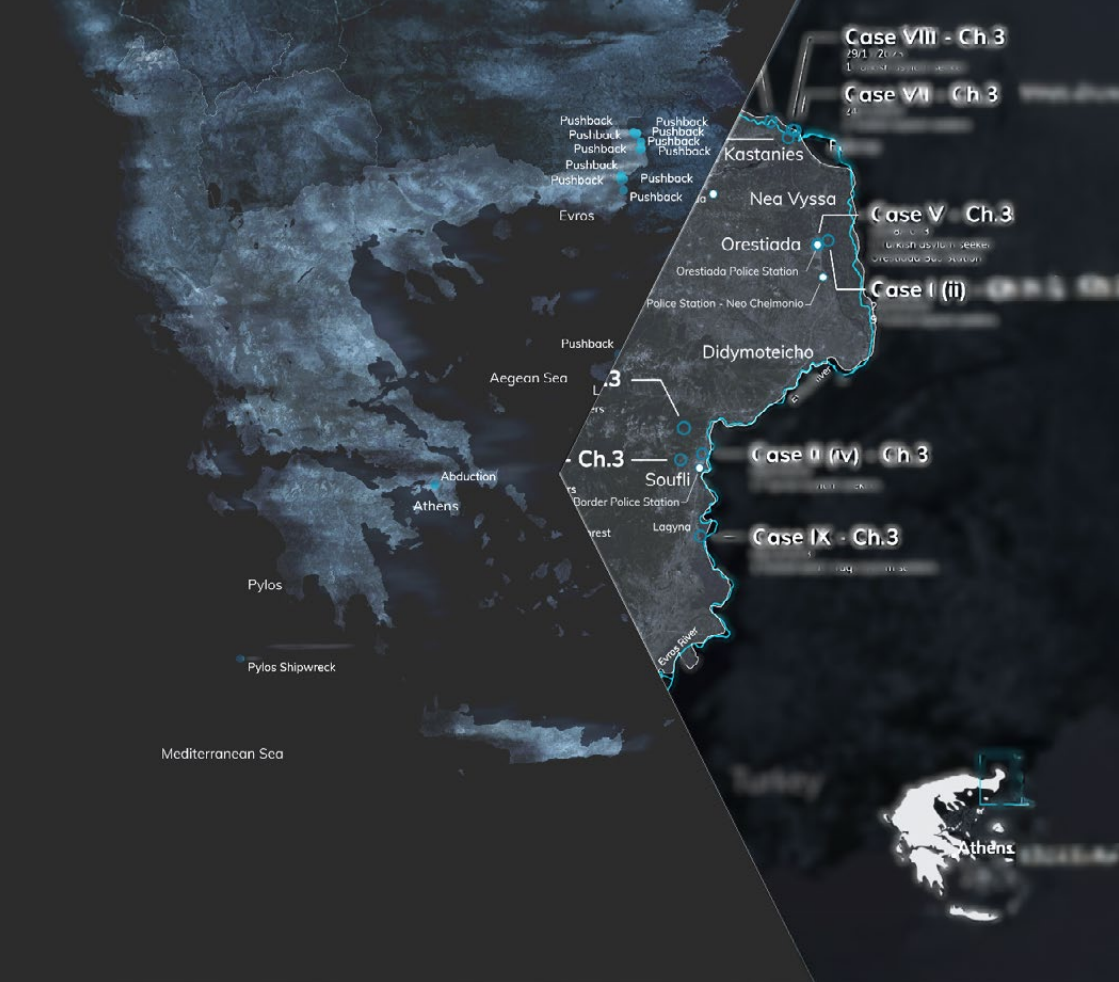
We call on the Greek Government and the Greek judicial authorities to:

- Stop the illegal practice of pushback operations.
- 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.
- Comply with 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 access to asylum procedures.
- Carry out investigations that are prompt, rapid, thorough, and capable of leading to the identification and punishment of all responsible for serious allegations of ill treatment related to the Hellenic Police and the Hellenic Coast Guard at external borders.
- Guarantee access to justice for victims of pushbacks and rights violations at the EU's external land and sea borders. Make all possible efforts to allow victims to participate without fear of being apprehended and removed for lack of legal status. To this end, provide free legal aid during criminal proceedings, safe shelter and a residence permit.

This support to the pushback victims should be independent of their cooperation with the investigative authorities in other criminal cases against the smugglers.

- The investigative authorities should use the European and international judicial cooperation mechanisms to obtain timely testimonies from victims and witnesses.
- Take into consideration the findings of the Recording Mechanism of Incidents of Informal Forced Returns by the Greek National Commission for Human Rights, the Greek Ombudsman's, the FRONTEX Fundamental Rights Office's and the CPT's reports on fundamental rights patterns and trends at the borders. The investigative authorities should make use of these findings to identify and investigate structural issues or to initiate ex officio investigations.
- Establish specialized Prosecutor's and Court Offices staffed with Immigration Prosecutors and special inquiry - immigration judges, competent for on-site inspections in detention sites and locations of newly arrived asylum seekers and carrying out investigations themselves on alleged pushbacks incidents and criminal offences committed by police and other law enforcement officials, to ensure impartiality and independence from the agencies involved in the incidents, according to EU FRA guidelines.

- Ensure the installation and proper operation of a 24-hour CCTV systems to monitor the external perimeter of detention facilities, the parking areas of police vehicles and the internal common areas where detainees circulate.
- Establish immediately, in close cooperation with the European Commission, a truly Independent Border Monitoring Mechanism with the necessary scope, mandate and expertise to investigate pushbacks and human rights violations at the Greek borders. Greek state authorities cannot be part of this mechanism, which should be free from any institutional connections with the Ministry(ies) or other authorities responsible for border management. Additionally, in line with the CPT's and FRA's recommendations on a number of criteria that should be met if any monitoring mechanisms are to be considered independent and effective, the monitoring mechanism should have a mandate, inter alia, to: conduct unannounced inspections of law enforcement premises, inspect all relevant documentation of law enforcement patrols operating at the EU external borders as well as access to all recordings of stationary and mobile video and motion-detecting devices covering the external borders; liaise with international organizations and other relevant stakeholders operating on the other side of EU external borders in order to collect real-time information on possible cases of malpractices. In order to safeguard its independence, any such mechanism should also be adequately staffed by appropriately qualified staff and empowered to produce periodic and ad hoc visit reports with clear recommendations to the competent authorities and to report on the implementation of those recommendations.
- Ensure that human rights defenders, including civil society organizations supporting newly arrived asylum seekers by providing medical, psychosocial and legal assistance, as well as private citizens who act in solidarity with them, will not be construed as facilitating illegal entry of third country nationals. To this end, circulars should be published by the Prosecutor's Office addressed to the police and coast guard authorities in support of the work of human rights defenders and against their persecution.
- 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.



Case VIII - Ch.3

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