

Submission to the United Nations Committee Against Torture regarding Greece's adherence to the International Convention Against Torture.

Suggested List of Issues Prior to Reporting

Report for the 73rd Session of the Convention Against Torture

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I. Reporting Organisation

1. Border Violence Monitoring Network (BVMN) is a coalition of organisations working to document illegal pushbacks, collective expulsions and police violence along the EU's external borders in the Western Balkans, Greece and Turkey since the network's formulation in 2016.¹ The collection of data on illegal pushbacks and police violence is done by a consortium of independent voluntary field experts who are part of or cooperate with humanitarian support groups united through the Border Violence Monitoring Network.

II. Executive Summary

2. Despite the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) we assert that Greece has failed to meet its obligations under the UNCAT.

3. We affirm that the continuous abuse of refugees and migrants by the Greek authorities during the pushback process, including through the use of excessive and disproportionate force, the punitive use of electric discharge weapons, threats to life and attacks with a firearm, forced undressing, and inhuman treatment inside police vehicles and detention centres amounts to torture and inhuman treatment and is in contradiction to the obligations set out under UNCAT.

4. Furthermore, evidence collected by both BVMN and a range of other independent stakeholders shows that during pushbacks, migrants and refugees are routinely being detained, often arbitrarily, in formal and informal detention facilities. We assert that within these facilities, individuals who are detained are regularly subjected to torture and inhuman treatment.

5. We affirm, in line with other international actors, that due to the consistent pattern of gross, flagrant or mass violations of human rights, Turkey is not a safe country of return. Therefore, we conclude that the Greek State is further violating the Convention by returning individuals to a country where there are substantial grounds for believing they would be in danger of torture.

6. Lastly, as laid out within this submission, BVMN asserts that the Greek State is knowingly acting in breach of the following:

Article 2 UNCAT: Article 2 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 3 UNCAT: Article 3: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 11 UNCAT: Article 11 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 12 UNCAT: Article 12 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

¹ BVMN. n.d. About Us. Available at: <https://www.borderviolence.eu/about/> [Accessed 22/03/2021].

III. Torture During Pushbacks as a Violation of the International Convention Against Torture

7. ‘Pushback’ is a common term to denote the action of State representatives forcibly, and in most cases collectively, returning individuals seeking protection to another country in an irregular/informal manner and subsequently preventing or restricting their access to protection mechanisms.

8. Pushbacks encompass the legal concept of collective expulsion and the principles of *non-refoulement* which are prohibited under Article 3 of the UNCAT.

9. Furthermore, in addition to the existing obligations not to refool individuals to a country where they may be at risk of torture, the UNCAT also introduces the obligation of State Parties not to refool individuals to a country where they may be at risk of inhuman or degrading treatment and punishment.

Evidence of pushbacks:

10. BVMN has consistently documented pushbacks by Greek authorities. To date, BVMN and its partners have collected 170 individual pushback testimonies from Greek territory detailing the ill-treatment, abuse and torture of more than 11,067 people.

10.1. From July 2019 to the end of 2019, BVMN collected 6 pushback testimonies from Greece, exposing the ill-treatment and abuse of an estimated 74 people.²

10.2. In 2020, BVMN collected 88 pushback testimonies from Greece, exposing the ill-treatment and abuse of an estimated 4,739 people.³

10.3. In 2021, BVMN collected 77 pushback testimonies from Greece, exposing the ill-treatment and abuse of an estimated 6,251 people.⁴

11. In addition to BVMN’s work, a range of other NGOs and human rights watchdogs have also reported on pushbacks from Greece:

11.1. In June 2021, Amnesty International defined pushbacks and violence against refugees and migrants on the Greek border as a “*de facto* border policy”.⁵ In their report on the matter, they went on to say, “in most cases, the acts of violence reported violated the international prohibition of inhuman or degrading treatment. Some incidents also amounted to torture, due to their severity and humiliating or punitive intent”. In the same year, the Protecting Rights at Borders Initiative

² BVMN. n.d. Reports Archive. Available at: <https://www.borderviolence.eu/violence-reports/#> [Accessed 22/03/2021].

³ *Ibid.*

⁴ *Ibid.*

⁵ Amnesty International. 2021. Greece: Pushbacks and violence against refugees and migrants are de facto border policy. Available at: <https://www.amnesty.org/en/latest/news/2021/06/greece-pushbacks-and-violence-against-refugees-and-migrants-are-de-facto-border-policy/> [Accessed 09/01/2022].

collected testimonies documenting pushbacks of 34 people between 16 April and 30 June 2021.⁶ The documented pushbacks include arbitrary arrest, inhumane detention, and violence. These testimonies also included a man with refugee status in Greece who was apprehended prior to a meeting with a lawyer to re-issue his documentation as he had lost his original. Despite paperwork showing his legal status, he was pushed back to Turkey.

11.2. Likewise, in 2020, Human Rights Watch urged “the Greek parliament to establish an inquiry into all allegations of collective expulsions, including pushbacks, and violence at the borders, and determine whether they amount to a de facto government policy”.⁷

11.3. In 2019, the United Nations Working Group on Arbitrary Detention reported on the continued allegations of pushbacks and stated: “The Working Group urges the [Greek] Government to put an immediate end to pushbacks and to ensure that such practises, including any possible acts of violence or ill-treatment that have occurred during such incidents, are promptly and fully investigated”.⁸

Evidence of torture and inhuman treatment during pushbacks:

12. Due to the consistent use of torture during pushbacks, BVMN asserts that the use of torture should be viewed as a systematic practice within Greek territory. We maintain that the use of torture is not occurring fortuitously, but as demonstrated by the testimonies collected by pushback survivors is occurring in a considerable part of Greek territory and is both habitual, widespread and deliberate.

13. An analysis of BVMN’s open-source database of pushback testimonies demonstrates that of the 170 testimonies documented, over 95% recall one or more forms of violence or ill-treatment that we assert amount to torture or inhuman treatment.

14. Across all years of reporting, testimonies of excessive and disproportionate force, including assault using police batons, fists, kicking, police dogs or improvised weapons such as metal poles or tree branches are the most frequent types of testimony collected by BVMN.

14.1. The use of excessive and disproportionate force has been documented in 92.4% of all pushback testimonies collected from Greece. Since 2019, BVMN has evidence of up to 10,404 people having been affected by use of excessive and disproportionate force at the hands of Greek officials.

⁶ Protecting Rights at Borders. 2021. Doors wide shut: Rights violations at borders re-confirmed, while the door for justice and the path to accountability remain closed. Available at: <https://www.drc.ngo/media/y2zphgpz/prab-report-april-to-june-2021.pdf> [Accessed 09/01/2022].

⁷ Human Rights Watch. 2020. Greece: Investigate Pushbacks, Collective Expulsions. Available at: <https://www.hrw.org/news/2020/07/16/greece-investigate-pushbacks-collective-expulsions> [Accessed 09/01/2022].

⁸ OHCHR. 2019. Working Group on Arbitrary Detention: Preliminary Findings from its visit to Greece (2-13 December 2019). Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25421&LangID=E> [Accessed 22/03/2021].

15. Increasingly, the use of excessive and disproportionate force is also accompanied by one or more other typologies of violence which are no less cruel or damaging:

15.1. The use of forced undressing to punish and debase people during pushbacks has been documented in 55.8% of all pushback testimonies collected from Greece. Since 2019, BVMN has evidence of up to 7,179 people having been affected by this form of torture at the hands of Greek officials.

15.2. Additionally, the use of firearms to attack, injure, threaten or intimidate has been documented in 21.5% of all pushback testimonies collected from Greece. Since 2019, BVMN has evidence of up to 2,432 people having been affected by this form of torture at the hands of Greek officials.

16. As reported by BVMN and other Civil Society Organisations, there is an established *modus operandi* of land pushbacks from Greece, which occur over the Evros river, the ‘natural’ border between Greece and Turkey.⁹ Police capture; arbitrary detention; theft of belongings, including group searches and the theft of warm clothing and shoes; destruction of mobile phones; the use of torture and violence that amounts to inhuman treatment including mock executions, the use of electric shock weapons, group strip and cavity searches, water submersion and forced swimming, beatings with police issued equipment such as batons as well as beatings with tree branches;¹⁰ verbal insults that include racist, xenophobic and Islamophobic abuse;¹¹ followed by return in small rubber dinghies, at gunpoint over the Evros River where they are either stranded on an islet or taken over to the Turkish river bank.¹²

17. Since 2019, sea pushbacks in the Aegean have become widespread and systematic.¹³ BVMN testimonies show that sea pushbacks are conducted by officers of the Hellenic Coast Guard (HCG) and often involve intercepting migrant dinghies and removing or breaking the engines of dinghies, and/or puncturing holes in inflated rubber sections of boats.¹⁴ Other testimonies include HCG ships driving close to dinghies at high

⁹ Refugee Support Aegean. 2021. The timeline of a pushback of a Syrian refugee in Evros, as documented by RSA. Available at: <https://rsaagean.org/en/timeline-pushback-evros/> [Accessed 01/01/2022]; Mobile Info Team. 2019. Illegal Pushbacks in Evros. Available at: <https://www.statewatch.org/media/documents/news/2019/dec/gr-tu-mobile-info-team-pushbacks-report-11-19.pdf> [Accessed 01/01/2022].

¹⁰ BVMN. 2021. Annual Torture Report. Available at: <https://www.borderviolence.eu/annual-torture-report-2020/> [Accessed 12/12/2021].

¹¹ BVMN. 2021. Submission to the UN Special Rapporteur on Freedom of Religion or Belief. Available at: <https://www.borderviolence.eu/submission-to-the-un-special-rapporteur-on-religion-or-belief/> [Accessed 05/01/2021].

¹² See for example: Border Violence Monitoring Network. 2020. Frontex ignore rights violations at the Evros border. Available from: <https://www.borderviolence.eu/frontex-ignore-rights-violations-at-the-evros-border/> [Accessed 13/03/2021].

¹³ Info Migrants. 2021. ‘Unprecedented’ rights violations against migrants in the Aegean Sea: NGO. Available at: <https://www.infomigrants.net/en/post/30229/unprecedented-rights-violations-against-migrants-in-aegean-sea-ngo> [Accessed 18/02/2021]; Global Legal Action Network. 2021. “Drift-Backs” and torture on the Aegean. Available at: <https://www.glanlaw.org/aegean-push-backs> [Accessed 13/03/2021].

¹⁴ BVMN. 2020. They are ready to push us back and back again and again. Available at: <https://www.borderviolence.eu/violence-reports/june-3-2020-0200-lesvos-greece/>; BVMN. 2020. We did not want to put our children through all that so to protect them, we preferred to return directly. The ship chased us until we had returned to Turkish waters. Available at: <https://www.borderviolence.eu/violence-reports/august-24-2020-0230-greek-waters-off-of-kos/> [Accessed 15/01/2022].

speeds to create large waves in order to push the vessels back into Turkish territorial waters.¹⁵ Moreover, since the beginning of 2020 an alarming trend has emerged where Greek officers intercept migrants who have arrived to the Greek islands, take them out to sea and leave them adrift on motorless life rafts.¹⁶ Despite the systematisation of pushbacks, the Greek government continues to deny their existence, while at the same time, boasting about a 95% decrease in arrival numbers on Greek islands.¹⁷

IV. Torture and Inhuman Treatment During Detention as a Violation of the International Convention Against Torture

Explanatory Note:

18. Article 11 UNCAT states that “Each State Party shall keep under systematic review [...] arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture”.

19. BVMN has consistently documented testimonies that recall intentional overcrowding, inhuman conditions, the mass use of forced undressing and physical attacks with excessive and disproportionate force. In addition to the aforementioned typologies of torture and inhuman treatment, BVMN has consistently documented ‘non-typical forms of torture and ill-treatment’ such as the denial of free access to medical assistance and the denial of food or water,¹⁸ which has been found by decisional bodies to amount to torture or inhuman and degrading treatment.¹⁹

Evidence of Torture and Inhuman Treatment During Detention:

¹⁵ See for example: BVMN. 2020. They Are Ready to Push Us Back and Back Again and Again. Available at: <https://www.borderviolence.eu/violence-reports/june-3-2020-0200-lesvos-greece/> [Accessed 18/02/2021].

¹⁶ See for example: BVMN. 2020. We are refugees, we want to apply for asylum. Available at: <https://www.borderviolence.eu/violence-reports/december-3-2020-1200-lesvos/> [Accessed 20/02/2021].

¹⁷ The Washington Post. 2020. Minister: Over 10,000 migrants stopped from entering Greece. Available at: https://www.washingtonpost.com/world/europe/minister-over-10000-migrants-stopped-from-entering-greece/2020/09/02/bc47e2ea-ed22-11ea-bd08-1b10132b458f_story.html [Accessed 20/02/2021].

¹⁸ See for example. BVMN. 2021. One of the Officers told me ‘I will sell your passport’ and hit me with the baton. Available at: <https://www.borderviolence.eu/violence-reports/december-15-2021-2330-lavara-gr-karayusufli-tr/>; BVMN. 2021. Chain pushback: 120 people violently abused by bulgarian border guards, loaded like animals into a truck by Greek police, then pushed back to Turkey. Available at: <https://www.borderviolence.eu/violence-reports/november-25-2021-1200-mikrochori-gr-to-kiremitcisalih-tr/>; BVMN. 2021. The officers continued to speak in Arabic, they said ‘give up your money and that will save you from getting beaten’. Available at: <https://www.borderviolence.eu/violence-reports/november-21-2021-1100-dilofos-to-kapikule/> [Accessed 20/01/2022].

¹⁹ See *Sendic v. Uruguay*, 2.3, 2.4, 20, U.N. Doc. CCPR/C/14/D/63/1979 (Oct. 20, 1981) (holding that subjecting the victim to a “lack of food” while in detention was, in addition to other factors, a form of torture and ill-treatment); *Polay Campos v. Peru*, 2.1, 8.7, U.N. Doc. CCPR/C/61/D/577/1994 (Nov. 6, 1997) (noting while the victim was detained, “the food [was] deficient” and that this contributed to a finding of torture and ill-treatment; Berkeley law. 2018. Non-typical forms of torture and ill-treatment. An analysis of international human rights and international criminal jurisprudence. Available at: <https://www.law.berkeley.edu/wp-content/uploads/2018/07/Working-Paper-on-NonTraditional-Forms-of-Torture-final-July-2018.pdf> [Accessed 20/01/2021].

20. Due to the consistent documentation of the detention of migrants and refugees during the pushback process, BVMN asserts that detention has become both an intrinsic part of the pushback process and is increasingly being used as a method to inflict torture and inhuman treatment against pushback survivors.

21. Consistently, testimonies collected by BVMN and our partner organisations describe dilapidated detention conditions without proper sleeping or bathroom facilities. They also recount the withholding of food, water and medical treatment and the use of incommunicado detention.

22. The data collected by BVMN is also supplemented by pushback testimonies that increasingly describe how formal detention facilities have been sites of torture.

22.1. In February 2021, BVMN partner Josoor documented a pushback of around 60 people, including minors, who were held in a detention facility within a cell that measured approximately three metres by three metres.²⁰ In addition to the purposeful and inhuman use of overcrowding, the testimony recalls that for three days none of the people detained received any food, water or medical care. This testimony was one of 77 pushback testimonies collected from Greece that year.

22.2. In November 2020, BVMN partner Josoor documented a pushback involving approximately 200 people, including women and minors.²¹ A group of 40 people, including women and three minors, one less than a year old, were brought to a detention site where they were all ordered to undress. When phones were found, people were beaten with sticks and an electric discharge weapon. This testimony was one of 88 pushback testimonies collected from Greece that year.

22.3. In 2019, BVMN collected a testimony from a man who was detained at a police station in Komotini with six other people, including children.²² He explained that “the room has been very dirty with just one small toilet inside”. After hours passed, the group was picked up by military personnel and Greek policemen and brought to the Evros river. On the way to the border, the authorities picked up more people. “At this stage the respondent termed the behaviour of the authorities as inhumane, because they were beating people to get inside the vehicle despite the fact there was not enough room available”. This testimony was one of 6 pushback testimonies collected from Greece that year.

Pre-Removal Detention Centres as Sites of Torture and Pushbacks

23. In addition to the detention facilities referenced above, BVMN has evidence that demonstrates how increasingly Pre-Removal Detention Centres (PRDCs) in Greece are being used as specific sites of torture

²⁰ BVMN. 2021. Everywhere on your body they can hit you. Available at: <https://www.borderviolence.eu/violence-reports/february-18-2021-0000-dilofos-kemal/> [Accessed 22/03/2021].

²¹ BVMN. 2020. Stranded on an Evros island for five days. Available at: <https://www.borderviolence.eu/violence-reports/november-11-2021-0000-island-near-nei-psathades/> [Accessed 22/03/2021].

²² BVMN. 2019. They arrived in two vehicles with four policemen. One was a white Nissan pickup while the other one was a jeep. The officers would beat them even more and tell them to stop screaming. Available at: <https://www.borderviolence.eu/violence-reports/july-3-2019-1100-komotini-greece/> [Accessed 9 November 2021].

and ill-treatment. PRDCs is a term used by the Greek authorities to refer to “police-run administrative detention facilities for third country nationals”.²³

24. Since April 2020, BVMN has documented 11 testimonies that describe being pushed back from the PRDCs of Paranesti (9), Xanthi (1) and Amygdaleza (1). The testimonies document that individuals within these Pre-Removal Detention Centres are being subjected to mass and routine physical attacks and are held in conditions that lack basic provisions.

24.1. In April 2020, BVMN documented a testimony of an individual who after being taken to Paranesti was hospitalised after being ‘singled out’ by police officers and brutally attacked²⁴. Describing the extent of the torture, the respondent explained he was attacked by the officers and fell to the ground, after which, one of the officers stamped on his head and he lost consciousness. The respondent woke up in hospital a day later but was soon transferred back to the detention facility. The respondent explained that over the next 45 he was subsequently hospitalised another 5 times due to the attacks, beatings and torture he was subjected to at the hand of the police.

24.2. In July 2020, BVMN again documented a testimony from Paranesti that described the inhuman conditions and use of torture. The respondent explained: *detainees were always hungry, as they were being given very little food [...] [which] was bad, unhealthy, and made them feel sick [...] [they] were not given any clothes, and were constantly subjected to insults and physical violence. When a person asked questions [or] [...] complained, or asked for basic necessities [...] often an argument broke out. In these cases, the guards called the officers covered with balaclavas, who beat everyone from that cell. The beatings were brutal. The respondent was beaten many times in all kinds of ways – punched, hit with batons, kicked, stamped, etc. [...] in addition [...] the detainees were also constantly subjected to insults.*²⁵

24.3. BVMN has identified similar patterns of violence in Petrou Ralli PRDC where a respondent was beaten resulting in a broken shoulder and rib.²⁶

25. In addition to the use of torture, excessive and disproportionate force and inhuman treatment, BVMN has testimonies that recall migrants and refugees being held in incommunicado detention whilst in the Pre-Removal Detention Centres.

25.1. In February 2020, BVMN published a report that included testimonies from two individuals that described how the reason for their detention had not been explained, and that they were denied

²³ UNHCR. 2014. Greece as a Country of Asylum, UNHCR Observations on the Current Situation of Asylum in Greece. p.41. Available at: <https://www.refworld.org/pdfid/54cb3af34.pdf> [Accessed 22/03/2021].

²⁴ BVMN. 2020. They [are] using people from Pakistan to cross us to the other side of the border. Available at <https://www.borderviolence.eu/violence-reports/april-23-2020-2000-greek-turkish-border-near-meric/> [Accessed 22/03/2021].

²⁵ BVMN. 2020. People beaten nearly to death by the Greek police during a mass pushback across Evros/Meric river. Available at: <https://www.borderviolence.eu/violence-reports/july-5-2020-2200-meric-river-near-meric-ipsala-turkey/> [Accessed 22/03/2021].

²⁶ BVMN. 2020. Violence Within Greece’s Borders. Available at: <https://www.borderviolence.eu/wp-content/uploads/FinalInternalViolenceGreece.pdf> [Accessed 22/03/2021].

access to a lawyer.²⁷ The denial of contact with the outside world and refusal to permit communication with lawyers has been documented in multiple other detention sites.

26. Further to this, testimonies have also recalled how Paranesti is also being used as a key site to facilitate pushbacks.

26.1. In February 2021, BVMN partner Josoor documented a testimony that described a pushback from Paranesti.²⁸ The respondent explained they were detained [in a cell in Paranesti PRDC] for 2-3 hours. After 2-3 hours, “all 140 people were ordered to leave the detention site. Two vehicles were waiting outside”. The people were forced into the vehicles and were driven to the river where “they were awaited by 9 to 10 more officers [...] in camouflage army uniforms and wearing black balaclavas” who took them halfway across the river and then forced them to swim to the Turkish bank.

26.2. In April 2020, BVMN documented a testimony of a pushback from Paranesti Pre-Removal Detention Centre. The respondent shared that a large number of people were taken from Paranesti to the Evros border region, where, “[...] they were allegedly tortured across a period of six hours by Greek authorities using electric discharge weapons, water immersion, as well as beatings with batons. The respondent was in a group of around 24 but alleges this is standard practice and that around 400 individuals have been subject to the same process in recent weeks, taken to the border in coach-loads and shipped across back to Turkey”.²⁹

27. BVMNs assertion of the consistent, deliberate and widespread torture and inhuman treatment within PRDCs has also been maintained by external independent organisations and regional human rights mechanisms. For example, in 2020 the Committee for the Prevention of Torture (CPT) found that at least four PRDCs, “could be described as amounting to inhuman and degrading treatment” with the CPT lamenting that since 1997 the Greek authorities have responded with “inaction or a minimalist approach [...] in addressing the very serious concerns raised”.³⁰

Improvised or Informal ‘Blacksites’ of Detention as Sites of Torture and Pushbacks

28. In addition to the aforementioned formal detention sites, a high number of pushbacks carried out by Greek authorities make use of improvised or informal ‘blacksites’. Blacksites are informal detention facilities which can range from an open-air fenced area to a single building containing cells. Blacksites are used to carry out acts of torture and often the lack of facilities and hygiene in blacksites intensifies the torture carried out.

²⁷ BVMN. 2020. *Illegal Pushbacks and Border Violence Reports February 2020*. Available at: https://www.borderviolence.eu/wp-content/uploads/February_Report_20.pdf [Accessed 22/03/2021].

²⁸ BVMN. 2021. *They don’t talk too much, they just take everything from you and they beat you*. Available at: <https://www.borderviolence.eu/violence-reports/february-17-2021-0000-lavara-alibey/> [Accessed 22/03/2021].

²⁹ BVMN. 2020. *Press Release- Collective Expulsion from Greek Centres*. p.2. Available from: https://www.borderviolence.eu/wp-content/uploads/Press-Release_Greek-Pushbacks.pdf [Accessed 22/03/2021].

³⁰ CPT. 2020. *Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020*. Paragraph 62. Available at: <https://rm.coe.int/1680a06a86> [Accessed 22/03/2021].

28.1. In June 2021, BVMN partner Josoor documented a pushback where a request for a bottle of water resulted in the victim being beaten and forced to clean a toilet.³¹ During another pushback from 2021, a blacksite was used which was described as a small area, out in the open, surrounded by a fence.³² A group of 80 people including women and children were forced to remain outside for three days. Many of the group became sick, with one person spitting blood. Moreover, food, water and medical assistance was denied.

V. Violations of the Principle of Non-Refoulement as a Violation of the Convention Against Torture

29. Pushbacks violate Article 3 in at least two ways:

29.1. First, pushbacks always procedurally violate Article 3(2) UNCAT which requires “the competent authorities shall take into account all relevant considerations”.

29.2. Second, pushbacks from Greece often substantively violate Article 3(1) UNCAT. The continued and credible allegations published by BVMN and its partners and a range of NGOs and international monitoring bodies would meet any threshold to sustain the claim that Turkey is not a safe country for return.³³

Article 3(2) UNCAT

30. Pushbacks procedurally violate Article 3(2) UNCAT which requires “the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights”.

31. The Committee has clarified that “Each case should be individually examined by the State party through competent administrative and/or judicial authorities. Any form of collective deportation without an objective examination of the particular cases should be considered as a violation of the principle of “non-

³¹ BVMN. 2021. What should I do now? I lost everything. They humiliated us and they took all that we had, for the third time. What can we do? Should I sell my kidney to survive? Should I commit suicide? I have no hope. I have no solution. Available at: <https://www.borderviolence.eu/violence-reports/june-7-2021-2100-didymoteicho-kurttepe/> [Accessed 23/01/2021].

³² BVMN. 2021. Every move you make, they hit you with a baton. Available at: <https://www.borderviolence.eu/violence-reports/january-10-2021-2100-praggi-kurdu-koyu/> [Accessed 23/01/2021].

³³ See for example: BVMN. 2020. Press Release: Enforced Disappearances Report to the UN Committee on Enforced Disappearances. Available at: <https://www.borderviolence.eu/15638-2/#more-15638> [Accessed 13 May 2021]; Mare Liberum. 2020. Pushback Report 2020. Available at: <https://mare-liberum.org/en/pushback-report/>; Mobile Info Team. 2019. Mobile Info Team Report Reveals Systemic Pushbacks and Inhuman Treatment of Migrants at Evros. Available at: <https://www.mobileinfoteam.org/blog/2019/12/17/mobile-info-team-report-reveals-systemic-pushbacks-and-inhuman-treatment-of-migrants-at-evros> [Accessed 13/03/2021].

refoulement” as it prevents States parties from adequately verifying, through an assessment of each individual case, whether there are well founded reasons not to deport a person”.³⁴

32. It is clear that the prohibition of *non-refoulement* requires a rigorous individual evaluation of the conditions of return. In contrast to this obligation, the Greek state, through their systematic practice of pushbacks, denies people their right to have their case examined by a competent authority. The collective manner of carrying out pushbacks evidences the Greek authorities’ disregard for Article 3(2) of UNCAT. It would be practically impossible for the police, who are nonetheless not the competent authorities to examine individual cases, to conduct a proper objective examination of the particular cases of each individual. This is further attested by the lack of documentation kept by the police, who in an attempt to avoid responsibility for pushbacks, leave no official paper trail. Therefore, pushbacks which deny people access to individual examination processes, and illegally return people to Turkey without due process violate Article 3(2) UNCAT.

32.1. In 2021 a testimony recorded by BVMN detailed how a 23-year-old man begged for the police not to pushback his transit group, which included his 14-year-old brother. When they expressed their intention to claim asylum the respondent detailed how the men in Greek police uniforms “started laughing and humiliating us. They asked us how many days we had been walking. We said 15 days and they kept laughing [...] They didn’t accept our asylum claim. I even begged them for my little brother, but they just laughed and hit us”.³⁵ This is just one example of 75 pushbacks recorded by BVMN from Greece in 2021.

32.2. In 2020, a testimony recorded by BVMN detailed how a group arrived at the village of Pamfila in Lesbos. After the arrival of “five men in black clothes wearing balaclavas and a female officer in Greek police uniform arrived in a dark blue van” the transit group said, “we are refugees, we want to apply for asylum”. After being detained for two hours in a detention site, the group was driven in a windowless van. After 1 hour, “they were ordered to get out and found themselves at the coast. There were 6 men wearing the HCG [Hellenic Coast Guard] uniform and balaclavas [...] the group was ordered to board an HCG RHIB. One of the HCG officers drove them for around 10 min to an HCG panther boat and they were transferred onto it, where several other HCG officers in uniform and with balaclavas were waiting. The panther boat drove for around 1 hour when they put them on one orange life raft and left them adrift”.³⁶ This is just one example of 88 pushbacks recorded by BVMN from Greece in 2020.

Article 3(1) UNCAT

³⁴ CAT. 2017. General Comment No. 1 (2017) on the implementation of article 3 of the Convention in the context of article 22. Available from: <https://www.ohchr.org/Documents/HRBodies/CAT/GCArticle3/CAT-C-GC-1.pdf> [Accessed 13/03/2021].

³⁵ BVMN. 2021. They Didn’t Accept Our Asylum Claim. I Even Begged Them For My Little Brother, But They Just Laughed and Hit Us. Available at: <https://www.borderviolence.eu/violence-reports/january-11-2021-0000-lavara-alibey-karayusufu/> [Accessed 5/10/ 2021].

³⁶ BVMN. 2021. We are refugees, we want to apply for asylum. Available at: <https://www.borderviolence.eu/violence-reports/december-3-2020-1200-lesvos/> [Accessed 10/01/2021].

33. Article 3(1) UNCAT states that, “No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”.

34. Pushbacks from Greece often substantively violate Article 3(1) UNCAT. The continued and credible allegations published by BVMN partners and a range of NGOs and international monitoring bodies would meet any threshold to sustain the claim that Turkey is not a safe country for return.³⁷ Therefore, pushbacks carried out by Greece to Turkey may well substantively violate the principle of non-refoulement.

Pushbacks of Turkish Nationals

35. Of additional concern to BVMN is the pushback of Turkish nationals. Since 2015, there has been an increase of people seeking international protection in Greece from Turkey, including ethnic Kurds, socialist activists/politicians and alleged members of the Gülen movement, considered a clandestine terrorist organization by Turkish authorities, all of whom are often fleeing persecution, imprisonment and death.³⁸

36. According to testimonies collected by BVMN, pushbacks of refugees from Turkey are frequent and systematic, clearly violating the principle of *non-refoulement* by returning people to their state of persecution.

36.1. Testimonies of Turkish nationals describe them clearly expressing their intention to claim asylum, while Greek authorities ignored their requests and pushed them back to Turkey, in clear violation of Greece’s international obligations to protection.³⁹

36.2. One account describes a Kurdish asylum seeker pushed back and apprehended by Turkish soldiers who, having identified him as a ‘terrorist’, surrendered him to a self-proclaimed pro-state ultra-nationalist Turkish crowd, who attacked him and would have beaten him to death if the soldiers had not eventually intervened.⁴⁰

³⁷ See for example: BVMN. 2021. Press Release: Enforced Disappearances Report to the UN Committee on Enforced Disappearances. Available at: <https://www.borderviolence.eu/15638-2/#more-15638>; Mare Liberum. 2020. Pushback Report 2020. Available at: <https://mare-liberum.org/en/pushback-report/>; Mobile Info Team. 2019. Mobile Info Team Report Reveals Systemic Pushbacks and Inhuman Treatment of Migrants at Evros. Available at: <https://www.mobileinfoteam.org/blog/2019/12/17/mobile-info-team-report-reveals-systemic-pushbacks-and-inhuman-treatment-of-migrants-at-evros> [Accessed 23/01/2022].

³⁸ Amnesty International. 2018. The human cost of Turkey’s crackdown. Available at: <https://www.amnesty.org/en/latest/news/2018/06/the-human-cost-of-turkeys-crackdown/>; von der Breille. 2019. Turks threatened over alleged links to the Gülen movement find a safe haven in Greece. Available at: <https://www.euronews.com/2019/11/22/turks-persecuted-over-alleged-links-to-the-gulen-movement-find-a-safe-haven-in-greece> [Accessed 17/05/2020].

³⁹ BVMN. 2020. The System is Like This, Come Back Tomorrow. Available at: <https://www.borderviolence.eu/violence-reports/september-26-2020-0000-411929-9n-262943-1e/>; BVMN. 2020. Asylum is in Athens [And Not Here]. Available at: <https://www.borderviolence.eu/violence-reports/october-17-2021-0000-405633-8n-262108-2e/> [Accessed 02/01/2022].

⁴⁰ BVMN. 2020. Really, You cannot say anything and you cannot do anything. This is really very difficult for a Person. Available at: <https://www.borderviolence.eu/violence-reports/june-26-2021-0000-kastaneai-greece/> [Accessed 02/01/2022].

36.3. Concerningly, often once pushed back to Turkey, people are apprehended and disappear. For example, Ayse Erdogan, a victim of a pushback on the 5th May, 2019, was later imprisoned on terrorism charges due to her alleged connections with the Gulenist movement.⁴¹

Chain-refoulement

37. In addition to the risk of torture in Turkey, many face the threat of being chain refouled, with current reports indicating this disproportionately affects Syrian nationals who are being illegally returned en-masse to Syria.

37.1. In 2021, the Legal Centre Lesvos reported on at least one pushback from Greece to Turkey in which an unaccompanied minor was refouled from detention in Turkey to his country of origin, Syria. He now lives in a camp for internally displaced people in Idlib.⁴²

37.2. In 2019, Amnesty International published a research report that, through interviews with 28 Syrian nationals, documented 20 cases of unlawful forced returns that occurred between 25th May and 13th September 2019. Amnesty International explained that of the 20 cases documented within their report, the interview respondents said that several dozen (between 35 and 60) people were on their busses, therefore illustrating a sample of several hundred victims of forced returns to Syria by Turkish authorities⁴³

37.3. In 2019, BVMN recalled multiple testimonies of people who were pushed back from Greece across the Evros River to Turkey, where they were subsequently arrested by Turkish authorities and then sent back to Idlib, Syria. Upon being forced back into Syria, one of the respondents testifies how as a result of the chain pushback initiated by Greece, he was detained and placed in a prison in Idlib where he was subsequently tortured⁴⁴.

37.4. In 2017, Human Rights Watch reported the collective expulsion of large groups of Syrian refugees to Idlib Syria. According to Human Rights Watch, the Turkish authorities have routinely intercepted hundreds, and at times thousands, of asylum seekers at the Turkey-Syrian border since at least December 2017 and summarily deported them to the war-ravaged Idlib governorate in Syria⁴⁵.

⁴¹ Zubeyir Koculu. 2020. 'I will never forget how they made me suffer': Turkish refugee sues Greece over forced return claims. Available at: <https://www.euronews.com/2020/03/11/i-will-never-forget-how-they-made-me-suffer-turkish-refugee-sues-greece-over-forced-retur> [Accessed 10/09/2021].

⁴² Legal Centre Lesvos. 2021. Crimes Against Humanity in the Aegean. Available at: <http://legalcentrelesvos.org/wp-content/uploads/2021/02/Collective-Expulsions-in-the-Aegean-LCL-01.02.2021-1.pdf> [Accessed 10/09/2021].

⁴³ Amnesty International. 2019. Sent to a War Zone: Turkey's Illegal Deportation of Syrian Refugees. Available at: <https://www.amnesty.org/download/Documents/EUR4411022019ENGLISH.pdf> [Accessed 15/01/2022].

⁴⁴ Mobile Info Team. 2019. Illegal Pushbacks at the Border: Denying Refugees the Right to Claim Asylum". Available at: <https://static1.squarespace.com/static/597473fe9de4bb2cc35c376a/t/5dcd1da2fefabc596320f228/1573723568483/III+egal+Evros+pushbacks+Report+Mobile+Info+Team+final.pdf> [Accessed 15/01/2022].

⁴⁵ European Council on Refugees and Exiles (ECRE). 2018. Human Rights Watch Report: Push Backs of Syrian Refugees by Turkey. Available at: <https://www.ecre.org/human-rights-watch-report-push-backs-of-syrian-refugees-by-turkey/> [Accessed 15/01/2022].

37.5. In 2016, Amnesty International published evidence of the near-daily forced expulsion of around 100 Syrian men, women and children from Turkey to Syria. At the Southern Turkish border, multiple testimonies were collected by Amnesty International of large-scale returns from the Hatay province to Syria, a practice that is illegal under both Turkish, EU and international law⁴⁶

VI. Procedural Activities of the Greek State in Violation of the Convention Against Torture

Evidence

38. Article 12 requires that “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction”.

39. Despite its obligations under UNCAT, we assert that the Greek State has responded to credible reports of pushbacks with denial and obfuscation, a clear attempt to evade accountability for systemic practices of torture and ill-treatment.⁴⁷

40. On 28th April 2021, the Greek Ombudsman released an interim report on pushbacks from Greece to Turkey over the Evros river.⁴⁸ In order to determine the level of involvement of the Greek police in pushbacks, the Ombudsperson recommended that the police investigate themselves, placing the recommendation in clear clean variance with recognised principles of effective investigation, which hold that investigators should ‘be independent of the suspected perpetrators and the agency they serve’.⁴⁹ Therefore, the police investigating itself is *ipso facto* an ineffective investigation. In response, the police departments in question issued standardised letters denying any wrongdoing.⁵⁰

VII. Recommended List of Questions to be Issued to the Greek State.

41. The Border Violence Monitoring Network is deeply concerned with the continued rights violations being carried out by the Greek authorities. Therefore, considering the aforementioned evidence of pushbacks, collective expulsions and the violation of the principle of non-refoulement, including severe use

⁴⁶ Amnesty International. 2016. Turkey: Illegal Mass Returns of Syrian Refugees Expose Fatal Flaws in EU-Turkey Deal. Available At: <https://www.amnesty.org/en/latest/news/2016/04/turkey-illegal-mass-returns-of-syrian-refugees-expose-fatal-flaws-in-eu-turkey-deal/> [Accessed 15/01/2022].

⁴⁷ BVMN. 2021. Annual Torture Report 2020. p. 59. Available at: <https://www.borderviolence.eu/wp-content/uploads/Annual-Torture-Report-2020-BVMN.pdf> [Accessed 01/10/2021].

⁴⁸ The Greek Ombudsman. 2021. Alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection. Available at: <https://www.synigoros.gr/?i=human-rights.en.recentinterventions.791674> [Accessed 01/10/2021].

⁴⁹ HRC. 2000. Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Recommended by General Assembly Resolution 55/89 of 4 December 2000.

⁵⁰ BVMN. 2021. Response to Greek Ombudsman’s Interim Report on Pushbacks to Turkey. Available at: <https://www.borderviolence.eu/response-to-greek-ombudsmans-interim-report/> [Accessed 01/01/2022].

of violence, torture and inhuman conditions, the Border Violence Monitoring Network respectfully request that the Government of Greece respond to the following questions and recommendations:

41.1. What measures has the Greek government implemented to ensure that the conduct of all State actors is in full compliance with the principles of non-refoulement?

41.2. What progress has been made to investigate allegations of violence, torture and inhuman conditions during pushbacks?

41.3. What steps are being taken to ensure all foreign nationals facing deportation or return proceedings have access to legal representation in line with Greek domestic law?

41.4. What progress has been made to investigate allegations of pushbacks and the violation of non-refoulement?