

## Defending human rights in times of border militarization



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## Introduction

On the 28<sup>th</sup> of February 2020<sup>1</sup> President Erdogan announced that “Turkey will no longer stop Syrian refugees from reaching Europe”, causing diplomatic disputes, violent clashes between newcomers and Greek governmental actors, and an aggressive political response. Since then, the EU Member States continue to enforce highly problematic policies of externalization and militarization of border security. These policies have created a volatile environment, generating fear, distress, and the rise of xenophobic rhetoric in the area. HumanRights360 has identified that such policies have paved the way for persons affiliated with far-right beliefs to exploit and manipulate public opinion in order to purposefully create irrational suspicions for refugees. Aside from the policies enforced due to those incidents, there has also been a significant strengthening of the already strict border politics under the pretense of preventing the dissemination of COVID-19.

As a result, since February 2020 there is a substantial increase in human rights violations of newcomers, including, but not limited to, their right to non-refoulement, the prohibition of torture, and their right to have access to the asylum process, making a joint European response highly needed.

On 23<sup>rd</sup> of September 2020 the long-awaited EU Pact on Migration and Asylum was announced by the European Commissioner, Ylva Johansson, and the Vice-President of the European Commission, Margaritis Schinas (see below 7iii). This EU Pact highlights Europe’s inability to rise boldly to the challenges posed by the migration flows fairly and effectively and limits the definition of “solidarity” solely to the allocation of financial aid for the surveillance, emphasizes on the enhancement of detention mechanisms and returns and neglects to propose a comprehensive reception and integration strategy.

The present EU Pact proposal is based on the premise that all Member States will not accept mandatory relocation. The EU’s failure to adopt a permanent relocation scheme and a comprehensive integration strategy, both at an EU and a national level, will have detrimental effects for Greece. Without those, Greece will continue to fail meeting international obligations to support refugees and others in need of international protection, but it will also fail to prevent far-right rhetoric from blighting our society.

HumanRights360 will continue to work through coordinated actions in the field by conducting border monitoring and in the Reception and Identification Center (RIC) of Fylakio-Orestiada. It will keep on identifying, documenting, and reporting on the illegitimate practices and prosecutions that take place in the European land border of Evros with Turkey in order to seek liability and accountability for the current situation. Furthermore, it will also resume to support the population in the area to gain access to protective services according to their rights.

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<sup>1</sup> <https://www.humanrights360.org/during-and-after-crisis-evros-border-monitoring-report/>

# 1. Crossing Evros Borders.

HumanRights360 has highlighted the increase in arrivals through Evros river following the closure of the Western Balkan route and the implementation of the EU-Turkey Statement in the islands<sup>2</sup> (with specific exception of the border of Evros). As per September 2020, the arrivals through Evros river have reached to 3,709<sup>3</sup> compared to 9,969 arrivals of the equivalent months in 2019. This decrease on arrivals is mostly identified in months March, April, and May on which we faced a heavy militarization of the border zone and a very limited monitoring at the area both due to the measures to prevent the spread of the coronavirus and the execution of the one month suspension of asylum applications that was applied by an urgent legislative act for individuals who entered Greece illegally and were arrested by the Greek authorities after March 1<sup>st</sup>.



According to an announcement made by the General Police Directorate of Eastern Macedonia and Thrace, there was a rapid increase in arrests for illegally crossing the border within August. During the months of June and July there were 269 and 346 arrests respectively, whereas in August there were 728<sup>4</sup> arrests alone. The majority of those arrested were Turkish asylum seekers who upon their arrests, and before their release, were detained according to new COVID-19 regulations for a week at various Border Police Departments, rather than Reception and Identification Center (RIC) or Pre-Detention Centers.

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<sup>2</sup> <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>

<sup>3</sup> <https://data2.unhcr.org/en/situations/mediterranean/location/5179>

<sup>4</sup> <https://evrosonline.gr/yperdiplasmos-ton-syllipseon-gia-p/>

Throughout this year, there has been a noteworthy fluctuation in the number of people accommodated at the Reception and Identification Center (RIC) of Fylakio, Orestiada. In total, 430 people arrived at the RIC for registration and identification purposes from May to September 2020, all from various nationalities and with high refugee profiles. The majority of the population was from Syria, and the rest from Turkey, Somalia, and Afghanistan. The arrivals mainly consisted of families and single adults, with very few Unaccompanied and Separated Minors (UASCs). More specifically, starting from May 2020 which accounted for 49 newcomers, there was a monthly increase in arrivals, with 91 people arriving in June, and 207 in July alone. This rapid increase saw an abrupt shift at the beginning of August, where only 83 people arrived, and all within the first 15 days. All arrived within the first 14 days of August 2020 and before the lockdown of the RIC on the 14<sup>th</sup> of August 2020<sup>5</sup>. Since then, and up until the end of the lockdown on the 30<sup>th</sup> of September 2020, there were no recorded arrivals at the RIC.

The situation in the region remains perplexing, with the local authorities facing a volatile and unstable environment (political and operational). Such a condition has a direct effect on the arrival of newcomers as it results in illegal practices of unlawful forced returns (pushbacks) through the land borders of Evros. As it will be further elaborated in chapter 4, within the various allegations of informal forcible removals, there are also accounts of vulnerable persons experiencing such pushbacks, exposing such groups to further ill-treatment or/and abuse (see chapter4) .

#### Police chase persecutions

Those who are lucky enough to cross the river and not be pushed back to Turkey face the danger of being injured or even killed within the Greek borders. Due to the aggressive persecutions by the police, throughout the summer of 2020, there has been an increase in car accidents, and consequently in the number of deaths, of newcomers while trying to reach further into Europe. According to the local forensic, most of the victims are not recognized and are buried at local Muslim cemeteries. It has been reported that a common cause of such deadly accidents is the loss of vehicle control when smugglers try to avoid arrest during police chasings<sup>6</sup>. Furthermore, it has been observed that it is common practice for smugglers to force minors to drive the vehicles, to protect themselves and try to avoid potential persecutions. Even though the President of Border Police Officers of Evros acknowledges the fact that there has been an increase in accidents in the region, he claims that this is attributed to the drivers' lack of driving licenses and recklessness<sup>7</sup>; emphatically denying that those accidents are caused by police car persecutions.

In June 2020, two migrants were injured and transferred to the local hospital after two policemen had opened fire while they were chasing their vehicle which was transferring 13

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<sup>5</sup> <https://migration.gov.gr/en/prostheta-metra-prostasias-kai-ygeionomikis-thorakisis-ton-domon-filoxenias/>

<sup>6</sup> <https://www.e-evros.gr/gr/eidhseis/3/katadiw3h-troxaio-me-paranomoy-metanastes-sto-nosokomeio-oi-epibainontes-video/post40506>

<sup>7</sup> <https://sputniknews.gr/ellada/202008258096341-proedros-synorifylakon-evrou-sto-Sputnik-ehoume-exarsi-ton-metanasteutikon-roon---megali-i-piesi/>

African migrants. There were two attempted murder charges filed against the two policemen<sup>8</sup>, and after having answered their charges, they were both let free until their trial. All 13 African migrants received a suspended prison sentence for the illegal entry and finally, the smuggler got a prison sentence without probation<sup>9</sup>.

On the 5<sup>th</sup> of August<sup>10</sup>, there was a car accident outside the city of Alexandroupolis just before 1 a.m. local time, where seven people died instantaneously and five were injured. Authorities stated that the car ran through roadworks and into a cement base where toll booths are to be installed. Two people were severely hurt and hospitalized in an intensive care unit, where, later on, they passed away. All passengers were men and their nationalities were not immediately available. Finally, two smugglers were arrested.

On the 20th of August, another fatal accident took place in the region of Evros. A vehicle, which was carrying 8 asylum seekers crashed, resulting in the immediate death of one person and two severe injuries. All of them were Kurdish from Syria and among them was a 15-year-old boy. The boy was seriously injured and is still receiving treatment at the University Hospital of Alexandroupolis. It was later recorded that 5 out of the 7 passengers who survived the car incident were COVID-19 positive<sup>11</sup>.

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<sup>8</sup> [https://tvxs.gr/news/ellada/astynomikoi-gazosan-tzip-me-metanastes-ston-ebro-poiniki-dioksi-gia-dyo?fbclid=IwAR2ziSVUoEDEtbP3p1Rd\\_FY4KEeiy6skKVN-UGcMRWuJvMBhExTwobTln3s](https://tvxs.gr/news/ellada/astynomikoi-gazosan-tzip-me-metanastes-ston-ebro-poiniki-dioksi-gia-dyo?fbclid=IwAR2ziSVUoEDEtbP3p1Rd_FY4KEeiy6skKVN-UGcMRWuJvMBhExTwobTln3s)

<sup>9</sup> <https://www.newsbomb.gr/ellada/astynomiko-reportaz/story/1090399/evros-dioxi-kata-astynomikon-gia-apopeira-anthropoktonias>

<sup>10</sup> [https://www.efsyn.gr/ellada/dikaiosyni/255040\\_dikografia-kata-dyo-gia-thanatiforo-trohaio-me-metanastes-ston-ebro](https://www.efsyn.gr/ellada/dikaiosyni/255040_dikografia-kata-dyo-gia-thanatiforo-trohaio-me-metanastes-ston-ebro)

<sup>11</sup> <https://www.efsyn.gr/alexandroypoli>

## **2. The generalized practice of judicial authorities to convict newcomers with the offense of illegal entry.**

HumanRights360 has identified that, since the incidents of the 28th of February 2020, judicial authorities tend to convict newcomers for illegal entry with disproportionately heavy penalties, often without even the possibility of suspension. Some of the heaviest sentences can include more than two years in prison, fines, and even without the possibility of suspending the sentence while pending appeal. Such convictions of newcomers often result in the imprisonment of asylum seekers who have officially registered requests, or verbal declarations of will, for international protection. The imprisonment of such groups for illegal entry is a serious violation of the Geneva Convention. According to Article 31 (1) of the Convention, no State Party can impose criminal penalties on refugees due to illegal entry or stay if they come directly from countries where their life or liberty is threatened.

As the Greek law stipulates (par. 1 case c of article 2 of Law 4636/2019) an applicant for international protection is a third-country national, or a stateless person, who declares orally, or through writing, before any Greek authority at the points of entry into the Greek Territory or within it, their request for asylum or subsidiary protection in the country, or in any way asks not to be deported to their country for fear of persecution due to race, religion, nationality, political beliefs or participation in a particular social group.

HumanRights360 has taken on the representation and legal support of two Turkish citizens following their conviction for illegal entrance who are currently facing a severely disproportionate sentence of four years in prison without suspension, and a fine of 10,000 euros each. Despite having requested international protection before the Single Member Criminal Court of Orestiada, their asylum applications did not prevent the Single Member Criminal Court of Orestiada from charging them for illegally entering the country. Furthermore, the Competent Receiving Authorities were not notified, as per art. 65, paragraph 9, of Law 4636/2019, nor were the applicants, according to their statements, referred to the competent authorities. The decision for such conviction highlights the judges' lack of procedural knowledge concerning the asylum process. One of the decisions states:

“In particular, at the above place and time, the accused, a third-country national, namely a Turk, entered Greek territory intentionally illegally and proceeds improperly to the judgment on his asylum request”, rejecting it as follows ‘The alleged oral argument by the accused that he was pressured by Turkey and that he wishes to live in the safe place of Greece is considered at least insignificant, ungrounded and completely unconvincing, which cannot overturn the complete legal conviction formed by the Court’

Contrary to the common practice, it has been noticed throughout the last few weeks, that a significant number of people, usually those detained at Police and Border Patrol Departments, did not have to follow the flagrant delicto proceedings, but instead they received a notice for a pending trial for illegal entry within the first 10 days of their arrest and most of them were,

finally sentenced to 15 months in prison with suspension and a fine of 3.000 euros. Moreover, for those who still follow the flagrant delicto proceedings, it has been noticed that the sentences are less strict and they usually receive a few months to a couple of years suspended prison sentences with a fine.

### 3. The militarization of the Borders

The crisis in Evros Region during February and March led to the establishment of harsh militarized border politics concerning the reception and identification process of the newcomers.



The Greek government has chosen to respond to the presence of immigrants and refugees as an imminent threat, as potential enemies who are jeopardizing the country's sovereignty. Such a response is obvious by their decision to purchase and supply ammunition, M84 stun grenades<sup>12</sup>, grenades of chemicals<sup>13</sup>, grenades (CS830)<sup>14</sup> and armament<sup>15</sup>, amounting to

<sup>12</sup> <https://diavgeia.gov.gr/doc/6%CE%920%CE%9446%CE%9C%CE%A4%CE%9B%CE%92-%CE%92%CE%975?inline=true>

<sup>13</sup> <https://diavgeia.gov.gr/doc/%CE%A9%CE%985%CE%9246%CE%9C%CE%A4%CE%9B%CE%92-%CE%9C%CE%95%CE%A4?inline=true> and <https://diavgeia.gov.gr/doc/%CE%A9%CE%985%CE%9246%CE%9C%CE%A4%CE%9B%CE%92-%CE%9C%CE%95%CE%A4?inline=true> and <https://diavgeia.gov.gr/doc/%CE%A8%CE%9B%CE%96%CE%A946%CE%9C%CE%A4%CE%9B%CE%92-%CE%A7%CE%A49?inline=true>

<sup>14</sup> <https://diavgeia.gov.gr/doc/6%CE%94%CE%A4%CE%A946%CE%9C%CE%A4%CE%9B%CE%92-%CE%A1%CE%95%CE%9C?inline=true> and <https://diavgeia.gov.gr/doc/68%CE%A1%CE%A146%CE%9C%CE%A4%CE%9B%CE%92-%CE%975%CE%A1?inline=true>

<sup>15</sup> <https://diavgeia.gov.gr/doc/%CE%A87%CE%A4646%CE%9C%CE%A4%CE%9B%CE%92-%CE%92%CE%9F%CE%97?inline=true> and <https://diavgeia.gov.gr/doc/%CE%A8%CE%A1%CE%96446%CE%9C%CE%A4%CE%9B%CE%92-%CE%A0%CE%A4%CE%A9?inline=true> and <https://diavgeia.gov.gr/doc/%CE%A9%CE%94%CE%9F%CE%9E46%CE%9C%CE%A4%CE%9B%CE%92-%CE%91%CE%A3%CE%91?inline=true>

2,180,520.00 euros. According to the Ministry of Citizen Protection, all of those purchases were completed “for the purpose of covering any urgent and unforeseen necessities of the Greek Police concerning any tackling of migration flows in Evros Region”. Additionally, there is credible information<sup>16</sup>, that the Ministry of Citizen Protection has bought two “super-weapons”, two Long Range Acoustic Devices (LRAD), for the “confrontation of the Turkish bellicosity which is weaponizing refugees and immigrants in Evros ”. The LRAD is an acoustic hailing device, sound cannon and sonic weapon. According to the reports, its use causes “painful pain, shock, panic and disorients the victim”.

At the same time, the Greek government has announced the extension of a barbed-wire fence at the borders, covering an extra 27 kilometers alongside the Greek-Turkish borderline. At an EU level, officials have praised Greece’s border control measures and have provided support through the European Border and Coast Guard Agency (FRONTEX). For example, Margaritis Schinas, the vice-president in the Commission with the portfolio European Commissioner of promoting the European Way of Life, while talking to the Delphi Economic Forum 2020, praised the role of Frontex and highlighted that since 2016, Europe is guarding its border efficiently.

*“Frontex nowadays has more responsibilities and resources. Frontex of 2016 cannot be compared to the Frontex of today. They have been reinforced with more officers already and they will be reinforced with 10.000 in total. Our experience in Evros displays that the European Commission has the reflexes to help Greece in a political and operational level<sup>17</sup>”.*

The militarization of refugees and migrants was also marked by the introduction of the Greek Law 4650/2019 entitled “Regulations of issues of the Ministry of National Defense and other provisions”. Article 11<sup>18</sup> of this law establishes the position of the National Coordinator for the treatment and management of the immigration-refugee issue who reports directly to the Prime Minister and is appointed by his decision. Additionally, article 12<sup>19</sup>, re-establishes the Unified Border Surveillance Body which is designed to control and surveil the land and maritime borders of the Greek Territory while simultaneously mandated to report to the National Coordinator for the treatment of the immigration-refugee issue.

With the goal of increasing the Greek law enforcement units in the area an additional 400 border-police patrol officers were hired by the Ministry of Citizen Protection to reinforce the guarding of the borders. According to a statement made by the mayor of Orestiada, the enhancement of police forces in the general area was for guarding all the possible entry points

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<sup>16</sup> <https://eleftherostypos.gr/ellinotourkika/635012-ebros-ayto-einai-to-mi-thanatiforo-alla-panisxyro-oplo-tis-el-as/> and <https://www.evros-news.gr/2020/09/20/%ce%b1%cf%85%cf%84%ce%ac-%ce%b5%ce%af%ce%bd%ce%b1%ce%b9-%cf%84%ce%b1-%ce%bd%ce%ad%ce%b1-%cf%85%cf%80%ce%b5%cf%81%cf%8c%cf%80%ce%bb%ce%b1-%cf%84%ce%b7%cf%82-%ce%b5%ce%bb-%ce%b1%cf%83/> and <https://www.pressproject.gr/akoystika-opla-i-ellada-tha-xetinaxei-tis-ordes-ton-moysoylmanon-ston-evro/>

<sup>17</sup> <https://www.capital.gr/epikairota/3459922/oikonomiko-foroum-delfon-m-sxoinas-tora-einai-i-ora-gia-mia-olistiki-metanasteutiki-sumfonia-stin-ee>

<sup>18</sup> [https://www.kodiko.gr/nomologia/document\\_navigation/583914/nomos-4650-2019#Apθpo\\_11|583944](https://www.kodiko.gr/nomologia/document_navigation/583914/nomos-4650-2019#Apθpo_11|583944)

<sup>19</sup> [https://www.kodiko.gr/nomologia/document\\_navigation/583914/nomos-4650-2019#Apθpo\\_12|583947](https://www.kodiko.gr/nomologia/document_navigation/583914/nomos-4650-2019#Apθpo_12|583947)

into the country. As of now, the Greek law enforcement unit consists of 400 policemen of the Units for the Reinstatement of Order (MAT), the newly recruited border-police patrol officers, delegated their full duties during the autumn, the already present force of 400 police officers, 200 non-paid volunteer policemen, 150 police officers from the ASPIDA program, and finally 400 more border guards, adding up to a total of 1.150 officers<sup>20</sup>.

The conditions in the European land borders with Turkey have shaken the leaders of the bordering countries, seeking for international collaboration to effectively strengthen their plans against the rise of border crossings. Michalis Chrisochoidis, the Greek Minister of Citizen Protection, met with Hristo Terziyski, the Bulgarian Minister of Citizen Protection, and discussed how they will cope with the “illegal immigration flows”. The two Ministers agreed to expand their cooperation in the borders by strengthening their police force with new executives and joint patrols missions. Mr. Terziyski noted that his country will continue contributing to border controls and to continue joint patrols with Greek police and Frontex staff, as in the first half of 2020<sup>21</sup>. Finally, the Frontex force, which reinforced the Greek law enforcement units during the February- March crisis, is comprised of 100 officers<sup>22</sup> and has remained active in the area. According to Fabrice Leggeri, the Executive Director of Frontex:

*“If Turkey creates a new situation, of a magnitude similar to this of March at the Greek-Turkish borders, Frontex will boost its forces in Greece. If a new situation arises, Frontex will raise the total number of their staff to 1.500, sending 900 more officers to Greece”<sup>23</sup>.*

The President of the Police Directorate of Orestiada declared at a public statement that the police and army forces intercepted 100-150 asylum seekers attempting to cross the borders, mainly in the areas of Lavara, Petrades, and N. Vyssa<sup>24</sup>. Such interceptions are a basic violation of people’s right to seek international protection within the Greek borders, with such the systematic defilement of the non-refoulement principle causing potential danger of prosecution and mistreatment in their countries of origin.

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<sup>20</sup> <https://www.radioevros.gr/%ce%b4%cf%85%ce%bd%ce%ac%ce%bc%ce%b5%ce%b9%cf%82-%cf%84%cf%89%ce%bd-%ce%b5%ce%ba%ce%b1%ce%bc-%ce%b8%ce%b1-%cf%83%ce%b1%cf%81%cf%8e%ce%bd%ce%bf%cf%85%ce%bd-%cf%8c%ce%bb%ce%b1-%cf%84%ce%b1/> and <https://www.evros-news.gr/2020/09/20/%ce%b1%cf%85%cf%84%ce%ac-%ce%b5%ce%af%ce%bd%ce%b1%ce%b9-%cf%84%ce%b1-%ce%bd%ce%ad%ce%b1-%cf%85%cf%80%ce%b5%cf%81%cf%8c%cf%80%ce%bb%ce%b1-%cf%84%ce%b7%cf%82-%ce%b5%ce%bb-%ce%b1%cf%83/>

<sup>21</sup> [http://www.mopocp.gov.gr/index.php?option=ozo\\_content&lang=&perform=view&id=7196&Itemid=703](http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&perform=view&id=7196&Itemid=703)

<sup>22</sup> <https://frontex.europa.eu/media-centre/news-release/frontex-launches-rapid-border-intervention-on-greek-land-border-J7k21h>

<sup>23</sup> [https://elthraki.gr/2020/06/hfrontex%ce%b5%ce%bd%ce%b9%cf%83%cf%87%cf%8d%ce%b5%ce%b9-%ce%b1%ce%ba%cf%8c%ce%bc%ce%b7-%cf%80%ce%b5%cf%81%ce%b9%cf%83%cf%83%cf%8c%cf%84%ce%b5%cf%81%ce%bf-%cf%84%ce%b1-%cf%83%cf%8d%ce%bd%ce%bf%cf%81/?fbclid=IwAR32uvQ2cW2WHyC\\_TNpGFwXP3yjj9BJN6quFsT-1i2CPS9PFI8fpeaiSIY](https://elthraki.gr/2020/06/hfrontex%ce%b5%ce%bd%ce%b9%cf%83%cf%87%cf%8d%ce%b5%ce%b9-%ce%b1%ce%ba%cf%8c%ce%bc%ce%b7-%cf%80%ce%b5%cf%81%ce%b9%cf%83%cf%83%cf%8c%cf%84%ce%b5%cf%81%ce%bf-%cf%84%ce%b1-%cf%83%cf%8d%ce%bd%ce%bf%cf%81/?fbclid=IwAR32uvQ2cW2WHyC_TNpGFwXP3yjj9BJN6quFsT-1i2CPS9PFI8fpeaiSIY)

<sup>24</sup> <sup>24</sup> <https://www.xanthinea.gr/2020/07/evros-kanoyme-100-150-apatropes-metanaston-kathimerina-vinteo.html?fbclid=IwAR3GWN6JD2oyox7Gmdfv80JDienAZTj4HsIDbhs1Ks9nuyzIft4MEo3k8SY>

As of the 31<sup>st</sup> of August 2020, the repairs and construction of the fence in Evros have been launched and carried out by four construction companies and under the supervision and responsibility of the Ministry of Citizen Protection. The estimated cost is 62 million euros, while the estimated completion time is 8 months. According to journalists' information, the fence will not be unified, but it will cover three separated areas; 9 km in "Petaló" Feron, 15 km in an area called "Ktima Tsirozi" and 2,5 km in "Nea Egnatia" area. Furthermore, the declaration refers to the fortification of the existing 12.5-meter long fence with 5 meters barbed wire at the highest point, covering the distance between the border station of Kastanies to Nea Vyssa.

According to the same sources, a camera system for the automated surveillance of the borderline has already been launched, including 11 cameras on pillars in the area between Orestiada to the sea. At the same time, pillars with thermal cameras and operational centers along the borderline are scheduled to be placed within the year 2021 to detect migrants trying to enter the country<sup>25</sup>. The technical equipment has already been sent from the project contractor, Hellenic Telecommunications Organisation (OTE), to the warehouses of the Greek Police (EL.AS)<sup>26</sup>. Finally, the Minister of Citizen Protection has stated that the fence will be a "strong metal railing with anti-climbing, anti-armor, and anti-flood functions, while eight anti-ballistic observatories will operate along the fence"<sup>27</sup>.

As a 20% increase in border crossing was observed during the first two weeks of September, the Ministry of Citizen Protection, in collaboration with the General Police Headquarters, aims to further armor the border through new equipment. More specifically, for the additional fortification of the region of Evros, 4 drones will be conducting air surveillance, 15 thermal sensors will detect migrants during the night, while 10 armored police vehicles and 5 inflatable boats will be utilized for the reinforcement of the patrolling units. Emphasis will be placed on the area of Tycheró, the Ardas river, and "Ktima Tsirozi", where fence extension operations have already begun<sup>28</sup>.

The Deputy Minister of National Defense, Alkiviadis Stefanis said that it is an essential matter to upgrade the institution of the National Guard<sup>29</sup>, a voluntary armed force of the Army. He specifically mentioned that:

*"Regardless of all the above, the expressed intention of the political leadership of the Ministry of National Defense is to upgrade the institution of the National Guard, therefore, in cooperation*

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<sup>25</sup> <https://sputniknews.gr/ellada/202008258096341-proedros-synoriofylakon-evrou-sto-Sputnik-ehoume-exarsiton-metanasteutikon-roon---megali-i-piesi/>

<sup>26</sup> <https://www.kathimerini.gr/1090496/article/epikairothta/ellada/neos-fraxths-27-xlm-ston-evro>

<sup>27</sup> <https://www.kathimerini.gr/1090496/article/epikairothta/ellada/neos-fraxths-27-xlm-ston-evro>

<sup>28</sup> <https://www.e-evros.gr/gr/eidhseis/3/ebros-me-drones-8ermikes-kameres-8wrakismena-tzip-oxyrwnoyn-ta-synora/post41202>

<sup>29</sup> <https://www.protothema.gr/greece/article/982492/ellines-ethnofulakes-dinoun-ti-diki-tous-mahi-ston-evro/>

*with the co-responsible Ministries, the redefinition of the legal framework concerning the National Guard is being studied*<sup>30</sup>.

On the 6<sup>th</sup> of July 2020, there was a meeting concerning the current situation at the Greek-Turkish border and the protection of human rights between the Committee on Civil Liberties, Justice and Home Affairs<sup>31</sup> alongside the Home Affairs Commissioner, Ilva Johansson. During that meeting, Members of the European Parliament tried to raise awareness about the current situation by referring to the assassination of Mohamed Al Arab<sup>32</sup> and Muhammad Gulzar<sup>33</sup> and asked the Greek governmental representatives, and the Commissioner, to take a position on these serious allegations. The Greek political leaders continue to emphatically deny the existence of any dead or wounded by the Greek gunfire<sup>34</sup>, although the information released by [Forensic Architecture](#), confirmed by several organizations and actors such as Bellingcat<sup>35</sup>, Pointer (KRO-NCRV)<sup>36</sup>, Der Spiegel<sup>37</sup>, Lighthouse Reports<sup>38</sup>, show exactly the opposite.

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<sup>30</sup> <https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11351797.pdf>

<sup>31</sup> [https://multimedia.europarl.europa.eu/en/libe-committee-meeting\\_20200706-1645-COMMITTEE-LIBE\\_vd?fbclid=IwAR1\\_Tj2rvqwS-MpEScJvzVkTYV3CootMqDztAsGCBf0CJyuBqsEDpRdFAYE](https://multimedia.europarl.europa.eu/en/libe-committee-meeting_20200706-1645-COMMITTEE-LIBE_vd?fbclid=IwAR1_Tj2rvqwS-MpEScJvzVkTYV3CootMqDztAsGCBf0CJyuBqsEDpRdFAYE)

<sup>32</sup> <https://forensic-architecture.org/investigation/the-killing-of-muhammad-al-arab>

<sup>33</sup> <https://forensic-architecture.org/investigation/the-killing-of-muhammad-gulzar>

<sup>34</sup> <https://gr.euronews.com/2020/05/08/petsas-kanena-neo-stoixeio-thanato-ellinika-pyra-ebro>

<sup>35</sup> <https://www.bellingcat.com/news/uk-and-europe/2020/05/08/the-killing-of-muhammad-gulzar/>

<sup>36</sup> <https://pointer.kro-ncrv.nl/artikelen/griekenland-moet-verantwoording-afleggen-voor-schietincident-bij-grieks-turkse-grens>

<sup>37</sup> <https://www.spiegel.de/international/europe/greek-turkish-border-the-killing-of-muhammad-gulzar-a-7652ff68-8959-4e0d-9101-a1841a944161>

<sup>38</sup> <https://www.lighthousereports.nl/publications/2020/5/8/spiegel-international-the-killing-of-a-migrant-at-the-greek-turkish-border>

## 4. Monitoring, advocating and pursuing strategic litigation on the illegal practices at the land border of Evros.

Despite the official denial from national<sup>39</sup> and a European<sup>40</sup> political leaders, illegal pushbacks in Greece are a harsh reality, that takes place both in the Aegean Sea but also in the land border of Evros. HumanRights360 has established a monitoring system through which it documents incidents of organized pushbacks by police authorities alongside the so-called “commandos” (full-faced, armed men). According to testimonies provided to HumanRights360 from survivors of such illegal pushbacks, the Greek police and commandos had placed newcomers into custody, where they confiscated their money, phones, and the rest of their belongings, including sometimes their clothes and shoes. Later on, they had secretly led them towards the river of Evros, put them on boats, and finally pushed them back to Turkey, while having threatened their lives the entire time. It is necessary to flag out that such pushbacks were conducted without previously registering their personal information or giving them the ability to request international protection.

The principle of non-refoulement is the cornerstone of the international refugee protection, prohibiting the forced removal of refugees to territories where they are at risk of persecution. It is enshrined in Article 33 of the 1951 Convention Relating to the Status of Refugees and it is a fundamental principle for which no deviation is permitted. The principle of non-refoulement is customary international law, as such, it is binding on all States, including those who are not state parties to the 1951 Convention and/or the 1967 Protocol on the Status of Refugees<sup>41</sup>.

**According to Article 21 of Law 4636/2019 (Article 21 of Directive 2011/95/EU)** the competent authorities are obliged to follow the principle of non-refoulement in accordance with the international obligations of the country<sup>42</sup>.

This phenomenon of illegal pushbacks has been escalating, including accusations of already registered asylum seekers experiencing such illegal refoulement. For example, a group of Afghan asylum seekers were all arrested in Igoumenitsa, 700 km away from Evros, and were then driven by a police van to Evros and consequently illegally pushed back to Turkey despite having their asylum application registered and pending by the Asylum Services.

Once the illegal pushbacks take place, the newcomers continue to experience threats and violence upon their arrival to Turkey. It has been reported that once pushed back to Turkey, newcomers face threats of being illegally forced to return to their country of origin, often facing

<sup>39</sup> <https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11351797.pdf>

<sup>40</sup> <https://www.keeptalkinggreece.com/2020/07/07/eu-parliament-greece-ministers-pushbacks-johansson>

<sup>41</sup> <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4c2af7802>

<sup>42</sup> [https://www.kodiko.gr/nomologia/document\\_navigation/572171/nomos-4636-2019#Ap0po\\_21|572243](https://www.kodiko.gr/nomologia/document_navigation/572171/nomos-4636-2019#Ap0po_21|572243)

serious risks of persecution. Such a chain of persecutions has been documented by two Iranian women, who after pushed back to Turkey, were later on forced to return to Iran, putting their lives in imminent danger. Furthermore, similar accusations have been reported by two Turkish citizens, who after being pushed back to Turkey, were arrested by the authorities, persecuted for political reasons, and sent to prison. Even though the various illegal patterns that take place in Evros may differ from each other, they all share similar characteristics regarding the infliction of violence and the violation of basic human rights.

### Monitoring the illegal practices at the land border of Evros.

HumanRights360 continues to document the illegal practices that take place in the land borders of Evros by gathering evidence, conducting first-hand reporting, and on-the-ground investigations. Some of the collected testimonies of illegally forced returns to Turkey are illustrated below in three (3) indicative “typical” cases for which HumanRights360 has submitted a report to the Greek Ombudsman, urging them to start an investigation both in the field of illegally forced return but also in the field of arbitrary arrest and detention:

P.A. Iranian woman.

She was arrested and beaten by police officers in Evros. She was pushed back to Turkey five times.

*“Five times I was pushed back to Turkey, without having the time and the safeguards to apply for international protection”*

*“They were waiting for us in the field. I do not know if police were, commandos or border police. They had binoculars that could sense body heat. They were acting very differently than other policemen. They confiscated our mobiles, chargers, power banks”.*

[https://www.youtube.com/watch?v=kPBrkX39TNU&feature=emb\\_title&fbclid=IwAR03DAf2bxdhDe0QnVUrAwTOqTFSY8mESTa5b2sXSjr52SA76-aPFQfYmkI](https://www.youtube.com/watch?v=kPBrkX39TNU&feature=emb_title&fbclid=IwAR03DAf2bxdhDe0QnVUrAwTOqTFSY8mESTa5b2sXSjr52SA76-aPFQfYmkI)

*“They took us out and drove us to the yard. I got afraid that they wanted to push us back to Turkey, so I started yelling at everyone “go back, go back”. At that moment, they caught me and drove me to a room, away from the other cells which had two doors, one towards the yard and the other one downstairs. There I was bitten up by one policeman and one man with a baton and a wire. I stayed there for six hours. While I was there the other detainees were yelling all the time “Where is Parvin, where is Parvin?”. Because of this upheaval, other policemen came – commandos. In the beginning, there were twelve policemen with blue uniforms, and later on, fifty people arrived, commandos in black uniforms and guns. Moreover, a man dressed in civil clothes was in this place. He was the one who bitted me up, and he insulted me, yelling at me “fuck you”. Not only him but the other policemen too. When they drove us to the river, they put us in a line to enter the plastic boats and they were telling us “to be quiet”, especially when somebody was passing by. Additionally, they had flashlights with a red light in order to not be seen by the Turkish soldiers”.*

S.A., A.Q., M.H., M.N. Afghan asylum seekers

They were arrested in Igoumenitsa, then they were driven to Evros by police authorities and, finally pushed back to Turkey. They are afraid of being forcibly returned to Afghanistan by the Turkish authorities. They are currently hiding in a house in Turkey.

*“They drove us to a room and asked us to take off all our clothes; they strip-searched us, and they took all the things we had – mobiles, chargers, documents, and asylum cards. After that, they handcuffed us and let us there for one night. When they confiscated all our belongings, we were told that we would be given them back in Athens. The next day they placed us in a police van, and they drove us to Evros region”.*

*“We never expected so much cruelty and reluctance from Hellenic police. We thought if something happened, we would have the time to call human rights organizations and lawyers”.*

*“On the 17<sup>th</sup> of July 2020, they transferred us to Evros in a blue police van without windows. There were two policemen inside, one in a blue uniform, and one in civilian clothes. The latter hit one man a lot when he asked them to let him go to his family. He hit him a lot. He hit him with a police officer’s baton. As they had confiscated his mobile, he could not take a photo of his bruises”*

*“We arrived at the river at 7 p.m. We were a lot of people from Iran, Iraq, Pakistan, and Afghanistan. The women were Arabic speakers and they were very frightened and tired. They forced us to get off and to inflate the plastic boats. They forced 40 of us to get on the boat and be sent to the other side. The first boat carried only women and children (3-4). Turkish officers drove them to the mainland after they tore the boat apart. All the boats were plastic with oars. The policemen were in a hurry; they were armed and wore full face masks and bullet-proof vests. They were armed as if they were going to war”.*

S.E. Iranian woman, 30 years old.

She tried to escape from Iran, she entered Greece and in twelve hours she was pushed back to Turkey. Thus, she was found by her pursuer and persecutor and then forcibly returned to Iran. Now, she is in dire danger.

*“At about 10 a.m we were in front of the shed door, there were two policewomen and three policemen inside the shed. Before entering the shed, the first thing the policewoman did was to bring a cartoon box and ordered us to leave our phone in it. Some people did not want to give their phones, but they threatened that if we did not give it, they wouldn’t deal with our*

*matters and they said they would return the phone, so, we all had to hand over our phones. [...] In the case of families, an English letter was written on the father's wrist for example, " F " so F1 was written on the mother's wrist and F2 was written on children's wrist.... and in the case of singles only one capital letter was written. It is worth mentioning that during the whole period of our detention, Greek coastguard did not ask us for any personal details and did not register them".*

*"I told that bearded policeman " you should hand us over to the UN. You have no right to deport us ..." but he shrugged and said sarcastically: "where is the UN? we are police we do whatever we want ... you cannot say to me what to do or not to do". Reza was a brave and stubborn boy, even though he had been beaten, he came near the police again and started begging in English and told about the danger that threatened him in Iran, but the police said coolly " it is not related to me, it's your problem .."*

*"five minutes later, the commando who carried a gun and baton opened the door then he pulled four women and me out of the van so he forced us to sit down on the ground; there were a lot of trees around us, it meant that we were in a jungle. The police pulled others out of the van in a 5-group and we sat down on the ground while there was an approximate 3 m gap between all groups. Furthermore, the commandos kept ordering us by their gestures constantly to be silent without any movement. Moreover, they talked to each other with gestures. When some men made voices, a commando attacked and hit them with a baton. It was getting dark. As I mentioned, 3 persons who were mostly plain-clothed police, helped the commandos; they wore masks, too. They led us to go down a slope that connected to a river, there were two masked men in a boat. They transferred us to the other side of the river in a group of six, and whenever someone made a noise or movement, they would beat them with a baton. When they abandoned us on the other side of the river, they pulled the boat out of the river and got on the van hurriedly, and ran away from there».*

### Advocating against the illegal practices at the land border of Evros

On the 18th of June, 2020, HumanRights360 participated in a hearing carried out by the Third Sub-Commission of the National Commission for Human Rights, responsible for matters of application of human rights to aliens. Following the hearing of bodies via teleconference, HumanRights360 submitted to the National Commission for Human Rights (NCHR) an explanatory memorandum on migrant and refugee issues, focusing on refoulements/illegal pushbacks. The same explanatory memorandum report was submitted to Peter Kelly, Member of the Council of Europe.

HumanRights360, taking into consideration the on-going open investigation of the Greek Ombudsman on the allegations of illegal practices at the land borders of Evros, has submitted reports to the Ombudsman pertaining various testimonies.

Although push-backs have been ruled as unlawful under international law, the practice is understood to continue in a methodical and widespread manner along the Evros/Meriç border.

The scarcity of evidence and the varying access of witnesses highlighted the necessity for a collaboration [Forensic Architecture](#). In that context, HumanRights360 has partnered with Forensic Architecture in order to undertake an investigation into illegal push-backs of migrants crossing the border from Turkey to Greece through the Evros/Meriç river. The results of this investigation are focused on specific cases, and describe the modus operandi of the institutional bodies carrying out push-backs while raising important questions of responsibility and accountability. **Click here to watch the video:** <https://chaptered-video.forensic-architecture.org/kuzey/>

#### Strategic litigation on the illegal practices at the land border of Evros.

HumanRights360 is also engaging in legal advocacy and strategic litigation before both domestic Greek authorities as well as European and international bodies. It has been a challenge to successfully seek redress for illegal forcible returns (push backs) before Greek courts. A common pattern of these illegal acts is that Greek border forces involved in illegal pushbacks routinely strip and confiscate the legal documents and belongings of the victims of such acts. Thus, a key obstacle to access to justice faced by victims of pushbacks who manage to re- enter Greece is the high risk of arrest of persons without legal documentation who come to testify before the Police or Judicial authorities. Furthermore, victims of pushbacks who manage to re- enter Greece face the risk of undermining their ability to proceed with the asylum procedures following an involvement in legal proceedings.

As recounted in FA's individual complaint against Greece to the UN Human Rights Committee, in preparation in partnership with the Global Legal Action Network (GLAN), the remedies available to FA and others in his situation under Greek law are either ineffective or too prolonged and burdensome to constitute an effective remedies for the grave and prolonged violations of Greece's serious violations of the International Convention on Civil and Political Rights (ICCPR). FA's arbitrary detention and initial expulsion from Greece in November 2016 by the Greek police accompanied by German-speaking officers is also one of the cases reconstructed by the University of London-based investigative group Forensic Architecture. **Click here to watch the video:** <https://chaptered-video.forensic-architecture.org/fady/>

#### Case's facts:

FA was illegally expelled from Greece during the night between 30 November 2016 and 1 December 2016 after having been stripped of his German residency permit, travel document and other belongings. During that night, Greek police officers and German-speaking forcibly returned approximately 50 asylum-seekers, refugees and other migrants from Greece to Turkey, along with FA. FA had travelled to Greece from Germany – where he had been recognised as a refugee and was granted permanent residency in 2015 – on 28 November 2016 in order to find his then 11-year-old brother, who had lost contact with F the week before when he was about to cross the Evros-Meriç river from Turkey.

During the afternoon of 30 November 2016, FA approached the bus station in the Greek border town of Didymoteicho to look for his brother, where he was approached by Greek police officers who, upon learning he was Syrian, arrested him without explaining his rights. He was then brought to a detention center, where Greek police officers stripped him of his German permanent residency document, travel document and the keys to his home. They held him in a dirty cell along with other men for several hours without food or water, along with some 50 other migrants, including men, women, and children. The same night, Greek forces and German speaking commandos engaged in an operation to forcibly remove the group of migrants to Turkey across the Evros-Meriç river.

As a result of his expulsion on 30 November 2016, FA was subject to significant physical and mental harm and roughly three years of precarity and legal limbo, which ended in December 2019 after the German authorities reissued his documentation. During the 13 months he spent in Turkey, between 30 November 2016 and 19 December 2017, FA attempted to return to Greece 16 times, during which he was pushed back to Turkey by the Greek authorities 11 times, and pulled back by the Turkish authorities five times. In many of these instances, he was also subject to arbitrary detention, beatings and other forms of ill-treatment by the Greek and Turkish authorities respectively. One of his attempts to re-enter Greece took place via the sea route from Turkey to Greece, during which FA was returned by the Turkish coast guard, whereas the others were along the Evros-Meriç river border.

FA was trapped without legal status in Turkey until he succeeded to re-enter Greece on 19 December 2017, 385 days after his initial expulsion. He was then trapped in Greece without documentation or a legal right to remain in Greece for almost two years, before he was finally able to return to Germany on 30 October 2019. His expulsion to Turkey by the Greek authorities in November 2016 meant that he had to undergo a protracted process of returning his German documentation that he initiated at the German Consulate in Istanbul and that proceeded for many more months through the German Embassy in Athens. During the 1,065 days that elapsed between FA's expulsion from Greece and the reissuance of his German residency permit, FA experienced physical and mental harm, including bodily injury, toxic stress and severe financial hardship, all of which were caused by the initial pushback incident on 30 November 2016.

The arbitrary detention and expulsion of FA by Greek border forces – allegedly accompanied by German-speaking officers, likely members of the EU's border agency Frontex – amount to serious violations of Greece's obligations under the International Convention on Civil and Political Rights (ICCPR). The Greek authorities confiscated FA's German residency and travel documents, arbitrarily detained FA, and proceeded to forcibly remove FA to Turkey, rendering him de facto stateless and rightless for several years, including by hindering his access to basic needs such as medical care.

Violations of Greece's obligations under the International Convention on Civil and Political Rights (ICCPR)

**Article 6(1): The right to life**, as FA faced substantiated risks of drowning and hypothermia during his initial expulsion from Greece and the subsequent repeated pushbacks by the Greek authorities while FA was re-attempting to return to Greece<sup>43</sup>. The physical and mental injury to FA caused by his expulsion led him to develop chest pain following his initial expulsion that led to his emergency hospitalization in Turkey for cardiac surgery and a lifetime of prescribed heart medication. During his time in Turkey, FA was subject to several xenophobic attacks, including one that resulted in his hospitalisation with a broken jaw, two broken teeth, and 35 stitches in his leg. The destitution and uncertainty that ensued from the violence FA was subjected to by the Greek authorities, accompanied by worries about the whereabouts of his brother, resulted in FA developing severe depression, anxiety and suicidal ideations, that led to his attempted suicide multiple times.

**Article 7: The prohibition of torture or cruel, inhuman or degrading treatment or punishment**, alone and in conjunction with **Article 13: Procedural rights against expulsion**, as Article 7 prohibits the use of systematic beatings<sup>44</sup> and the infliction of physical pain, including mental distress<sup>45</sup>, to which the Greek officials subjected FA. The expulsion of FA across the Evros-Meriç river also violated his rights under Article 7 by exposing him to the risk of torture or cruel, inhuman or degrading treatment or punishment in Turkey or a country of further refoulement<sup>46</sup>, after he had benefited from special protection for these very rights through his recognition as a refugee by the German authorities. The clandestine and violent actions that led to FA being expelled from Greece violated Greece's obligations under Article 13, which allows for expulsion of a lawfully-present non-citizen only where the expulsion is required by law, and offers certain procedural safeguards including a right of appeal<sup>47</sup>. The fact that FA had his status as refugee recognised in Germany and was in possession of a German residency permit at the time of his forcible removal from Greece is an aggravating circumstance that substantiates the gravity of the consequences of the Greek authorities' practice of forcible removal of migrants, asylum-seekers and refugees without due process or

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<sup>43</sup> FA, who does not know how to swim, was forced to cross the dangerous Evros-Meriç during his initial pushback, his following attempts to re-enter Greece, and each subsequent pushback. Hundreds of migrants have died attempting to cross the Evros-Meriç to Greece in recent years. See Carljine Vos, "De ijskoude rivier Evros slokt migranten op," *deVolkskrant* (13 Feb. 2019), <https://www.volkskrant.nl/kijkverder/v/2019/de-ijskoude-grensrivier-de-evros-slokt-migranten-op/>. In 2017, an 18-year-old Pakistani migrant died from hypothermia after he fell out of the Greek border authorities' boat into the river while they were pushing him back to Turkey. See Daily Sabah, "Pushed back by Greece, migrant dies of hypothermia," *Daily Sabah* (20 Dec. 2017), <https://www.dailysabah.com/turkey/2017/12/20/pushed-back-by-greece-migrant-dies-of-hypothermia>.

<sup>44</sup> See Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights (3rd Edition): Cases, Materials and Commentary* (July 2013), p. 240, doi: 10.1093/law/9780199641949.001.0001

<sup>45</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992, para. 5, available at: <https://www.refworld.org/docid/453883fb0.html>.

<sup>46</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992, para. 9, available at: <https://www.refworld.org/docid/453883fb0.html>.

<sup>47</sup> OHCHR, "Expulsions of aliens in international human rights law: OHCHR Discussion paper," OHCHR Geneva (Sep. 2006), p. 10, <https://www.unhcr.org/en-us/4bf6813a9.pdf>.

regard to their status.

**Article 9: The right to liberty and security, including the prohibition on arbitrary arrest or detention**, as FA was deprived of his liberty without any explanation of a reason for his apprehension, detention or removal, contrary to Article 9(2).

**Article 10: The right to dignity**, due to the degrading treatment to which FA was subjected while in custody of the Greek authorities, which violate Greece's obligations to ensure a standard of humanity and dignity for those in detention.

**Article 12(2): Freedom to leave a country and Article 12(4): Right to enter one's own country**, as the Greek police officers' seizure of FA's German documentation, followed by his expulsion to Turkey, prohibited him from returning to his own country of residency, Germany, for some 1,065 days. By stripping FA of his status, the action of the Greek authorities also prevented him from leaving Turkey.

**Article 16: Right to recognition everywhere as a person before the law**, as the Greek officials' seizure of FA's German documentation effectively rendered him stateless, forcing him to reside without any documentation first in Turkey and then in Greece, without legal recognition or access to basic services for nearly three years. During the time he was in Greece without his German residency permit, he was also unable to access domestic remedies in Greece without risking his deportation.

**Article 17: Right to privacy**, as the Greek police officers arbitrarily interfered with FA's privacy when they seized his legal documentation and confiscated the keys to his home in Germany. FA was then subjected to a body search in the presence of a female officer, contrary to the Human Rights Committee's advice that State officials should ensure that individuals should only be examined by persons of the same sex during personal and body searches to respect Article 17<sup>48</sup>.

**Article 14: Right to equality before courts and tribunals and to a fair trial**, as FA did not have access to sufficiently effective and prompt remedies for the misconduct of Greek officials or for the harm caused to his person before Greek courts. Having confiscated his documentation and stripped him of his recognition before the law, the Greek authorities effectively barred FA from having access to any form of redress against these violent actions until he could successfully regain his German documentation. The prospect of attempting to access even the ineffective and cumbersome remedies that may have been at his disposal to bring a case against Greek officers or claim compensation would have resulted in his immediate exposure to the risk of indefinite detention and potentially deportation, had he

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<sup>48</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation*, 8 April 1988, para 9, <https://www.refworld.org/docid/453883f922.html>

been arrested by the Greek police.

**Article 2(3): The right to an effective remedy**, as relevant Greek domestic legislation does not include provisions on the illegal expulsion or violation of the principle of non-refoulement. Further, Greece violated Article 2 by expelling FA from Greece where there were “substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.”<sup>49</sup> The Greek authorities thereby knowingly exposed FA to the risk of becoming a victim of chain refoulement as a result of his initial expulsion and repeated forcible removal to Turkey<sup>50</sup>.

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<sup>49</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation*, 8 April 1988, para 9, <https://www.refworld.org/docid/453883f922.html>

<sup>50</sup> See, for example, Mobile Info Team, “Illegal Pushbacks in Evros: Evidence of Human Rights Abuses at the Greece/Turkey Border,” Annual Report 2018-19 (Nov. 2019), [https://static1.squarespace.com/static/597473fe9de4bb2cc35c376a/t/5dcd1da2fefabc596320f228/1573723568483/Illegal+Evros+pushbacks+Report\\_Mobile+Info+Team\\_final.pdf](https://static1.squarespace.com/static/597473fe9de4bb2cc35c376a/t/5dcd1da2fefabc596320f228/1573723568483/Illegal+Evros+pushbacks+Report_Mobile+Info+Team_final.pdf); International Crisis Group, “Turkey’s Syrian Refugees: Defusing Metropolitan Tensions,” Europe Report N°248 (29 Jan. 2018), <https://d2071andvip0wj.cloudfront.net/248-turkey-s-syrian-refugees.pdf>; HarekAct, “Harekact’s Weekly Digest 08/07/2019,” HarekAct (08 July 2019), <https://harekact.bordermonitoring.eu/2019/07/08/harekacts-weekly-digest-08-07-2019/>; Sertan Sanderson, “Istanbul expels more than 15,000 undocumented migrants,” InfoMigrants (01 Aug. 2019), <https://www.infomigrants.net/en/post/18545/istanbul-expels-more-than-15-000-undocumented-migrants>

## **5. Reception and Identification Center's (RIC) of Fylakio, Orestiada operation is challenged by the strict measures taken by the government against COVID-19**

The prevention measures against the spread of Covid-19 have complicated the situation at the RIC of Fylakio, Orestiada and have caused an escalation in the already existing anxiety of the population accommodated at the RIC. The Direction of the RIC of Fylakio, in an effort to apply safety precautions against COVID-19, on 3<sup>rd</sup> of June 2020 cancelled the scheduled arrival of 11 people from the Border Patrol Department of Soufli after a member in that specific department was tested positive. Having to keep receiving new arrivals and aiming to control the number of COVID-19 positive newcomers the Direction of the RIC limited the number of arrivals to 50 people per 14days, implementing this measure as the majority of the new arrivals had not been tested or put under a quarantine period. Thus, all newcomers were divided into groups of 10 and every group was placed in one of the 5 preassigned wings configured for quarantine.

Starting from July onwards, people would be quarantined upon their arrest in the Pre-Removal Detention Center (PRDC) next to the RIC of Fylakio and once the minimum period of the quarantine was over, the doctor in charge signed a medical certification, letting them to be transferred to the RIC, accordingly leading to an increase of arrivals.

Furthermore, the Direction of the RIC instructed all its personnel to wear facemasks, to keep distances between each other, but also the beneficiaries during the interviews. Additionally, the administration proceeded with the decontamination of the premises, the offices and the living quarters of the beneficiaries. Finally, during the first days of August, the medical staff of the National Public Health Organization started monitoring the staff's temperature before entering the Center.

Notwithstanding all efforts to prevent the spread of COVID-19 during the 2<sup>nd</sup> week of August, an asylum-seeker who entered the RIC on 5<sup>th</sup> of August, 2020, started showing symptoms of COVID-19. The patient was transferred to the General Hospital of Didimoticho where he was found positive to the virus. It is alleged that the beneficiary had already completed a 14-day quarantine at the Pre-Removal Detention Center of Fylakio, implying that either there were already people infected with COVID-19 in the RIC before the beneficiary's arrival or that the preventive quarantine measure at the PRDC were not effective. The National Public Health Organization conducted 15 tests on asylum-seekers, out of which 8 were found positive, and 13 tests to the staff of the RIC, with all testing negative.

Due to the aforementioned events, the Ministry of Immigration and Asylum enforced a 14 days lockdown of the RIC until the end of August. However, the quarantine was extended twice, first until the 15th of September and later on until the 30th of September.

Because of the lockdown in RIC of Fylakio the Regional Asylum Office have also suspended their operations. The staff of the RIC followed a rotation schedule scheme at the premises due to the

restrictions. The medical staff of the National Public Health Organization, including doctors and nurses, continued to be present at the RIC providing their services to those in need. Additionally, during the first day of lockdown, the psychologists of the National Public Health Organization who were on call visited the RIC to care for psychological emergencies. Later on, as the need for their services became more urgent, their visits to the RIC became more frequent. Finally, the UNHCR has been present at the RIC to monitor the situation, while other NGOs, like ARSIS and HumanRights360, continued to support the asylum-seekers through online sessions providing psychological support and informational sessions on the current situation.

The Pre-Removal Detention Center of Fylakio which is placed next to the RIC, has recently been evacuated to be decontaminated. Also scheduled that reconstruction will take place in the Pre-Removal Detention Center and that the Detention Center will its operations until the end of the year.

As a result, the asylum-seekers who were previously at the Pre-Removal Detention Center are now stuck in various Border Patrol Departments within the region of Evros. Due to the lack of any preventative measures against COVID-19, those centers have become areas of high contamination. There is an unofficial rule where Turkish and Syrian people are detained for seven days approximately and that, if they do not show any symptoms or signs of COVID-19, they get released.

As the local press indicates, by the end of August there were more than 400 people detained at the Border Patrol Department of Orestiada (Cheimonio) whereas in comparison at the Border Patrol Department of Metaxades, had approximately 30 people detained, mostly Turkish.

Following the termination of the quarantine situation on the 1<sup>st</sup> of October 2020, RIC's operation has started again and all the latest 172 arrivals were confined directly in quarantine wings. After expiry of the quarantine, the majority of the arrivals consists of Turkish nationals asylum seekers.

## **A. Specific Considerations**

### **1. Protective custody**

The “protective custody” status and the lack of adequate sheltering structures remains a highly problematic issue in Greece. According to the National Center for Social Solidarity (EKKA), “protective custody” refers to children who remain in the safe zones until their integration into sheltering structures. The lack of adequate shelters though results in an excessive number of children being under “protective custody”. Such a phenomenon was highlighted by the campfire at the RIC of Moria, which took place on September 9th, 2020, on the island of Lesbos. More than 400 UASCs were safely transferred to the Greek mainland, as they urgently required

shelter, protection, and access to basic services. In accordance to the latest statistics of the National Center for Social Solidarity (EKKA), on the 15th of September 2020, 204 children were placed under “protective custody”. At the same time, 104 minors remained in the RIC of Fylakio under protective custody, waiting for a long time to get integrated into sheltering structures. According to the same EKKA statistics, there are only 1,785 places for long term accommodations (Shelters/SIL) and 1,199 places for temporary accommodation (Safe zones/Emergency hotels) currently available for sheltering children in Greece. Interestingly, the total number of UASC in Greece is currently 4,417, thus leaving thus leaving 2659 unaccompanied asylum-seeking children excluded from any protection system.

It has become an imperative need to correct UASC’s long-term stay under the regime of protective custody in RICs, as the current living condition is completely unsuitable for children. The lack of sufficient housing accommodation significantly delays the placement of UASCs in a proper environment, leading to severe psychological pressures to the children and creating, or intensifying, irreparable harm to their health, physical integrity, and the development of their case.



The prolonged stay of UASCs in the RIC of Fylakio, currently the only closed center in Greece, has shown to cause both psychological traumas, but also physical problems to the children as well. It is commonly reported that children are suffering from skin diseases requiring them to undergo several days of treatment. The cause for such diseases arise from children sharing bed linen, blankets, and other daily necessities. Most of the antibiotics are usually covered by the Ministry of Migration and Policy, however, there is still a serious lack of medicine for dermatological conditions. The National Public Health Organization (NPHO) within the RIC has recently forwarded a list to the various non-governmental actors in the area, asking for their

help to cover the shortages of certain specific kinds of medicine needed to care for the children. It is often the case that due to the unavailability of the necessary medicine within the RIC, children are suspended from their housing placement and even have their registration at the Asylum Service cancelled.

A typical consequence of this unbearable situation is the eruption of riots within the RICs, resulting in violent arrests, criminal prosecutions, and dire consequences for recognized refugees. For example, on the 12<sup>th</sup> of May 2020, 28 people protested within the RIC of Fylakio by burning their mattresses and blankets with the hope of making a public statement against their prolonged detention under “protective custody”.



The RIC personnel and the NGO workers evacuated the premises and the riot police alongside a fire truck and an ambulance, intervened in the area. Fortunately, there were no severe injuries were reported. There were 28 people arrested, out of which 26 were UASCs and 2 were adults. Everyone was transferred to the police department of Neo Chimonio, where the two adults were convicted to seven (7) years of imprisonment by the penal court and finally transferred to prison. The UASCs were transferred back to the RIC under “protective custody” with pending charges against them, as a casefile was opened and is under investigation by the police.

Since the riot took place, the RIC was repaired and improved substantially, while for the first time since the establishment of the RIC, the Direction invited representatives from each Wing and ethnicity to the weekly meeting with the RIC's personnel and the stakeholders at the field. During their presence there, they had the opportunity to speak up and to express their requests and complaints. So far, the establishment of those practices has been pleasantly welcomed by the beneficiaries and all actors.



## **2. Family Reunification and Relocation Program**

The European and national procedures have continuously failed to facilitate family reunification, to take into consideration prospects for integration, and finally to share the responsibility for the protection and assistance of asylum-seekers and refugees across the EU fairly. During the reporting period, amidst the COVID-19 outbreak and the border crisis, a tendency of easily rejected family reunification requests by many European countries has been noticed. As each country creates individual informal criteria for accepting or rejecting a family reunification request from a UASC in Greece, it is often that rejections take place for insignificant or minor reasons. For example, Germany requires original family booklets as proof of blood relationship and does not accept the relatives' passports. Furthermore, Belgium no longer accepts the Afghan Identity cards (Tazkera) as a proof of age and asks for an age assessment. Finally, Spain requires DNA testing as proof of blood relationship in most cases. This strict case handling by most of these countries, lead to a significant number of rejections of the UASC's requests within the RIC of Fylakio, whose one last chance to be transferred to another European country is to participate in the Relocation program. The Relocation Program is an agreement between EASO and the Greek Government that allows the transfer of 1,600

UASCs from Greece to other EU Member states. The Greek Operating Plan was established by EASO and the Greek Government on 12 May 2020. Caseworkers of EASO, alongside members of the Guardianship Network for Unaccompanied Minors of METAdrasi, visited the RIC of Fylakio on the 29<sup>th</sup> of June to conduct the necessary interviews and Best Interest Assessments (BIA) of the eligible UASCs for the relocation program. In total, 38 interviews and BIAs were conducted the program's completion in the first week of August. Concerning the 16 UASCs who participated in the protest at the RIC at Fylakio, even though they were eligible for the Relocation program, they were not allowed to be selected. It is against the protocol to conduct interviews or BIA reports to people who are under penal investigation and as those children had the police charges against them, they were automatically disqualified. Even though a significant number of families and minors with severe health problems are being transferred out of the Aegean islands to other European Countries there is no news any additional relocation programs from the RIC at Fylakio

The EEA Grants, which represent the contribution of Norway, Iceland, and Liechtenstein across 15 countries in Central and Eastern Europe, have provided EUR 7,632,000 to finance new accommodation places for 1,000 unaccompanied children and vulnerable asylum seekers in Greece until 2024. The funding is provided through the EEA Grants Asylum and Migration program for Greece operated by SOL Crowe and in collaboration with HumanRights360 and aims at reducing social and economic disparities while promoting social and economic development. The donor countries have allocated EUR 116,7 million to Greece for programs and projects to be implemented until 2024. From 1994 onwards, Greece is a beneficiary country of the EEA Grants with more than 180 million euros allocated to important projects and interventions, in areas such as the environment, health, innovation, empowerment of the most vulnerable populations, the reduction of economic inequalities, and many more. Epaminondas Farmakis, Director of the EEA Grants "Local Development & Poverty Reduction" and "Asylum and Migration" programs, emphasizes that:

*"the projects we are announcing today, along with all the programs implemented in the period 2019-2024 in Greece, aspire to contribute to a more fair system of protecting the most vulnerable asylum-seeking groups, especially the children. We hope that more projects like these, as well as increased relocation efforts to European partners, will provide a more sustainable approach to the vulnerable populations in Greece."*

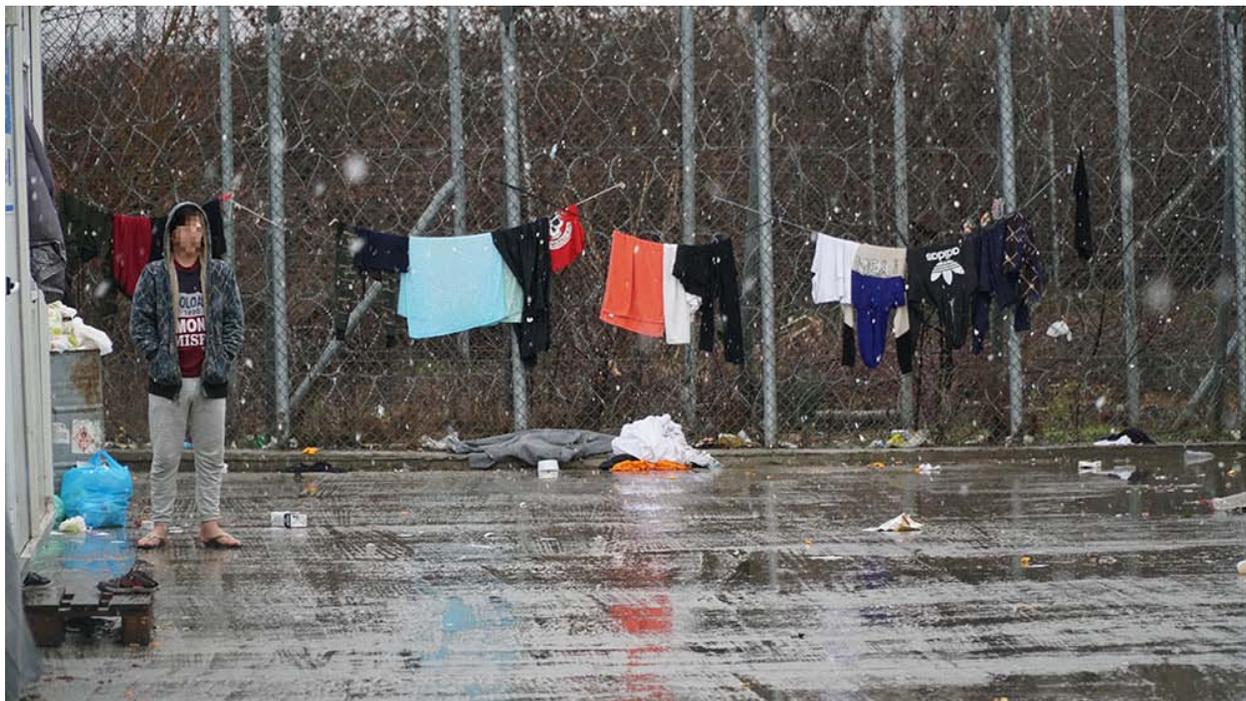
## **B. Developments on the field of transfers to shelters**

On 21st September, after the campfire at the RIC of Moria, which took place on the island of Lesbos, and following an urgent request from Irene Agapidaki, the Special Secretary for the Protection of UASC's, the National Public Health Organization (NPHO) delivered 200 COVID-19 rapid tests within the RIC of Fylakio. 104 UASCs were tested in a few days with the goal of transferring them to shelters in the mainland, mainly those operated by the International Organization for Migration (IOM). All of them tested negative to COVID-19 and within one week 101 UASCs were transferred to safe shelters; 3 UASCs remained at the RIC with their caregivers

and relatives, in anticipation of the local prosecutor's decision concerning their guardianship procedure.

Ms Agapidaki stated that the UASCs would be temporarily hosted at these emergency shelters and very soon they would be either transferred to more suitable shelters, transferred to other countries through the Relocation Program or reunified with their families according to the Dublin III regulation. She characteristically stated that:

*"We managed to increase the efficiency of the places in such structures by 30% within 6 months, and by the end of the year even more such places will be included in the long-term accommodation system, which are already ready to be put into operation. As such, we were able to provide documentation and convince the European Commission that the transport of UASCs from the RICs is part of the overall planning and not a firework that will lead to new impasses and wretchedness."*



According to the statistics of the National Center for Social Solidarity, by the end of February, a significant number of 1,752 UASCs were present at the RICs of the islands and Evros. At the time of writing, every UASC, including those hosted for almost 1 year in the closed RIC of Fylakio, has been transferred to safe shelters in the mainland, exuding trust that this practice will be part of an organised and established plan to leave no UASCs at RICs under the outdated "protective custody status".

## 6. Evros Region as European Border

### i. The geopolitical significance of Evros

As Evros region covers a large geographical area European borders it is of high political importance, with both national and European governmental officials visiting the area frequently. There have been many joint inspections by the Minister of Citizen Protection Mich. Chrysochoidis and the executive director of Frontex Fabrice Leggeri inspecting the Frontex squads, the construction of the fence, and the overall situation at the border<sup>51</sup>. Some of the most frequently visited areas have been the Leggeri at the Border Surveillance Center of Nea Vyssa, and Border Station of Kipi and Kastanies. On the 24<sup>th</sup> of June 2020, a joint visit aimed at inspecting the EU borders with Turkey took place via a military plane by the Minister of Foreign Affairs Nikos Dendias and the High Representative of the Union for Foreign Affairs and Security Policy, Josep Borrell. After Borrell's visit, he was questioned on whether Greece dealt with the migrants' attempts to cross the border efficiently, and whether the situation in Greece was the designated practice of the European Union in order to be "blackmailed less" by Turkey. The High Representative of the European Union answered:

*"The EU strongly condemned the fact that the Turkish government opened its border with Greece intentionally. And Greece, as any other country in a similar situation, has the duty to protect its border. If migrants attempt to enter a country forcibly, the law enforcement forces have the duty to guard their border utilizing the most appropriate means."<sup>52</sup>*

Furthermore, the symbolic political significance of Evros region is also signified by the visit of the Austrian Minister of the Interior, Carl Nehammer, one month after the International Ministerial Conference on European Asylum and Immigration Policy in Vienna. Finally, Austria had also sent the EKOCOBRA (the [police tactical unit](#) of the Austrian Federal Ministry of the Interior) special force unit to reinforce Greek forces in March. Nehammer even said:

*"Even if the coronavirus has removed the issue of illegal immigration from the media, it is still a challenge that we must actively address. In recent months, I have been in close contact with my Greek counterparts, and now we will form an on-the-spot picture of the situation"<sup>53</sup>.*

In another statement, the Austrian Interior Minister said in his concluding remarks: *"Greece's borders are Austria's borders too"<sup>54</sup>.*

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<sup>51</sup> <https://www.news247.gr/politiki/evros-chrysochoidis-kai-leggeri-epitheorisan-ton-frakti.7684939.html>

<sup>52</sup> <https://tourikanea.gr/%cf%84%ce%bf%cf%85%cf%81%ce%ba%ce%b9%ce%ba%ce%b7-%ce%b5%ce%be%cf%89%cf%84%ce%b5%cf%81%ce%b9%ce%ba%ce%b7-%cf%80%ce%bf%ce%bb%ce%b9%cf%84%ce%b9%ce%ba%ce%b7/lathro-129/>

<sup>53</sup> <https://www.e-evros.gr/gr/eidhseis/3/ton-ebro-8a-episkef8ei-o-yp-eswterikwn-ths-aystrias-gia-to-metanasteytiko/post41095>

<sup>54</sup> <https://www.evros-news.gr/2020/08/25/%ce%bd%ce%b5%cf%87%ce%ac%ce%bc%ce%b5%cf%81-%cf%84%ce%b1-%cf%83%cf%8d%ce%bd%ce%bf%cf%81%ce%b1-%cf%84%ce%b7%cf%82->



“as provided by the new Regulation, standing corps officers Category 1 while performing their tasks might require carrying and use of service weapons, ammunition, and other equipment<sup>58</sup>”.

In addition, Frontex plans to reinforce the European member states with additional border control experts and equipment, and an enhanced scheme for sharing information and regular risk analyses as it monitors the situation at the borders 24/7. Furthermore, it will provide the Member States with technical and operational support to reintegrate returnees in non-EU countries. Moreover, Eurosur ([European Border Surveillance system](#)) has now been merged in its totality with Frontex. The aforementioned State of play will be finalized no later than the end of 2020 and it will define how the new aerial surveillance service will be implemented.

Finally, the New Pact on Migration and Asylum upgrades significantly the role of Frontex, as it states that:

*“Frontex must play a leading role in the common EU system for returns, making returns work well in practice. It should be a priority for Frontex to become the operational arm of EU return policy, with the appointment of a dedicated Deputy Executive Director and integrating more return expertise into the Management Board<sup>59</sup>”.*

Frontex will also collaborate for the introduction of a return case management system at the EU and national level, covering all steps of the process, from the detection of an irregular stay to the readmission and reintegration in third countries. Systems of control, such as the Schengen evaluation mechanism and Frontex will play a key role in the enhancement of a “robust governance and implementation monitoring”.

Finally, EU agreements with the Western Balkans partners will enable Frontex border control to operate together with national border control on the territory of a partnering country to optimize voluntary returns<sup>60</sup>. As Margaritis Schinas, the vice-president in the Commission, stated in a press conference on a Pact for Migration and Asylum, Frontex is becoming an operation arm in border management and “as we proved in Evros the beginning of March, Europe can now effectively ensure border management<sup>61</sup>”. It is to be noted though, that there was no reference from Ms. Margaritis Schinas on the constant allegations of violations of the principle of non refoulement and illegal and forced returns (push backs) in Evros region

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<sup>58</sup> <https://www.statewatch.org/media/documents/news/2020/may/eu-council-frontex-ECBG-state-of-play-7607-20.pdf>

p2

“In efforts to determine the legal basis for acquiring weapons, a legal advice and analysis was sought by the Agency which led to addressing the European Commission for clarity on the way to proceed since it was confirmed that the EBCG 2.0. Regulation and the Headquarters Agreement do not provide sufficient legal basis for the Agency to acquire, register, store and transport firearms in Poland. In the meantime, all technical requirements regarding the above mentioned tender have been prepared, and, as soon as the legal situation is clarified, Frontex can launch a tender

<sup>59</sup> [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_1.pdf) (p.8)

<sup>60</sup> [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_1.pdf) (p.21)

<sup>61</sup> <https://audiovisual.ec.europa.eu/en/video/I-195445>

following the border management from March 2020 until today and how a further deployment of “an operation army” as Frontex would *alleviate the situation*.

### iii. The new EU pact on the European Common Asylum System

On 23<sup>rd</sup> of September, a new Pact was heralded by Commissioner Ylva Johansson and Margaritis Schinas, Vice-President of the European Commission. The new Pact on Migration and Asylum was under consideration from 2016 until today. Its direction focuses on hardening the EU policy on asylum and migration, assessing both as “a problem that needs solution” or “a burden, a pressure which needs alleviation”. Dublin regulation is abolished, and new border procedures will address the responsible Member State. In this debate, refugees’ management has become a negotiation tool between Member States within the EU. The new Pact seeks to consolidate and institutionalize, even more centrally and formally, agreements with the border European countries, mostly Western Balkan countries, or with third countries turning mostly the first into even bigger- than they are now- detention centers in exchange for “solidarity”. “Solidarity” in Pact’s terms, means the acquisition of financial aid which is destined not for the protection and reception of refugees but for the surveillance, detention and returns. Furthermore, it is at least challenging to consider Libya, Turkey or Egypt as safe third countries not only for their citizens but also for those who have escaped war and poverty. Consequently, detention in border countries is expected to be generalized, *large-scale detention centers, the so called hotspots, controlled centers, prisons or anything else* considering their obsession and determination to stop the “secondary movement” of refugees to the West and North Europe countries<sup>62</sup>.

Undoubtedly, the protection of the European borders, namely the borders of the southern and eastern countries of Europe, has emerged as a central point of the Pact. Reinforcement of the Schengen area by screening and border procedures, reinforced external borders, more consistent asylum and return procedures under the more integrated approach of the common framework are in priority. A temporary internal border control, like the one which was used for pandemic, will be a last resort measure. Other alternatives to internal border controls are proposed, as police checks, a new technology and smart use of IT interoperability.

Commissioner Ylva Johansson in her introductory speech about the Pact, has intended to justify its necessity due to the “irregular arrivals” in the European Union, which in 2019 were -only- 140,000 and as the Commissioner claimed “only the minority of them are refugees”. She has also highlighted that “we are not in 2015”. She has also spoken about two million immigrants who got residence permit because they fall in love and married with European Union citizens. The latter figures given by the Commissioner bring out a logic, opposed to the official rhetoric of “unwelcome immigrants and refugees”. It is interesting that the explanation of the need for

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<sup>62</sup> [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_1.pdf) (p.21)

fast border procedures and returns is based on the effort not to let asylum seekers and immigrants establish relations with the country, the European Union, and its people. The Pact, evidently, aims at the isolation and containment of asylum seekers in outposts and structures at EU's external borders. The same purpose serves the cooperation with other third countries in order to contain them in their territory, prioritizing also the readmission agreements. Unfortunately, the rhetoric of irregular migrants with low refugee profile, as also adopted from the Commissioner of Human Rights (see above) underestimate the need of a fair and effective individualized assessment and also the fact that various nationalities with the so called high refugee profile was included to 2019's<sup>63</sup> and 2020's<sup>64</sup> arrivals.



In contradiction with the aforementioned figures, she added the need to be given prominence on border procedures, even though she referred to a proposal of an independent monitoring mechanism in guidance with European fundamental human rights in order to prevent pushbacks in the borders.

A mandatory screening process, registration and Eurodac included, must take place within five days. As Dublin Regulation will be abolished, criteria of family and relatives bounds, or previous work in other European countries, would be examined in order to address the Responsible Member State. It is likely that most of the applications would be addressed by the border Member State. Commissioner Ylva Johansson also stressed of issuing the return or asylum decision rapidly within twelve weeks.

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<sup>63</sup> <https://data2.unhcr.org/en/documents/details/73442>

<sup>64</sup> <https://data2.unhcr.org/en/documents/details/73442>

The key words of the Pact are, repeatedly, the words “solidarity” and “responsibility sharing”. The cornerstone of the new Asylum and Migration Management Regulation would be the new “solidarity mechanism” which “will *primarily focus on relocation or return sponsorship*”.

Additionally, in a completely technocratic manner, Margaritis Schinas, Vice-President of the European Commission in charge of promoting European Way of Life in his speech on 23<sup>rd</sup> of September, on a New Pact for Migration and Asylum, displayed the way of the E.U. towards refugees and asylum seekers and the Pact’s directive. The returns sponsorship is introduced as “an alternative to relocation”:

*“We know that all Member States **will not accept mandatory relocation**. This is a thing that we already know. At the same time, relocation, by not only sending help or border guards, it really alleviates pressure from Member States which face high numbers of arrivals. With this returns sponsorship we have provided, we are suggesting a viable alternative to ensure that even though they are not relocated, the same numbers can be catered for and for the Members States which are under pressure we can ask from Members States which are willing to perform this returns sponsorship help”.*

The phrase “the same numbers can be catered for”, unfortunately, is indicative of the way that E.U. sees asylum seekers and refugees. “Solidarity” is presented as a mechanism for the Member States to cooperate either towards relocation, which, as Schinas said, is rather unintended and impracticable, either in terms of return or deportation. In addition, the Pact highlights the failure of the EU member states to undertake their responsibilities fairly on the Asylum process by introducing a more effective integration strategy. Regrettably, Europe could not rise to the occasion and succumbed to more hostile forces towards to immigration from the right-wing parties of the Western countries to the governments of the eastern bloc. This is a serious and short-sighted failure: investing only to securitization and returns without any reference to integration prospects only serves far right rhetoric and expose this population to risk of violation of its rights.

Taking into consideration the proposal on the new pact on Asylum and Migration, HumanRights360 assesses that this proposal is the result of negotiations on the Pact during the previous years and EU’s panic with regard the developments on the Greek borders both in relation with Moria and the pressure on investigations on the illegal forced returns (push back). The whole debate on the Pact during the previous years has also defined the legislative policy and asylum practice in Greece the last year, foreseeing Pact’s future implementation.

In particular, the new legal asylum framework in Greece has been aligned with the proposed new Pact in the field of acceleration of asylum procedures which is a main message of the new Pact without, however, securing simultaneously the procedural safeguards of a fair and effective examination of the asylum claims. Several legal provisions are clearly oriented to set thousands of asylum seekers out of the asylum procedures. An example of this is the amended provisions on the notification of asylum applications decisions. The latter can be notified either to the Head of the Reception and Identification Center or to the Head of the Reception and

Hospitality Center (Article 82), compromising the procedural guarantees for asylum-seekers and thus running an immense risk to lose the short appeals deadlines and end up facing the risk of deportation. Additionally, the announcement on 8<sup>th</sup> of September 2020 of the Ministry for Immigration and Asylum is also indicative of state's very concerning plan focused only to the acceleration of asylum procedures disregarding the need of strengthening the procedural safeguards "in the first eight months of 2020 53,384 decisions were issued, representing an increase of 67% from the previous year"<sup>65</sup>.

Within the framework of the dogma of Borders, Detention-Deportation, the new Pact seeks to prevent arrivals and prioritizes the prevention of "secondary movement", regardless of the cost<sup>66</sup>. Moreover, a pre-screening procedure will be utilized in order to "filter out" individuals with "abusive" or "manifestly unfounded" claims and after this pre-screening "will be channeled into the second-rate asylum procedure at the border». Aligned to this direction, George Koumoutsakos, Greece's Alternate Minister for Migration Policy George Koumoutsakos, in a letter to European Commissioner for Home Affairs Ylva Johansson, stated that "We are also in the process of building new multifunctional camps on the islands, which will rapidly and systematically replace the existing structures. These camps will help us to identify those with a refugee profile, and those that should be returned in line with European rules and commitments"<sup>67</sup>. In furtherance of this letter Notis Mitarachi, Minister for Immigration and Asylum, has announced in advance to the municipal council of Chios that: "*We are already expanding the Fylakio which is a structure in Evros and will have a capacity approximately identical to that of Samos*"<sup>68</sup>.

Furthermore, Mitarachi' declarations regarding Moria's convention into a closed one, before its complete destruction by fire, as well as the schemes for the new reception and identification center at Kara Tepe in Mytilene<sup>69</sup> or the Fylakio in Evros, highlight the wider European orientation. In the same line, on 13.10.2020 Notis Mitarachi<sup>70</sup>, Minister for Immigration and Asylum announced in the Greek Parliament the establishment of closed controlled centers both on the islands and in the mainland of Greece. In order to emphasize on the closed character of these controlled areas, he spoke about its enclosure by double fence according to NATO standards.

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<sup>65</sup> [https://www.facebook.com/migrationgovgr.info/?\\_\\_tn\\_\\_=kC-R&eid=ARB7HQ9DoaNo\\_TGcZ6N5KFZbyxgExCk9qLzwQcGpqvgjB7qp-mC9fOBwAjsJTcNYYBa9xenNkBkXsbnn&hc\\_ref=ARRyHa4yM8ieyt1H5nTfneJim-i4lWApRrJxEMGXwhyGo3NfxbGRpkWuu\\_5D-nSS0ME&fref=nf](https://www.facebook.com/migrationgovgr.info/?__tn__=kC-R&eid=ARB7HQ9DoaNo_TGcZ6N5KFZbyxgExCk9qLzwQcGpqvgjB7qp-mC9fOBwAjsJTcNYYBa9xenNkBkXsbnn&hc_ref=ARRyHa4yM8ieyt1H5nTfneJim-i4lWApRrJxEMGXwhyGo3NfxbGRpkWuu_5D-nSS0ME&fref=nf)

<sup>66</sup> <https://www.ecre.org/weekly-editorial-wishful-waiting-four-reasons-to-curb-our-impatience-for-the-pact/>

<sup>67</sup> <https://www.ekathimerini.com/249134/opinion/ekathimerini/news/greek-position-on-eu-migration-pact>

<sup>68</sup> <https://www.youtube.com/watch?v=WvwDR0ApOaE&feature=youtu.be>

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[https://www.facebook.com/notis.mitarakis/posts/3455493904473823?\\_cft\\_\\_\[0\]=AZVXq3bAk35WLe4b3w3U6qxYjtZ3w5bc4LV0E1E6Y8TJVOutLxlvarALYdiYHsruwWfK5UP11NftBTrU7iQVXlw61hGLG7bNlr2Bj1gvFViRSQzO3ofprwJupoZE\\_0ugVazTaYuzsTiH6EF5enk4gi83JHY535-GXHLTsf\\_AhquR18d1\\_grrfC7T1QneFZu0U&\\_\\_tn\\_\\_=%2CO%2CP-R](https://www.facebook.com/notis.mitarakis/posts/3455493904473823?_cft__[0]=AZVXq3bAk35WLe4b3w3U6qxYjtZ3w5bc4LV0E1E6Y8TJVOutLxlvarALYdiYHsruwWfK5UP11NftBTrU7iQVXlw61hGLG7bNlr2Bj1gvFViRSQzO3ofprwJupoZE_0ugVazTaYuzsTiH6EF5enk4gi83JHY535-GXHLTsf_AhquR18d1_grrfC7T1QneFZu0U&__tn__=%2CO%2CP-R)

<sup>70</sup> <https://www.facebook.com/notis.mitarakis/videos/359586431964205>

## 7. An alarming increase in racist speech and acts of racist violence

The targeting of newcomers and asylum seekers is a concerning reality in the Evros region. Local websites insist on using the degrading and politically incorrect terms, like 'lathrometanastis' (illegal alien immigrant) when referring to asylum seekers. Furthermore, it is very common to find baseless accusations against asylum seekers for supposedly causing serious assaults, without providing any evidence for such claims. For example, asylum seekers were recently accused of starting some fires in the southern part of the Evros region, a place which is commonly referred to as a transit area of asylum seekers. This rhetoric against asylum seekers was spread without any official announcement concerning the causes of the fires. On 8th of October 2020, following the conclusion of the Fire Brigade investigation, it was announced by the officials of the Fire Brigade that a Greek national person was responsible for the fire and penal proceedings have start against him for unintended arson in a forest area in the settlements of Loutra and Nipsa<sup>71</sup>. Such rhetoric is also perpetuated by the competent authorities, constantly upholding a xenophobic and aggressive response to those entering the Greek territory. This type of rhetoric, besides the fact that it denies the principle of an individualized assessment process and promotes racist incidents, ignores that in the last months, the registered newcomers are of nationalities of high refugee profile (see above).

The new Covid19-reality has exacerbated the tensions between the local authorities and the newcomers. After the above-mentioned (ch. 1) car accident of the 20th of August, in which were documented 7 passengers positive to Covid19, became widespread that the Turkish government is sending Covid19 positive asylum seekers on purpose along with terrorists to spread the virus to the general population of Greece<sup>72</sup>.

On 15th of September a remarkable incident took place near the borders, at Feres Evros. One 32-year old cattle breeder filed a lawsuit against 5 Turkish national asylum seekers (2 men and 3 women who were traveling together with 3 minors) for attack. The cattle breeder claimed that he was trying to "surrender" them to the police. The asylum seekers stated that he threatened them with a gun and caused them injuries. It is said that the gun discharged twice. The asylum seekers did not file lawsuit against the Greek cattle breeder. The prosecutor pressed charges against the cattle breeder for illegal physical violence with racist characteristics based on the anti-racist law and against the asylum seekers for illegal entry and illegal violence. The cattle breeder received a 26-month suspended sentence without mitigating circumstances and the two Turkish men a 14-month suspended sentence for illegal entrance and illegal

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<sup>71</sup> [https://www.efsyn.gr/ellada/koinonia/263368\\_anthrakes-oi-drastes-metanastes-stis-foties-ston-ebro](https://www.efsyn.gr/ellada/koinonia/263368_anthrakes-oi-drastes-metanastes-stis-foties-ston-ebro)

<sup>72</sup> [https://www.evros-news.gr/2020/08/24/%CF%83%CF%84%CE%AD%CE%BB%CE%BD%CE%BF%CF%85%CE%BD-%CE%B5%CF%80%CE%B9%CE%BB%CE%B5%CE%B3%CE%BC%CE%AD%CE%BD%CE%BF%CF%85%CF%82-%CE%BB%CE%B1%CE%B8%CF%81%CE%BF%CE%BC%CE%B5%CF%84%CE%B1%CE%BD%CE%AC%CF%83%CF%84/?fbclid=IwAR1Pyu-0ZjRnAZ9SgvC\\_vsiOWPKcPac9A\\_pLVV7ME99vuSrYc002FjxJqw](https://www.evros-news.gr/2020/08/24/%CF%83%CF%84%CE%AD%CE%BB%CE%BD%CE%BF%CF%85%CE%BD-%CE%B5%CF%80%CE%B9%CE%BB%CE%B5%CE%B3%CE%BC%CE%AD%CE%BD%CE%BF%CF%85%CF%82-%CE%BB%CE%B1%CE%B8%CF%81%CE%BF%CE%BC%CE%B5%CF%84%CE%B1%CE%BD%CE%AC%CF%83%CF%84/?fbclid=IwAR1Pyu-0ZjRnAZ9SgvC_vsiOWPKcPac9A_pLVV7ME99vuSrYc002FjxJqw)

violence while the three women were found non-guilty. This trial had a huge impact on the local community as the farm breeder's colleagues and local authorities protested against the court's decision, indicating targeting against asylum seekers and lawyers defending them. It has to be mentioned that the lawyer who defended the Turkish people and the judge was verbally attacked by the gathered crowd outside the court<sup>73</sup>.

Moreover and as this report was written a new announcement in a local website<sup>74</sup> was reproducing the news regarding the leaflets of the party of the far-right Member of European Parliament (MEP) and former member of Golden Dawn I. Lagos which were found at Orestiada. The leaflets make a negative statement on the "latho" immigration with the reference "I do not forget"! The crisis in March 2020 in Greek Turkish borders has given the opportunity to far right groups and parties to present themselves in the area, taking advantage of the official rhetoric about immigrants and refugees as "enemies". The provocative acts like the one in the Plenary Session of the European Parliament in Brussels when the far right Member of European Parliament I. Lagos tore a paper illustrating the Turkish flag<sup>75</sup> indicates their goal to exploit the crisis for their political plan. Unfortunately, the situation after March is overburdened, resulting in the "routinization" of xenophobia.

During the last months these xenophobic and racist incidents against newcomers have been also expanded to human rights defenders, as happened in the case of the lawyer who defended the Turkish people (he and the judge were verbally attacked by the gathered crowd outside the court<sup>76</sup>, due to their association with the defense of the rights of refugees. The rise of these incidents is further inextricably linked to the institutional targeting of refugees and migrants through the public discourse used by political leaders and the media which take advantage of the migratory flows and the movement of people and present them as a big threat to our security. The narrative of threats and fear has permeated throughout the European Union and jeopardizes the coherence of our society.

Nonetheless, an important moment for the condemnation of racist ideas and attacks on immigrants and refugees is the conviction of the leadership (7 members and MPs) and fifty more members of the neo-Nazi party Golden Dawn as a criminal organization<sup>77</sup> as well as the

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<sup>73</sup> [https://www.efsyn.gr/ellada/dikaioyni/260790\\_enohos-o-ktinotrofos-ston-ebro](https://www.efsyn.gr/ellada/dikaioyni/260790_enohos-o-ktinotrofos-ston-ebro)

<sup>74</sup> <https://www.thrakinea.gr/archives/154699>

<sup>75</sup>

<https://www.dw.com/el/%CE%B5%CF%85%CF%81%CF%89%CE%BA%CE%BF%CE%B9%CE%BD%CE%BF%CE%B2%CE%BF%CF%8D%CE%BB%CE%B9%CE%BF-%CE%BA%CF%85%CF%81%CF%8E%CF%83%CE%B5%CE%B9%CF%82-%CF%83%CF%84%CE%BF%CE%BD-%CE%BB%CE%B1%CE%B3%CF%8C/a-52352808>

<sup>76</sup> [https://www.efsyn.gr/ellada/dikaioyni/260790\\_enohos-o-ktinotrofos-ston-ebro](https://www.efsyn.gr/ellada/dikaioyni/260790_enohos-o-ktinotrofos-ston-ebro)

<sup>77</sup> <https://morningstaronline.co.uk/article/w/greek-neonazi-leaders-sentenced-13-years-jail-historic-victory-anti-fascist?fbclid=IwAR2s6bJd3J1LLEgkRbgDSyn6wrNpnGBDLrAgRW0BA35ExJk2E6xCbaA5oo>

conviction of its members for the murder of P. Fyssas, the anti-fascist rapper, the attempted murder of Egyptian fishermen and the dangerous bodily harm to the trade unionists of PAME. The leadership has been specifically sentenced to 13-years in prison. The prosecution of the Golden Dawn leadership and members and the progress of the trial led to the reduction of attacks against immigrants and refugees, at least in the areas of Athens and Piraeus where they were acting undisturbed. Their conviction as a criminal organization is a message against the organized fascist and racist criminality which caused the death of P.Fyssas and Sh. Luqman, a Pakistani worker and hundreds others attacks and offences against immigrants, refugees, activists and defenders of human rights. The next day of the condemnation of racist ideas and attacks on immigrants and refugees requires increased vigilance to avoid the resumption of such acts and prevent far-right rhetoric from blighting our society.

## **8. An eye to the Future: a constant need for vigorous and collective advocacy of Human Rights**

The new legal asylum framework in Greece, in fully harmony with the EU's proposal on the new pact on Asylum and Migration, have already raised concerns and have mobilized humanitarian organizations. Fast track procedures without relevant safeguards procedures for a fair and effective examination of applications of international protection have led to a non – individualized and reliable assessment of international protection's claims. Furthermore, the crisis in Evros region and its management by the European and Greek political leadership have raised human rights protection issues and concerns.

The militarization of borders at national level, the purchase of grenades and weapons “to combat migratory flows”, the strengthening of FRONTEX, the constant and steady practice of illegal pushbacks create a political environment according to which the refugee-the immigrant is considered “unwelcomed”, if not an “enemy”. The new EU pact which has just been communicated introduces very rapid screening procedures, carried out directly at the border with serious risks of violation of the principle of non-refoulement and of perusing illegal and forced returns (push backs). At the same time the absence of any reference to a fair and effective integration strategy following an individualized assessment of each individual and regardless his/her country of origin create a very alarming and racist rhetoric against migrants with catastrophic consequences for both the migrants and the coherence of the society .

Unfortunately, human rights protection in the near future appears bleak. In HumanRights360, we are concerned that the restrictive measures imposed in all RICs in Greece including RIC of Fylakio, Orestiada due to the Covid-19 outbreak, in the police stations and in the border guards, have been imposed not only in the view of protection of asylum seekers' health, but, also in order to facilitate the implementation of a scheme which gradually would turn all reception and identification centers into closed ones. Furthermore, the limited access of humanitarian organizations in the RIC of Fylakio, Orestiada, during the prolonged lockdown, raises concerns about the possible consolidation and generalization of such a policy in the RICs.

In addition, an anti-refugee and anti-immigrant rhetoric are dangerously cultivated and spread by the media. Embraced regularly by the Greek government's officials, exploited by far-right individuals and groups, it affects the locals in a dangerous way, resulting in targeting not only refugees and newcomers to the country but also human rights defenders and human rights organizations. Against an environment with so many adversities and challenges, continuing to defend the fundamental human rights is an imperative need to lay the groundwork for social justice and build vibrant and tolerant societies.

In light of the above, it is questionable whether the promotes the returns sponsorship and surveillance systems rather than credible asylum procedures and reliable integration programs, whilst as the Commissioner mentioned in her speech, we are not in 2015 and only 140.000 entered Europe “illegally” in 2019. We should not forget that when the EU speaks about arrivals

and numbers, it refers to persons who search for a safe place and a viable life. We cannot tolerate the violation of any of their rights on the name of the securitization of the EU's borders.

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