



**THE GREEK
OMBUDSMAN**
INDEPENDENT AUTHORITY

OWN INITIATIVE INVESTIGATION

**Alleged pushbacks to Turkey
of foreign nationals who had arrived in Greece
seeking international protection**

Interim report

(updated up to 31 December 2020)



This is an interim report of the Greek Ombudsman's own initiative investigation regarding alleged pushbacks of third country nationals from Greece to Turkey, in the area of Evros river. It provides an overview of the inquiry from the summer of 2017 (*Ombudsman's decisions of 9 June 2017 and of 10 September 2018*) through the end of 2020, under the supervision of the Ombudsman, **Andreas I. Pottakis**.

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I. Introduction

In the beginning of June 2017, the Greek Ombudsman (Ombudsman) took note of statements issued by international organisations and Greek political parties as well as of series of press reports regarding alleged pushbacks from Greece to Turkey, in the area of Evros river, of Turkish nationals who were reportedly seeking international protection.

Persistent press reports alleged that the Greek authorities violated the fundamental rights of foreign nationals and that Greece had been systematically in breach of international and European law rules, in an area which falls under the mandate of the Ombudsman.

On 9 June 2017, the Ombudsman decided¹ to launch an own-initiative investigation into the allegations. In the months that followed, reports mainly by civil society organisations regarding pushbacks to Turkey, in the area of Evros river, of Turkish as well as third country nationals, continued to appear in the press. At the same time, the Ombudsman received complaints of similar content. Consequently, on 10 September 2018, the Ombudsman decided to broaden the scope of the investigation to include alleged pushbacks, from Greece to Turkey, in the area of Evros river, also of third country nationals who were reportedly seeking international protection.

Allegations of pushbacks in the Evros area continued to be made by civil society and international organizations. The order issued in the year 2019 for formal disciplinary investigations for reported incidents of police arbitrariness that also entail alleged pushbacks, the first time since the launch of the Ombudsman's investigation that such an order was issued for any of the cases within its scope, is a remarkable development. These investigations are monitored by the independent authority under the special mandate of the National Mechanism for the Investigation of Arbitrary Incidents in the security forces and the employees of detention facilities. This interim report on alleged pushbacks of third-country nationals to Turkey provides a brief, concise overview of the Ombudsman's own-initiative inquiry from the summer of 2017 through the end of 2020. It sets out the scope of the inquiry, presents key aspects of the reported incidents, records the handling of the allegations by the Administration and makes proposals, in the direction of shielding legality, enhancing transparency, ensuring full respect for the principles of the rule of law. The Ombudsman's investigation continues.

¹ Decision under reference number: Ombudsman Office 105/9-6-2017

<https://www.synigoros.gr/resources/20170609-apof-ayt-ereyn-epanaprooth.pdf> (in Greek)

II. Main reports

On 7 June 2017, the Council of Europe Commissioner for Human Rights, Nils Muižnieks, referring to the reported pushbacks from Greece of Turkish nationals, urged the Greek authorities *“to cease immediately the pushback operations and uphold their human rights obligation to ensure that all people reaching Greece can effectively seek and enjoy asylum”*.²

A day later, on 8 June 2017, the office of the United Nations High Commissioner for Refugees (UNHCR) issued a press release noting that they are *“deeply concerned by continued reports about the alleged push-backs and refoulement at the land border between Greece and Turkey.”* The UNHCR Representative in Greece, Philippe Leclerc, added that *“such allegations of informal forced return have been recorded before, and it is of vital importance that the Greek authorities investigate them thoroughly”*.³

On that and the following days (8 and 9 June 2017), three political parties of the Greek Parliament raised the same issue and asked for immediate and effective investigation of the complaints. The political party “Democratic Alignment” (Δημοκρατική Συμπράταξη) issued a press release⁴ urging the Judiciary as well as the Ombudsman to investigate the complaints. A “Democratic Alignment” Member of the Parliament⁵ asked to be officially informed in Parliament by the ministers for Migration and Home Affairs. The political party “The River” (Το Ποτάμι) submitted to the Supreme Court prosecutor’s office a file with cases and asked for the investigation of the alleged pushbacks.⁶ On 9 June

2 The statement posted on the Commissioner’s Facebook noted: “I am very concerned about reported collective expulsions from Greece of asylum seeking Turkish nationals. Allegedly, Greek security forces have summarily returned to Turkey several people, including one journalist, in recent days, thus preventing them from seeking and enjoying asylum. I urge the Greek authorities to cease immediately the pushback operations and uphold their human rights obligation to ensure that all people reaching Greece can effectively seek and enjoy asylum. No doubt Greece has been under immense migratory pressure in recent years and the help received from other EU member states has been far from effective in alleviating both this pressure and the suffering of refugees in the country. However, even in particularly challenging situations, states cannot resort to practices – such as collective expulsions - which are not in compliance with the European Convention on Human Rights and the non-refoulement principle enshrined in the UN Refugee Convention.” <https://www.facebook.com/CommissionerHR/posts/806097949566117>

3 <https://www.unhcr.org/gr/en/6244-unhcr-deeply-concerned-reports-informal-forced-returns-greece-turkey.html>

4 <http://pasok.gr/ανακοίνωση-της-δημοκρατικής-συμπράτα-20/> (in Greek)

5 <https://www.hellenicparliament.gr/UserFiles/c0d5184d-7550-4265-8e0b-078e1bc7375a/10093313.pdf> (in Greek)

6 <http://topotami.gr/o-stavros-theodorakis-stin-isangelea-tou-ariou-pagou-gia-tis-paratipes-epanaproothisis-tourkon-politon/> (in Greek)



2017, 25 MPs of the then government party “Coalition of Radical Left” (ΣΥΡΙΖΑ) submitted to the Parliament a related written question addressed to the competent Ministers.⁷

All the reactions mentioned above referred to the press release issued by the organisation “Hellenic League for Human Rights” (HLHR) on complaints regarding pushbacks of Turkish nationals in the area of Evros river. The organisation noted that the *“informal and forced refoulement of any person is considered an act of violence and is a blatant violation of international law and the international obligations of our country. The systematic, as it has been shown, and coordinated refoulements of dissident asylum seekers who face persecution in their countries, constitutes a political act of unprecedented Machiavellian qualities.”*⁸

In the days that followed, newspapers and websites followed closely the development of the story, writing and commenting on the complaints and the reaction in Greece and internationally.⁹

During 2017 and 2018, the complaints regarding pushbacks in the area of Evros river continued to be reported in the press and were brought to the attention of international and non-governmental organisations.¹⁰ The allegations involved not only Turkish nationals but also third country nationals who had crossed the land border and river Evros from Turkey to Greece. During the same time, the Ombudsman also started receiving complaints from civil society organisations supporting asylum seekers.

⁷ <https://www.syriza.gr/article/id/70067/Erwthsh-boyleytwn-SYRIZA-gia-tis-epanaprowthseis-Toyrkwn-politwn.html> (in Greek)

⁸ <https://www.hlhr.gr/en/refoulements-turkish-asylum-seekers-evros/>

⁹ See i.a., *Efimerida ton Syntakton* (“Εφημερίδα των Συντακτών”) of 8 June 2017, https://www.efsyn.gr/ellada/dikaiomata/113067_entoni-anisyhia-gia-tis-epanaproothiseis-stin-toyrkia and *Kathimerini* (“Καθημερινή”) of 8 June 2017 <https://www.kathimerini.gr/society/912908/antidraseis-gia-kataggelies-epanaproothisis/> (both in Greek)

¹⁰ See i.a., press releases by the Greek National Commission for Human Rights (NCHR) in July 2017 and November 2018, the Greek Council for Refugees (GCR) on 20 February 2018, and the preliminary report by the delegation of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which visited Greece from 10 to 19 April 2018.

III. Alleged pushbacks

Immediately after launching the own initiative investigation on the alleged pushbacks in the area of Evros river, the Ombudsman received, either directly for action or for information, complaints regarding similar incidents. The information was taken into account, where possible, in the framework of the own initiative investigation. In particular:

- On 16 June 2017, the HLHR forwarded to the Ombudsman the report of 12 June 2017 they had filed with the Supreme Court prosecutor regarding two incidents of alleged pushbacks of Turkish nationals in the area of Evros river.¹¹
- On 22 June 2017, the HLHR forwarded to the Ombudsman a letter on the same incidents, addressed to the director of Frontex.
- On 27 June 2017, the non-governmental organisation “Médecins Sans Frontières” forwarded to the Ombudsman a testimony by a Syrian family of four who reported that they had been victims of pushback, from Greece to Turkey.¹²
- On 21 July 2017, the UNHCR, replied to the Ombudsman’s letter of 28 June 2017¹³, by forwarding copies of three previous letters whereby the UNHCR informed the Greek authorities of complaints and personal testimonies about pushbacks. The UNHCR also forwarded to the Ombudsman a copy of a letter by the police internal affairs department about the possible launch of a preliminary inquiry on the issue. In their reply, also forwarded to the Ombudsman, the UNHCR noted that the identity of the complainants could be revealed.¹⁴
- On 23 August 2018, the UNHCR forwarded to the Ombudsman a copy of their letter to the police general inspector of aliens’ and border protection division. The UNHCR raised the issue of 19 testimonies about more than 20 incidents of alleged pushbacks involving a total of approximately 1,500 - 2,000 foreign nationals, in the area of Evros river from October 2017 to June 2018. The individuals who had offered their testimonies to the UNHCR did not consent to have their identity or any other data which may lead to their

11 One alleged incident involved a Turkish journalist who was named and two unidentified individuals who appeared to have crossed to Greece on 24 May 2017 and were pushed back to Turkey on the same day. The second alleged incident involved a family of six Turkish citizens (named) and one unidentified individual who appeared to have been pushed back to Turkey on 2 June 2017.

12 A meeting with an MSF delegation on the same case had been previously held at the office of the Ombudsman (see “Meetings”).

13 See “Letters to the authorities and institutions”

14 The letters sent by the UNHCR were dated respectively 10 September 2015 (43 incidents in 2015 involving a total of more than 1.000 persons, mainly Syrian nationals), 4 April 2017 (23 incidents in 2016 involving a total of approximately 1.000 persons) and 2 June 2017 (1 incident in 2017 involving 3 Turkish nationals). The correspondence with the Internal Affairs Department was also dated from 2015.



identification revealed. UNHCR noted that, on the basis of other complaints received, the actual number of the incidents was likely to have been far greater than what was reported and asked the police to investigate the issue.

- On 19 February 2019, the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its ad hoc visit to Greece (April 2018). The Committee noted that it had received several credible allegations about pushback operations from Greece to Turkey across the Evros river.¹⁵
- On 20 May 2019, the UNHCR forwarded to the Ombudsman copies of two letters they had sent to the minister of citizen protection. In their letter of 2 May 2019, UNHCR referred to complaints about pushbacks of Turkish nationals in the area of Evros river at the end of April 2019 and urged the minister to investigate the issue.¹⁶ In their letter of 3 April 2019, UNHCR referred to complaints about approximately 40 pushbacks of a total of more than 2,100 persons in 2018. Twelve extensive testimonies by foreign nationals who claimed that they had been victims of pushbacks were attached.
- On 7 January 2020, the organisation “Forensic Architecture”, in reply to the Ombudsman’s letter of 19 December 2019, sent the link to the video investigation conducted with “Der Spiegel” noting that the original material came from an anonymous source. They also informed the Ombudsman that they were preparing to publish a new investigation concerning pushbacks as well as a more extensive report on pushbacks in collaboration with the NGO “HumanRights360”.
- On 5 May 2020, the organisation “Border Violence Monitoring Network” released testimonies and photographs regarding the alleged pushbacks, from Greece to Turkey, of 194 foreign nationals within six weeks. The said foreign nationals were reportedly taken from the refugee camp in Diavata, Thessaloniki, and the pre-removal detention centre in Paranesti, Drama.¹⁷
- On 2 September 2020, the UNHCR forwarded to the Ombudsman copy of the letter of 1 September 2020 they had sent to the minister of citizen protection where it is noted that the UNHCR is overall deeply concerned about increasing allegations of forcible removals from Greece of persons, including asylum seekers, allegedly found in Greece mainland. The UNHCR attached testimonies about 10 alleged pushbacks involving hundreds of foreign nationals, within 2020.
- On 6 October 2020, 29 human rights and humanitarian non-governmental organisations jointly sent an open letter to the Greek Parliament, copying among others the

15 <https://www.coe.int/en/web/cpt/-/greece-council-of-europe-anti-torture-committee-calls-for-the-situation-of-psychiatric-patients-to-be-improved-while-criticising-once-again-the-poor-t>

16 It is the same complaints which, on 10 May 2019, were published in the weekly publication “Lifo” https://www.lifo.gr/articles/greece_articles/236781/apokleistiki-sygklonistiki-martyria-apo-to-teleytaio-push-back-ston-evro (in Greek)

17 <https://www.borderviolence.eu/press-release-documented-pushbacks-from-centres-on-the-greek-mainland/#more-14563>

Ombudsman, calling for an urgent investigation into all allegations of unlawful returns to Turkey including pushbacks and collective expulsions.¹⁸

- On 17 November 2020, the organisation “Forensic Architecture”, following up to their letter of January 2020, informed the Ombudsman of their investigative work into pushbacks from Greece to Turkey in the area of Evros river, as well as on the escalation of violence in the area in March 2020.
- On 19 November 2020, the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its ad hoc visit to Greece (March 2020). The report highlighted that the CPT had received consistent and credible allegations of migrants being pushed back across the Evros river border to Turkey and asked the Greek authorities to act to prevent such pushbacks.¹⁹

18 <https://www.hrw.org/news/2020/10/06/open-letter-members-hellenic-parliament-calling-investigation-border-abuses>

19 <https://www.coe.int/en/web/cpt/-/council-of-europe-s-anti-torture-committee-calls-on-greece-to-reform-its-immigration-detention-system-and-stop-pushbacks>

IV. Individual cases-complaints investigated by the Ombudsman

*General mandate*²⁰

1. Case 238423 (12 November 2017): Complaint by Afghan national about illegal pushback to Turkey, in June 2017.
2. Case 241140 (21 February 2018): Press release and report featuring testimonies²¹ issued by the non-governmental organisation “Greek Council for Refugees” (GCR) about pushbacks of foreign nationals, in 2017 and 2018.
3. Case 247063 (6 July 2018): Complaint by GCR about pushbacks of 13 foreign nationals (including a pregnant woman and three minors), in July 2018.
4. Case 248692 (17 August 2018): Complaint by the organisation “Advocates Abroad” about pushbacks of 27 foreign nationals, in April 2018.
5. Case 248822 (22 August 2018): Complaint by the organisation “Advocates Abroad” about pushbacks of 47 Syrian nationals (including a pregnant woman), in July 2018.
6. Case 248871 (23 August 2018): Complaint by the organisation “Advocates Abroad” about pushbacks of 60 foreign nationals, in 2015.
7. Case 254214 (13 December 2018): Complaint by three organisations (“Arsis”, GCR and HumanRights360) based on their report²², highlighting the testimonies of 39 foreign nationals claiming that they had been pushed back to Turkey, in 2018. Following their complaint, the three organisations sent to the Ombudsman a statement by the organisation “Human Rights Watch”²³ with the testimonies of 26 foreign nationals who claimed that they had been pushed back to Turkey, in 2018.
8. Case 254863 (2 January 2019): Complaint by a Turkish national on behalf of an Afghan national who claimed that he was pushed back to Turkey in November 2016.
9. Case 259121 (18 March 2019): Complaint, through the organisation “HumanRights 360”, of a Syrian national, who had been granted international protection by Germany since 2016, claiming he was pushed back to Turkey once in November 2016 and another 14 times in 2017.²⁴

20 Law 3094/2003.

21 “Reports and testimony of systematic pushbacks in Evros”, <https://www.gcr.gr/media/k2/attachments/ReportZ08032018.pdf>

22 “The new normality: Continuous pushbacks of third country nationals on the Evros river”, https://www.humanrights360.org/wp-content/uploads/REPORT_EN.pdf

23 “Greece: Violent Pushbacks at Turkey Border”, <https://www.hrw.org/news/2018/12/18/greece-violent-pushbacks-turkey-border>

10. Case 274266 (6 February 2020): Information received by the organisation “Médecins du Monde” about the messages they received by two groups of foreign nationals who claimed they were pushed back to Turkey, in January 2020.
11. Case 278363 (11 May 2020): Complaint by the organisation “Arsis” about pushbacks of foreign nationals, including minors, in March 2020.
12. Case 284939 (7 September 2020): Complaint by Iranian national, through the organisation “HumanRights 360”, claiming that she together with tens of other foreign nationals were pushed back to Turkey in July 2020.
13. Case 284941 (7 September 2020): Complaint, through the organisation “HumanRights 360”, by an Iranian national, who has now been granted international protection by Germany, claiming she had been pushed back to Turkey five times in 2020.
14. Case 284945 (7 September 2020): Complaint by four Afghan nationals, holders of asylum seeker cards, through the organisation “HumanRights 360”, claiming they were detained in the Igoumenitsa, transferred to the Evros river area and pushed back to Turkey along with tens of other foreign nationals (including minors), in July 2020.
15. Case 287598 (23 October 2020): Complaint by two Iraqi-Kurdish families (9 persons in total), through their lawyer, claiming that they were detained by the police from an asylum seekers facility in the area of Thessaloniki, transferred to the Evros river area and pushed back to Turkey along with other foreign nationals, in September 2020.

Further to the complaints about pushbacks in the area of Evros river mentioned above, the Ombudsman also received complaints whereby the GCR and other human rights organisations informed the police and the Ombudsman that they had received alerts by foreign nationals who had just crossed the borders and asked to be taken before the competent Greek authorities in order to be registered as asylum seekers. In some cases, the police responded that the said foreign nationals had been located and taken to the local registration centres. In other cases, the police informed the organisations that their search operations had been fruitless. Finally, the Ombudsman received, mainly in 2020, several complaints alleging pushbacks in the sea borders between Greece and Turkey, in particular in northern Aegean sea. All the complaints mentioned above have been examined individually as they do not fall within the scope of this own initiative examination which covers allegations regarding pushbacks only in the geographical area of the land borders between Greece and Turkey.

*National Mechanism for the Investigation of Arbitrary Incidents*²⁵

1. Case 255600 (18 January 2019)

²⁴ On 19 July 2019, the said refugee visited the offices of the Ombudsman and gave a statement about the first incident. A statement report was drafted.

²⁵ Law 4443/2016, as amended.



- Preliminary inquiry after article published in “Der Spiegel” (Evros, December 2018);
 - Finding was sent to the Ombudsman on 9 July 2019;
 - The Ombudsman considered the finding insufficient and, on 18 November 2019, asked the police to complete it;
 - On 20 January 2020, a police order was issued to complete the finding on the basis of the Ombudsman’s request;
 - New finding expected
2. Case 268096 (7 October 2019)
- Preliminary inquiry after complaint by GCR (Evros, July 2018);
 - Finding expected
3. Case 274746 (14 February 2020)
- Preliminary inquiry after complaint by Iranian national (Evros, May 2019)
 - Finding expected
4. Case 278313 (8 May 2020)
- Preliminary inquiry after complaint by Turkish national (Evros, May 2019)
 - Finding expected
5. Case 280648 (22 June 2020)
- Preliminary inquiry after complaint by «Arsis» (Evros, minors, March 2020)
 - Finding was sent to the Ombudsman on 4 December 2020 and is under assessment
6. Case 283181 (3 August 2020)
- Preliminary inquiry after article posted on “tvxs” website (Evros, June 2019)
 - Finding was sent to the Ombudsman on 4 December 2020 and is under assessment

V. Actions by the Ombudsman and the reaction of the authorities

Ombudsman

Letters to the authorities and institutions

- On 28 June 2017, the Ombudsman informed the Council of Europe Commissioner for Human Rights, Nils Muižnieks, about the launching of the own initiative investigation and asked for further information on the incidents the Commissioner had referred to in his statement of 7 June 2017.
- On 28 June 2017, the Ombudsman informed the UNHCR Representative in Greece, Philippe Leclerc, about the launching of the own initiative investigation and asked for further information on the incidents included in the press release issued by the UNHCR on 8 June 2017.
- On 28 June 2017, the Ombudsman services informed the HLHR that the incidents included in the report they filed with the Supreme Court prosecutor along with any other information they would consider relevant, would be assessed by the Ombudsman in the framework of the own initiative investigation.
- On 3 August 2017, the Ombudsman addressed by letter the heads of the police aliens' and border protection division, the police regional directorate general for eastern Macedonia and Thrace, the reception and identification service and the asylum service. In those letters, the Ombudsman listed the complaints about pushbacks of Turkish nationals, in May and June 2017, asked for information and clarification, and enquired whether any measures were or would be taken.
- On 21 December 2017 (reminder sent on 2 May 2018), the Ombudsman addressed by letter the police general inspector of aliens' and border protection division, noting that the complaints about pushbacks included extensive description and the alleged victims' names, and asked for detailed information on all the stages, procedures, services involved and the conclusions of the formal or informal police investigations about the reported incidents.
- On 11 September 2018, the Ombudsman addressed by letter the police regional directorate general for eastern Macedonia and Thrace, informing him about the extension, as of 10 September 2018, of the scope of the own initiative investigation. The Ombudsman brought to the attention of the police director general 7 press reports about 9 pushbacks of foreign nationals between 6 October 2017 and 28 July 2018, and noted that a standard practice and chain of events emerged from the complaints. The Ombudsman asked to be informed whether the reported incidents had been registered,



whether any police officers and vehicles were involved, if an investigation was launched and what measures the police had taken to safeguard the rights of foreign nationals who cross the borders seeking international protection.

- On 30 November 2018, the Ombudsman asked by letter the police directorates of Orestiada and Alexandroupoli to send copies of the complete files of the respective preliminary inquiries they conducted following the Ombudsman's letter of 11 September 2018.
- On 17 December 2018, the Ombudsman asked by letter the police directorate of Orestiada to clarify the reference, in their letter of 12 October 2018, to their operations as having "deterred the crossing from Turkey to Greece, of a total of approximately 57,000 persons during 2017-2018". In particular, the Ombudsman asked for a detailed description and copies of the related internal documents regarding the framework (legal provisions applicable and specific rules of engagement, circulars, directives etc) as well as information about all the related elements and police actions regarding the incidents that resulted to the outcome mentioned above.
- On 17 December 2018, the Ombudsman asked, by letter, the police regional directorate general for eastern Macedonia and Thrace to provide information on any actions of the police departments under his authority related to the pushbacks from Greece to Turkey of approximately 2,490 foreign nationals, in November 2018, as reported by Turkish and Greek press.²⁶
- On 3 January 2019, the Ombudsman informed the UNHCR Representative in Greece, Philippe Leclerc, about the extension of the scope of the own initiative investigation and asked for information on the pushbacks reported to the UNHCR according to the Turkish and Greek press on 5 and 6 December 2018.²⁷
- On 25 June 2019, the Ombudsman sent a letter to the UNHCR Representative in Greece, Philippe Leclerc, asking for information regarding the identities of the foreign nationals who claimed that they were victims of pushbacks as noted in the UNHCR letter sent to the Greek authorities on 2 May 2019 (and forwarded to the Ombudsman on 20 May 2019).
- On 19 December 2019, the Ombudsman sent a letter to the German review "Der Spiegel" and the organisation "Forensic Architecture", asking for detailed information about the pushbacks alleged in the report published on the website of "Der Spiegel".²⁸

26 See for example the article in Turkish newspaper "Sabah" <https://www.dailysabah.com/turkey/2018/12/06/despite-greeces-denial-controversial-pushback-of-migrants-prevails> και <https://www.dailysabah.com/investigations/2018/12/07/fourth-migrant-found-dead-near-border-greek-pushback-suspected> and in the website of Greek TV channel "Skai" <https://www.skai.gr/news/greece/tourkikos-typos-gia-evro-oi-ellines-kakopoioun-metanastes-kai-tous-s> (in Greek)

27 See the articles mentioned above

28 Article of 13 December 2019 titled "Videos Show Apparent Illegal Pushback of Migrants" <https://www.spiegel.de/international/global/greece-videos-show-apparent-illegal-pushback-of-migrants-a-1301228.html>

Visits

- On 30 November 2017, an Ombudsman's delegation headed by Deputy Ombudsman for Human Rights, met with the police regional director general for eastern Macedonia and Thrace at his office in the town of Komotini. Among the issues discussed were the allegations regarding pushbacks in the area of Evros river. The senior officer noted that his regional directorate general has not been involved in pushbacks since that would have been against the law. As for the allegations in question, he noted that there was no development and that his service had not launched a preliminary examination as there were no reasonable indications that the alleged incidents actually took place.

Meetings with agencies, organisations and institutions

During the own initiative investigation, the Ombudsman received several requests for information by institutions and organisations active in the area of human rights and, in particular, refugee rights. Most requests for information were about likely findings and conclusions of the investigation. In all cases, the Ombudsman replied by confirming that there is an ongoing investigation and reserved any comment or information until the investigation is completed.

Greek Parliament

- On 27 July 2017, an Ombudsman's representative was invited to attend a session of the Special Permanent Committee on Equality, Youth and Human Rights of the Greek Parliament on "Refugees and asylum seekers rights". Asked about the issue of pushbacks, the Ombudsman's representative informed the Committee that the independent authority was conducting an own initiative investigation during which no comment on the substance may be offered.²⁹

Greek National Commission for Human Rights (NCHR)

- On 22 June 2017, an Ombudsman's representative informed the NCHR plenary session that the Ombudsman is conducting an own initiative investigation on the reported pushbacks in the area of Evros river.³⁰

²⁹ See Greek Parliament website https://www.hellenicparliament.gr/Koinovouleftikes-Epitropes/Synedriaseis?met_id=1abe107f-5b50-4a86-91ed-a7ba00f0b436 (video in Greek)

³⁰ Following that session, the NCHR issued a statement on the issue, see

https://www.nchr.gr/images/pdf/nea_epikairothta/Anakoinosi_EEDA_Epanaprowthiseis.pdf On 29

November 2018 the NCHR issued another statement, see

https://www.nchr.gr/images/pdf/nea_epikairothta/Dilosi_EEDA_Evros.pdf In September 2019 and in

September 2020 the NCHR publicised respectively the two parts of their "Reference Report on the Refugee and Migrant Issue" including chapters on pushbacks, see



- On 18 June 2020, an Ombudsman's representative participated in the web meeting of the 3rd Sub-Commission of NCHR where the complaints about pushbacks were discussed. The Ombudsman's representative described the framework of the investigation, the cooperation with the police and with organisations active in the field, and noted that as the investigation was still on going, any discussion of likely findings or conclusions was not possible.³¹

Other institutions and organisations

- On 16 October 2017, the Ombudsman met with a "Médecins Sans Frontières" delegation who provided information about a complaint by a Syrian family of four. The family claimed that, in the beginning of May, they crossed Evros river from Turkey to Greece, they were intercepted and briefly detained by the police and then they were forced illegally back to Turkey, together with other foreign nationals.³²
- On 13 March 2018, the Ombudsman met with an International Red Cross delegation who provided information about complaints they had received alleging 43 pushback incidents in the area of Evros river within the second semester of 2017. Each reported incident involved multiple individuals (minors accounting for approximately one third of the total number). Similar procedures and organisational patterns were reported and described by the delegation to the Ombudsman. The Red Cross noted that they interviewed foreign nationals who claimed that they were victims of pushbacks, and added that they were not authorised to reveal the identity of the said foreign nationals.
- On 20 March 2018, an Ombudsman's delegation met with a UNHCR delegation which asked to inform the Ombudsman of the complaints the UNHCR had received about pushbacks. The UNHCR delegation, noted that from 2013 to 2017, they recorded testimonies regarding 350 incidents of illegal pushbacks in the area of Evros river as well as in the sea borders between Turkey and Greece. The incidents involved approximately 11,500 persons. Approximately 7,500 persons were reported to have been pushed back to Turkey in the area of Evros river. They were mainly nationals of Afghanistan, Pakistan, Syria and, since 2016, Turkey. The foreign nationals have not been or have not consented to be identified.³³

https://www.nchr.gr/images/pdf/apofaseis/prosfuges_metanastes/Ekthesi%20Anaforas%20gia%20to%20Prosfygiko.pdf and

https://www.nchr.gr/images/pdf/apofaseis/prosfuges_metanastes/Ekthesi_Anaforas_Prosfugiko_el_compresed.pdf (all four in Greek)

31 Following that web meeting, the NCHR adopted and issued a statement on the issue, see https://www.nchr.gr/images/pdf/apofaseis/prosfuges_metanastes/Dilosi%20EEDA_Anaferomenes%20praktikes%20epanaproothiseon.pdf (in Greek)

32 The complainants did not consent to have their identity revealed, fearing for their security. Consequently, it was very difficult to have their complaints properly investigated. The actual incident reported involved third country nationals and, at that time, did not fall within the scope of the own initiative investigation.

33 The UNCHR had received complaints since 2017 that foreign nationals were "informally" arrested by the Greek authorities, in areas which are not in proximity with the borders (eg in the town of Thessaloniki) and were subsequently pushed back to Turkey. The complaints also involved foreign nationals already detained

Greek administration

- On 11 August 2017, the director of the reception and identification service replied to the Ombudsman's letter of 3 August 2017. She noted that her service fully observes the procedure foreseen by the law and that during the said dates, 24 May and 2 June, no Turkish national identified as mentioned in the Ombudsman's letter were registered.
- On 30 August 2017, the asylum service director replied to the Ombudsman's letter of 3 August 2017. She noted that her service fully observes the procedure foreseen by the law and that during the said dates no Turkish national identified as mentioned in the Ombudsman's letter was registered as wishing to apply for asylum.
- On 25 September 2017, the police general inspector of aliens' and border protection division replied to the Ombudsman's letter of 3 August 2017. She noted that her service fully observes the procedure foreseen by the law and that during the said dates no Turkish national identified as mentioned in the Ombudsman's letter was arrested by the police. She added that no vehicle bearing the number plate mentioned in the complaints is included in the vehicles used by the police. The letter concluded that the police inquiry did not produce any indication to justify further disciplinary inquiry on the said incidents and that in any case the police are not engaged in pushbacks.
- On 1η August 2018, the police general inspector of aliens' and border protection division replied to the Ombudsman's letter of 21 December 2017. She noted that no evidence emerged to confirm the allegations, adding that the police fully observe the European and national legislation and apply the criminal and administrative procedures foreseen in full conformity with human rights. She offered detailed information on the number of arrests of foreign nationals for illegal entry to Greece in the area of Evros river during the said dates.³⁴

in facilities such as the one in Paranesti, or holders of a residence permits issued by other EU Member States, and holders of official documents certifying that they wish to apply for asylum. According to the complainants those actions demonstrated similar patterns (ie similar organisational aspects, procedures etc). On the other hand, there was no eye witness testimony by UNHCR staff or any third party to confirm any incident and no indication of cooperation between the Turkish and Greek authorities emerged.

³⁴ She also described, in general, the Greek police operation, in cooperation with Frontex, launched since 2012 in the area of Evros river to tackle irregular migration as well as the individual joint operations. She clarified that there have been no joint operations with the Turkish authorities and that there is no cooperation of any kind which may be contrary to European and Greek legislation or in breach of the principle of non refoulement. She highlighted that the police inquiry did not produce any indication to justify further administrative or disciplinary inquiry on the incidents reported, adding that police officers testified under oath before the deputy public prosecutor of Thrace in the framework of the preliminary inquiry ordered by the Supreme Court prosecutor's office. Finally, she noted that the police is under no circumstances involved in pushbacks. On the contrary, the police have launched many successful operations to rescue migrants and refugees whose life was in danger, while there had never been a complaint or report to the police directorate of Orestiada regarding abuse or otherwise bad treatment of detainees by police officers.



- On 19 September 2018, the police directorate of Alexandroupoli informed the Ombudsman that he launched a preliminary inquiry on possible police misconduct regarding the incidents mentioned in the Ombudsman's letter of 11 September 2018.
- On 20 September 2018, the police directorate of Orestiada informed the Ombudsman that he launched a preliminary inquiry on possible police misconduct regarding the incidents mentioned in the Ombudsman's letter of 11 September 2018.
- On 12 October 2018, the police directorate of Orestiada informed the Ombudsman that the preliminary inquiry was completed without any findings against their officers. In particular, no related entry was found to have been recorded in the log of offences and incidents, no indication emerged that the reported incidents actually took place and there had never been a complaint or report regarding abuse or otherwise bad treatment of citizens by police officers during that time. The police attributes the complaints to traffickers adding that police officers deterred the crossing from Turkey to Greece, of a total of approximately 57,000 persons during 2017-2018 and helped rescue hundreds of foreign nationals in Evros river.
- On 16 October 2018, the police directorate of Alexandroupoli informed the Ombudsman that the preliminary inquiry was completed without any findings against their officers. In particular, no related entry was found to have been recorded in the log of offences and incidents, no indication emerged that the reported incidents actually took place and there had never been a complaint or report regarding abuse or otherwise bad treatment of citizens by police officers during that time. The police attributes the complaints to traffickers.
- On 17 December 2018, the police directorate of Orestiada sent to the Ombudsman a copy of the preliminary inquiry which was requested on 30 November 2018.
- On 18 December 2018, the police directorate of Alexandroupoli sent to the Ombudsman a copy of the preliminary inquiry which was requested on 30 November.
- On 11 January 2019, the police directorate of Orestiada replied to the Ombudsman's letter of 17 December 2018 offering information about the police operations in the land borders with Turkey and clarifying how the irregular crossing of migrants from Turkey to Greece was deterred. According to the police directorate deterrence was the result of the presence of police forces who emitted sound and visual signals as soon as traffickers were spotted on the Turkish bank of the river, thus forcing them to abandon their efforts. In cases of irregular crossings, the police clarified that they proceeded with arresting the persons involved.
- On 27 January 2019, the centre for integrated border management and migration of the police, in reply to the Ombudsman's letter of 17 December 2018 to the police regional director general for eastern Macedonia and Thrace, noted that, on the basis of the information available, no incident related to the allegations in the press reports was recorded. The letter included a brief description of the procedure applied by the police in case of irregular entry of foreign nationals to Greece.

VI. The principle of non-refoulement

At the heart of the allegations investigated by the Ombudsman is the obligation to respect the principle of non-refoulement: Third country nationals, even stateless persons, seeking international protection may not be returned in any manner to the country where they crossed (regularly or irregularly) the borders from, before the Greek authorities establish whether they indeed are entitled to international protection. That prohibition is absolute, bears no exceptions and does not depend on the application of specific conditions or circumstances.

The principle of non-refoulement derives from the national, European and public international law³⁵ and refers to the prohibition to return a foreign national to any country where the life or freedom of that person would be threatened or to any other place from where he or she may be returned to another country to face such risks.³⁶ Consequently, the application of that principle includes the prohibition to return in any manner, from Greece to Turkey, third country nationals citizens who would potentially risk to be returned from Turkey to any other country where they would be in danger.

The consequence of the obligation to fully comply with the principle of non-refoulement is that all parties shall provide to foreign nationals or stateless persons who claim that they are entitled to asylum, effective access to a procedure where their claim will be examined. In particular, a party to the Geneva convention, like Greece, may not informally push back or return in any formal manner a foreign national who claim that he or she is entitled to asylum, without having examined his or her claim. Any violation of that obligation amounts to a grave breach of a fundamental rule of international, European and national law and the respective jurisprudence.

³⁵ Article 33 par.1 of the 1951 Convention relating to the Status of Refugees, as implemented by Law 3989/1959 «On ratification of the Convention relating to the Status of Refugees» (Greek OJ 201/19-26.09.1959, vol. A): “No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” and the 1967 Protocol relating to the Status of Refugees as ratified by law 389/1968 (Greek OJ A' 125/4-6-1968).

³⁶ See Advisory opinion issued by the UNHCR, Geneva 26 January 2007, <https://www.refworld.org/docid/45f17a1a4.html>

VII. Finding

The Ombudsman has not been equipped by law with the necessary statutory tools and means to investigate effectively and comprehensively the factual basis of the complaints, in order to reach a definite conclusion regarding possible wrongdoings by officers or other state agents on the ground.

Nevertheless, the Ombudsman finds that, the alleged pushbacks investigated, appear to follow a standard practice, according to the complainants. The Ombudsman also notes that the complainants are invariably convinced that the alleged pushbacks have been the work or have at least involved state agencies and state agents at the levels of operational planning, logistics and perpetrators.

The Ombudsman finally notes that the competent police services, in most cases, responded to the complaints of third country nationals and of civil society organisations regarding illegal pushbacks, by way of sending them a formal and more or less standardised letter. In that letter, the general legal and institutional framework was outlined, making particular reference to the mandate of the police and the framework of cooperation in the border area with European agencies. A standard paragraph followed that there was no indication of wrongdoing on the part of the police officers on the ground and that the complaints about pushbacks are likely to come from traffickers aiming to compromise the operational capabilities of the police. The letter concluded that the police are performing their duties with full and unconditional respect to human rights.

(a) On the incidents

Most complaints of illegal pushbacks indicate a standard practice, involving an indefinite number of victims who are nevertheless counted in several thousands: foreign nationals, in small groups, cross irregularly from Turkey into Greece and reach a village or town, in most cases in the border area³⁷ looking for access to the asylum procedure. They are intercepted by the police and have their mobile phones and identification documents removed. Then the foreign nationals are handed over to unidentified men usually in blue uniforms. They are then forced to embark unidentified vehicles, almost always white vans. They are driven to an unidentified building, bearing no signs, where they are locked in

³⁷ According to some complaints there were pushbacks even of foreign nationals who had managed to leave the border area and had arrived, for example, in Thessaloniki or the port of Igoumenitsa. There were also reports for pushbacks of foreign nationals who had already been registered as asylum seekers and, more rarely, even of persons who had been granted the status of refugee.

large rooms together with other detained foreign nationals. No communication with state services or civil society organisations is permitted, no information is provided, no food or water. Some hours later, other unidentified men, this time wearing black uniforms, take them to the Greek bank of Evros river. They are forced to get on board dinghies and they are taken to the Turkish bank. The whole procedure is fast and, usually, the foreign nationals have been pushed back to Turkey within 24 hours after they are intercepted.

The uniformed men remain silent and do not address the foreign nationals. There were a few instances when the uniformed men were overheard to talk to each other or to give orders to the foreign nationals. On the basis of that, certain complaints allege that the uniformed men were not all Greek. In the majority of cases the complainants appear convinced that the police was responsible for the planning and implementation of the pushbacks. Non-governmental and international organisations which have raised the issue of the alleged pushbacks appear to have no doubt that (a) pushbacks take place, possibly for many years and that (b) the said pushbacks take place, if not by Greek state agents themselves, they are at least tolerated or encouraged and facilitated (by means of personnel, vehicles, facilities etc) by the Greek authorities, at either local or central level. The possible participation of police officers from other EU member states is also alleged.

(b) On the response of the administration

The Ombudsman addressed all the state services involved in the reception of foreign nationals in the area of Evros river. The replies sent by the reception and identification service, the asylum service and the police noted that their respective services and agents perform their duties in line with the Greek and European legislation, fully respecting and protecting the rights of those who cross from Turkey to Greece including their right to apply for asylum, if they so wish.

Noting that, in the vast majority of alleged pushbacks, the foreign nationals affected had not managed to establish any communication with the reception and identification service or the asylum service, the Ombudsman focused his investigation on possible acts or omissions of the police. The Ombudsman asked the police, both at local and central level, for information and clarification, and enquired whether any measures were or would be taken to address the allegations.

All police replies to the Ombudsman's enquiries included the following: the local police directorates noted that no evidence or indications emerged to confirm the allegations or to provide at least the necessary basis for a formal internal investigation for human rights violations by acts or omissions of police officers³⁸. The replies also offered general

³⁸ Only very few cases were formally investigated and the findings did not offer any different conclusion.



information on the operational framework of the police, the applicable Greek and European legislation, while noting cases of successful operations whereby local police officers managed to locate and escort to safety several foreign nationals who had crossed irregularly from Turkey to Greece. The police attributed the allegations for pushbacks to traffickers and unidentified individuals aiming to destabilise the operational capacities of the Greek authorities.

The said replies whereby local police directorates categorically denied any involvement in pushbacks reflected the replies of the central services of the police to the respective Ombudsman's letters, like those of September 2017 and August 2018.

VIII. Conclusion and proposals

On the basis of the finding mentioned above, the Ombudsman, having examined carefully the issue and having taken into account the constant flow of complaints regarding illegal pushbacks of foreign nationals from Greece to Turkey, in the area of Evros river, and acknowledging his limited powers to effectively investigate the factual basis of the complaints, while continuing the investigation of individual complaints in the framework either of his general mandate or in his capacity as national mechanism for the investigation of arbitrary incidents, has concluded that:

- The large number of the complaints by international organisations and by international and Greek non-governmental organisations regarding illegal pushbacks of hundreds or even thousands of foreign nationals, from Greece to Turkey in the area of Evros river, which follow, through the years, constantly repeated patterns, has created concerns regarding the level of the protection of human rights in Greece, in particular in the regions close to the land borders with Turkey.
- Those concerns derive from the persistent allegations for direct involvement of the Greek police, namely the alleged involvement of police officers, vehicles and infrastructure in certain areas close to Evros river, as well as the failure of the Greek authorities to locate and identify clandestine groups or individuals who are likely to engage in illegal pushbacks.
- The Greek authorities' response to the said allegations has not until today resulted to effectively address those concerns through a comprehensive investigation of the complaints, in particular of those complaints whereby the foreign nationals named as victims of illegal pushbacks from Greece to Turkey had already contacted the Greek authorities, as recorded in official documents.

Consequently the Ombudsman submits the following proposals:

- The Greek police to investigate formally those allegations of pushbacks not formally investigated, especially those involving third country nationals already registered in Greece or whose presence in the country was otherwise recorded; to publicise within a reasonable timeframe the findings of the said investigations with specific reference to each alleged incident.
- The Greek police to develop a specific and detailed operational plan to effectively address the possibility of private groups or militias engaged in illegal pushbacks of foreign nationals in the area of Evros river and to effectively protect foreign nationals



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who enter Greece by any means, to seek international protection; and to inform/train accordingly the police officers.

The finding of this investigation are addressed, according to article 4 par. 6 of law 3094/2003, to the minister of Citizen Protection and to the chief of the Greek police for their information with the kind request to take all the measures they consider necessary within their respective competencies.