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Meeting: 1411th meeting (September 2021) (DH)

Communication from an NGO (Greek Helsinki Monitor) (21/07/2021) in the MAKARATZIS group of cases v. Greece (Application No. 50385/99) (appendices in Greek are available at the Secretariat upon request).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1411^e réunion (septembre 2021) (DH)

Communication d'une ONG (Greek Helsinki Monitor) (21/07/2021) dans le groupe d'affaires MAKARATZIS c. Grèce (requête n°250385/99) (des annexes en grec sont disponibles auprès du Secrétariat sur demande)
[anglais uniquement]

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



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DGI

21 JUL. 2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

The President of the Committee of Ministers
Department for the Execution of Judgments of the European Court of Human Rights
Council of Europe
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20 July 2021

Execution of *Makaratzis group of cases (applications No. 50385/99 etc.)*

Mr President

Under Rule 9(2) of the Rules of the Committee of Ministers for the supervision of the execution of judgments we submit the attached memo on the execution of the general measures *Makaratzis group of cases (applications No. 50385/99 etc.)* and request that the memo is also uploaded at your special website for the 1411th meeting (14 - 16 September 2021) (DH).

Yours faithfully

Panayote Dimitras
Executive Director
Greek Helsinki Monitor

Communication on the execution of the general measures in
Makaratzis group of cases (applications No. 50385/99 etc.)

1. Introduction

1. The **Committee of Ministers (CM)** is requested to recall that **Greek Helsinki Monitor (GHM)** has been the representative of the applicants in nine of the sixteen cases under examination: *Celniku, Karagiannopoulos, Leonidis, Bekos-Koutropoulos, Zelilof, Galotskin, Stefanou, Petropoulou-Tsakiris, Sidiropoulos-Papakostas*.

2. The **Committee of Ministers**, in its [December 2018 recommendations](#) related to the general measures in *Makaratzis and others v. Greece*,

“8. called upon the authorities to intensify their ongoing efforts to eradicate all forms of ill-treatment by law enforcement officials, taking due account of the CPT’s recommendations, and invited them to provide the Committee with concrete and detailed information on the measures taken or envisaged in response to the European Court’s judgments in these cases;

9. invited, as regards the effectiveness of investigations, the authorities to provide by 1 September 2019 detailed information on the following issues:

- a) the suspension of the limitation period for offences related to violations similar to those in the present cases;
- b) the overall possibility to reopen disciplinary investigations in cases where criminal or disciplinary liability has already been decided, taking into account the ne bis in idem principle enshrined in Law 4443/2016;
- c) the effectiveness of the new complaint Mechanism (the Ombudsman), notably in the light of the outcome of the investigations into the complaints submitted since the Mechanism started to function on 9 June 2017;
- d) the impact of the new reinforced legislative protection against racist crime and possible new measures envisaged to ensure the investigation of possible racist motives when ill-treatment occurs in the context of law enforcement;
- e) the extent to which decisions to close criminal investigations on the basis of prescription can be subjected to judicial or other independent review;
- f) the measures taken or envisaged in the context of the ongoing revision of the Criminal Code in order to fully align the conduct of criminal investigations into ill-treatment and the relevant sanctions with the requirements of the Court’s case-law, in particular as regards the definition of torture and the possibilities to convert terms of imprisonment imposed for torture and other ill-treatment into non-custodial sentences.”

3. It is telling that the Government, in its [“Updated Action Plan/Communication”](#) dated 25 June 2021 failed to address the call *“to intensify their ongoing efforts to eradicate all forms of ill-treatment by law enforcement officials.”* That is an implicit admission that there has been no effort whatsoever in that direction, as it will become evident below with a detailed documentation that **never before in modern Greek history has there been such a systematic practice of torture and other forms of ill-treatment by Greek law enforcement officials, with the number of victims (well) exceeding 10,000 individuals.**

A. On the effectiveness of investigations and the necessary legislative amendments

4. Concerning **the suspension of the limitation period** for offences related to violations similar to those in the present cases, the Government states that there is a suspension of the statute of limitations of disciplinary offences from which violations of the Convention originated according to a judgment of the European Court until the transmission of the Court’s judgment to the Ombudsman as Mechanism for the investigation of Arbitrary Incidents. However, **Greek Helsinki Monitor** (GHM) believes that this is not what was meant with that recommendation. Rather, it is what [UN CAT recommended in 2019](#) but was ignored:

Statute of limitations

12. The Committee regrets that the State party's criminal legislation still includes a statute of limitations for the offence of torture.

13. The State party should ensure that the offence of torture is not subject to any statute of limitations, in order to preclude any risk of impunity in relation to the investigation of acts of torture and the prosecution and punishment of perpetrators.

A year later, [the CPT in its April 2020 report on Greece](#) was also critical of the fact that in the New Criminal Code "... the limitation period for acts of torture and other forms of ill-treatment remains in place (paragraph 7)... *The CPT would like to receive the comments of the Greek authorities on the above issues*" [The Government's April 2020 response](#) did not include any related comments.

5. Regarding the **overall possibility to reopen disciplinary investigations** in cases where criminal or disciplinary liability has already been decided, it is in theory possible when the Court's judgments provide legal qualifications more severe than those provided in the initial disciplinary investigations, but in practice this has yet to lead to punishing the perpetrators as either they have left the service or there was a statute of limitation for their acts.
6. With respect to the **effectiveness of the new complaint Mechanism (the Ombudsman)**, the Government's allegation in its ["Updated Action Plan/Communication"](#) *"According to the report for 2020 the Greek Ombudsman under his capacity of National Mechanism for the Investigation of Arbitrary Incidents has achieved to date the following: The referral of about half of the (hundreds of) completed investigations which it supervised, for supplementation, correction, re-evaluation of evidence, reassessment of reasoning and operative part, observance of substantive, jurisdictional and procedural guarantees,"* is misleading. In fact, in that [Ombudsman Report for 2020](#), it is mentioned that the Ombudsman received in 2020 253 such investigations, but that he reviewed and issued a report on just 11 of them. In 2020 he also reviewed another 79 cases referred to him in previous years, hence a total of 90 cases. From them, he referred back 37 cases for complementary investigations. Presenting these statistics, the Ombudsman commented: *"For 41% of the administrative investigations examined on its merits, the Independent Authority requested in documented ways the need to supplement them. It is a significant percentage that should incite the Administration to reflect on how to improve the quality of the internal disciplinary procedures."* The Government in its ["Updated Action Plan/Communication"](#) has a very different interpretation of similar statistics for the 2019 Ombudsman report: *"The fact that in more than half of the administrative investigations examined on the merits (57%), the Independent Authority has requested supplementary investigation in order to meet the criteria of an impartial and in-depth inquiry, highlights the importance of the institutional dialogue between the Administration and the Ombudsman as an external and independent Mechanism that can contribute to the substantial improvement of administrative investigations."* Requesting supplementary investigation for the Government is evidence of "constructive dialog" whereas for the Ombudsman such a request is evidence of serious maladministration. **Additionally, the Government mentions that the Ombudsman highlights that only the Greek Police has referred such cases to him, in addition to individual citizens: in view of the mass pushbacks (see below) it is important that the Port Authority and Greek Coast Guard snub their legal obligation.**
7. The Government in its ["Updated Action Plan/Communication"](#) mistakenly claims that *"As regards the proposed sanctions it is noted that in 2020 the Mechanism proposed the referral of*

four cases to the competent disciplinary bodies recommending in three out of the four cases that the police officers against whom disciplinary proceedings were brought be dismissed from duties and in the fourth case that the police officer be discharged.” On the contrary, in the [Ombudsman Report for 2020](#), it is mentioned that of the 253 cases referred to him, it is noted that in (only) 4 of them the internal police disciplinary investigations had recommended the aforementioned dismissals or discharge, before they were sent to the Ombudsman.

8. On the contrary, the Government correctly states that, for the police operations in November – December 2019 that caused a large number of disciplinary investigations, the Hellenic Police has refused through December 2020 to send to the Ombudsman the information requested for their evaluation, in violation of its legal obligation. Moreover, neither any results for the individual complaints related to such incidents investigated under the supervision of the Ombudsman were submitted to the Ombudsman through December 2020.
9. Concerning **legislative amendments aiming at enhancing the Mechanism’s efficiency** the amendments listed by the Government in its [“Updated Action Plan/Communication”](#) are certainly steps in the right direction, but yet rather timid. In effect, the Ombudsman made useful comments on the execution of the *Makaratzis group of cases*, both in individual documents eventually sent to GHM and in its [report for 2017-2018](#), but without the involvement of the applicants or their representatives who had to formally request the Ombudsman to provide them with a copy of his recommendations that are summarized below. GHM was provided on 4 April 2019 copies of a letter to the Legal Council of State on the *Makaratzis* cases dated 4 October 2018 (**Attachment 1**) and a letter to the Office of the Chief of Hellenic Police on the *Sidiropulos-Papakostas* case dated 5 March 2019 (**Attachment 2**). **Therein, the Ombudsman offered the following additional recommendations for the amendment of legislative provisions to secure that such amendments will not prevent the adequate punishment of perpetrators of torture or ill-treatment and they will not hamper the efficiency of administrative investigations. None of them has been adopted.**
10. Amendment of the torture Article 137A Penal Code so that the crimes described in paragraph 4 become a felony with a prescription of 15 years and also call for imprisonment for more than 5 years (currently it is *“The cases involving physical injury, injury to the health, the use of illegal physical or psychological force and any other serious offence against human dignity, which is committed by persons under the conditions and for the purposes defined, are punishable by three to five years’ imprisonment. Offences against human dignity include in particular a) The use of a lie detector; b) Prolonged isolation; c) Serious attack on sexual dignity of the person.”*).
11. Amendment of Articles 137A PC (or Article 82 PC) so that sentences imposed for crimes described in Article 137A cannot be commuted to fines nor can they be suspended.
12. Presidential Decree (PD) 120/2008 that describes the administrative investigation for police officers must be amended so that officers against whom criminal charges are pressed for Articles 137A are suspended from service and if there is an EDE against them before the pressing of charges they are moved to another service where they will not have in their duties that of investigating alleged crimes of others.
13. Another amendment to PD120/2008 is necessary so that if officers liable for actions that led to ECtHR judgments for violation of Article 3 ECHR have in the meantime retired, they are removed from the list of reserve officers (εφεδρεία), imposed financial fines are imposed on them and finally the State has the right and the obligation to seek their financial liability for the compensation the State had to pay in the execution of the respective judgments.

14. Finally, written apologies from the heads of the services concerned to each of the victims of the impugned acts, as moral satisfaction of these persons, with a commitment on the part of the relevant services that future disciplinary proceedings will be carried out in conformity with the Court's case law. As stated above, even such simple acts that do not require any legislative amendments and have no financial cost for the State have not been carried out. It is to be recalled that the **Committee of Ministers** has *"welcomed the authorities' intention to request the heads of the services involved in torture and other forms of ill-treatment to issue written apologies to the applicants; and invited the authorities to inform the Committee by 1 September 2019 of any further development."*
15. Subsequently, an important recommendation by the Ombudsman made in the framework of the *Sarwari and Others* case included in its [report for 2019](#) is quoted in the ["Updated Action Plan/Communication"](#) of the Government which though does not report to the **Committee of Ministers** if such a legislative amendment has been introduced: *"Finally, the Mechanism proposed that there should be financial consequences for those who have been dismissed from the service and are no longer subject to disciplinary proceedings, following a judgment of the Court finding violations of Article 2 and 3 of the Convention."*
16. Regarding **the impact of the new reinforced legislative protection against racist crime** and possible new measures envisaged to ensure the investigation of possible racist motives when ill-treatment occurs in the context of law enforcement, the Committee of Ministers is requested to note that in the ["Updated Action Plan/Communication"](#) of the Government there is only reference to legislative initiatives and circulars but no reference to any concrete results. In fact, it is mentioned therein that a *"database on hate crimes and racist incidents is operational"* without any link to access it or some summary of its data thus far. This is understandable as in the [Statistical Yearbook of the Hellenic Police for 2020](#) none of the 151 tables with data is related to hate crimes and racist incidents, while no such data are available in the [Ministry of Justice website](#). Generally, Greek Helsinki Monitor has knowledge of a large number of investigations of allegations about torture or ill-treatment where the racist motivation is not investigated as mentioned even in the [CPT April 2020 report on Greece](#). This is a widespread problem as in a large number of evidently or highly likely racist crimes the racist motivation is not investigated in both criminal and disciplinary procedures.
17. **Decisions to close criminal investigations on the basis of prescription** cannot be subjected to judicial or other independent review. What is required is an amendment to remove the statute of limitations for such crimes or at least, as the Ombudsman recommended, to turn even the lighter crimes (137A PC paragraph 4) to felony crimes with a 15-year prescription.
18. It has indeed been a positive development that the definition of torture was partly brought in line with the Court's case law after a [UN CAT recommendation in 2019](#). However, the latter included also the need to *"ensure that the infliction of torture by or at the instigation of or with the consent or acquiescence of a public official or any other person acting in an official capacity is included in the definition"* which has not been included in the amended Article 137A PC. Worse, as **UN CAT** noted *"Lastly, the Committee observes with concern that the maximum penalty for the basic offence of torture –without aggravating circumstances– has been reduced from 20 to 10 years of imprisonment (arts. 1 and 4)."*
19. As to the possibility to convert terms of imprisonment imposed for torture and other ill-treatment into non-custodial sentences, this is in effect for crimes committed before June 2019. Once the current suspension of the possibility of a conversion into community service is lifted, the possibility to convert sentences of imprisonment into community service for crimes committed from July 2019 on will be restored.

20. On 5 November 2020, the Government was compelled to table in Parliament after opposition pressure a report to the **Minister of Citizens' Protection** by the special ad hoc committee appointed by that Minister and headed by Greece's foremost constitutional and human rights law **Professor Emeritus Nikos Alivizatos** ([Attachment 3](#)) dated 4 May 2020. Therein, it was mentioned that Hellenic Police investigating officers are reluctant to cooperate with the Ombudsman in his function as Mechanism, failing to take testimonies from key witnesses, to ask in testimonies the crucial questions, and to take testimonies from medical personnel that was in charge of such cases. Moreover, these investigating officers lack impartiality inter alia by accepting systematically statements by police officers involved in the investigating cases that are impressively "similar" and by placing a much higher weight to such testimonies as compared to testimonies by civilians, without any reasoning. They also systematically delay turning over to the Ombudsman documents he asks for and they refuse to implement the Ombudsman's recommendations which forces the Ombudsman to send back for a second or third time the files for additional investigation. Finally, there is a defective statement of reasoning for the decisions of the disciplinary bodies of Hellenic Police, especially in the area of (non-)investigation of the racist motive. The committee also recommended that from an informal one-off body it is legislated to become a permanent independent authority by the Minister of Citizens Protection. None of these recommendations, including the upgrading of the committee to a permanent formal authority were implemented.

B. On the worst ever systematic practice of torture and other forms of ill-treatment

B1. Pushbacks and violence against refugees and migrants in Evros and in the Aegean Sea: Human Rights Watch and Amnesty International June 2021 reports

21. On 23 June 2021, **Amnesty International** (AI) published a report with the telling title [Greece: Violence, lies and pushbacks](#) *"based on conversations with 16 people, who experienced 21 pushbacks. It primarily focussing pushbacks from the Evros border between June and December 2020. Based on their testimonies, these unlawful operations are estimated to have affected around 1000 people."* The accompanying press release has an equally telling title ["Greece: Pushbacks and violence against refugees and migrants are de facto border policy"](#). Therein AI states that *"Greek border forces are violently and illegally detaining groups of refugees and migrants before summarily returning them to Turkey, in contravention of their human rights obligations under EU and international law, new research from Amnesty International has revealed. The report, [Greece: Violence, lies and pushbacks](#), documents how the Greek authorities are conducting illegal pushbacks at land and sea. It focuses primarily on unlawful operations in the Evros region, at the land border between Greece and Turkey. In February and March 2020, [Greece violently pushed back refugees and migrants](#) in response to Turkey's unilateral opening of the land borders. By documenting incidents that occurred in the aftermath of those events, from June to December 2020, this new research demonstrates that human rights violations at Greece's borders continue and have become an entrenched practice."*
22. On the same day, 23 June 2021, **Human Rights Watch** (HRW) published the report [Frontex Failing to Protect People at EU Borders](#). Therein HRW states: *"For more than a decade, [UNHCR](#), the [IOM](#), the Council of Europe [Commissioner for Human Rights](#), the [Committee for the Prevention of Torture](#), [nongovernmental groups](#), and [media outlets](#) have reported the unlawful return, including through violent pushbacks, of groups and individuals from Greece to Turkey by Greek law enforcement officers or unidentified masked men who appear to be working in tandem with border enforcement officials. Since 2020 organizations including [Human Rights Watch](#) have documented multiple incidents in which Greek Coast Guard personnel, sometimes accompanied by armed masked men, abandoned migrants at sea, violently transferring people from Greek*

islands or from other boats to motorless rafts, and leaving them adrift near Turkish territorial waters. [Nongovernmental organizations](#) and the [media](#) have also reported in 2020 on persistent allegations that Greek border forces carried out pushbacks in some cases with violence through the Evros land border with Turkey. Human Rights Watch has documented such situations in [2008](#), [2018](#), and in [March](#) and [July](#) 2020.”

B2. Pushbacks and violence against refugees and migrants in Evros: Human Rights Watch and Amnesty International March - April 2020 reports

23. One year earlier, on 3 April 2020, AI published the report [Caught in a political game: Asylum-seekers and migrants on the Greece/Turkey border pay the price for Europe’s failures](#). Therein AI stated: “Testimonies by asylum-seekers to Amnesty International provided a consistent picture of how Greek border forces implemented government policy to repel asylum seekers instead of taking their asylum claims. Asylum-seekers who spoke to us and other NGOs reported widespread practices included beatings by border guards with truncheons, periods of detention at sites in the border area ranging from hours to several days, and returning groups of asylum-seekers to Turkey in boats across the Evros river. Amnesty International has previously reported on very similar abuses by Greek border forces implementing pushbacks in previous years. Amnesty International spoke to 23 men and women from Afghanistan, Jordan, Iraq, Morocco, Pakistan and Syria, all of whom had attempted to cross into Greece irregularly across the Evros river during the first week of March. They explained that they had either been apprehended directly after crossing the river or after walking through Greece for hours or in some cases up to four days. All of the 16 men whom Amnesty International spoke with, bar one man who was already injured at the time that he was apprehended, said that they had been beaten, most often with truncheons, with blows to the body or head but also with kicks and punches. According to the testimonies, beatings occurred at the time people were apprehended while being made to get into minibuses, and/or when they were held at detention sites in the border area. Some of the people we spoke to had obvious trouble walking and bruises on their bodies or head injuries. We spoke to a Syrian man after he had been pushed back from attempting to cross at the Pazarkule/Kastanies official border crossing point who was only able to walk with the assistance of a friend after he had been struck, he stated, by a Greek soldier using his gun. Asylum-seekers told Amnesty International that they were beaten by border forces wearing either military uniform, police uniform or by individuals in plain clothes working in cooperation with uniformed border forces. A health professional working in Turkey’s border region told us that asylum-seekers commonly requested medical assistance following alleged beatings by Greek border guards, and that the numbers of people reporting such injuries had risen to an average of around 50 per day in that location during the first week of March, up from an average of six or seven per day in previous months. Fifteen people seeking safety, including those with young children, told Amnesty International that they were held in Greek detention facilities in the border area after being apprehended. None of those we spoke with had been informed by the Greek authorities of the reason for their detention, given an opportunity to seek asylum or provided access to lawyers during their detention. Detention periods described to Amnesty International ranged from several hours to several days. All 15 that we spoke with recounted that some or all their possessions, including phones, in some cases passports or other forms of identification, had been taken and not returned by the detaining Greek authorities. Some men, sometimes boys, had had their clothes or shoes taken from them. Asylum-seekers told Amnesty International that border forces also took their money, in some cases thousands of dollars – all the money with which they and their families had hoped to start a new life in Europe. Interviewees told Amnesty International that they and their families were driven by Greek security forces in minibuses to the Evros river border and taken across to the Turkish side in groups of 10-15 people. Some reported remaining for several hours without clothes, shoes or phone (for communication) in cold temperatures, posing a further risk to their health before they could receive assistance. Greek border forces used tear gas

*extensively against groups of asylum-seekers and migrants, including families with young children attempting to cross the border. On 4 March Amnesty International observed Greek border guards using tear gas constantly over the three hours that our delegation monitored the Pazarkule border gate. During this time several people returned to the Turkish side, visibly injured and complaining of being hit by tear gas canisters fired by Greek border forces. Other reports were received of use of projectiles and stun grenades that Amnesty International could not verify. A health professional working in Turkey's border region confirmed that some individuals had received medical treatment for injuries consistent with use of plastic bullets. Asylum-seekers and migrants frequently reported to Amnesty International and other NGOs that Greek border forces used live ammunition against them, both firing into the air and in their direction, as they attempted to cross the border. We were shown a bullet allegedly fired by a Greek soldier at a group of asylum-seekers as they attempted to cross the Evros river border south of the city of Edirne; allegedly, it narrowly missed them as it lodged in a tree. The Turkish authorities claim that three people were killed as the result of use of force by Greek border forces and that 164 had been injured by 5 March. A larger number of shootings have been alleged by asylum-seekers and migrants but remain undocumented. One well-documented case is that of **Muhammad Gulzari**, a 43-year-old Pakistani man who attempted to cross into Greece at the Pazarkule/Kastanies border crossing point on 4 March. According to an official statement by the Edirne Governor's office he was shot in the chest and pronounced dead in hospital on the same day, while five others were injured with gunshot wounds in the same incident. Amnesty International witnessed ambulances rushing from the scene at the time of the incident and spoke to a Pakistani man who was uninjured but covered in blood and said that he helped carry his friend from the scene after he had been shot. Amnesty International has received a copy of Muhammed Gülzari's autopsy report which records the fact that a 5mm 5,56 nub bullet was removed from his body. An investigation into the death by Turkish prosecutors continues. Another well-documented case is that of **Muhammad al-Arab**, a 22-year-old Syrian man, who also died in the area. The research group Forensic Architecture documented his fatal shooting on 2 March after he crossed into Greek territory."*

24. A few weeks before that, on 17 March 2020, **HRW** published the report [Greece: Violence Against Asylum Seekers at Border - Detained, Assaulted, Stripped, Summarily Deported](#). Therein HRW stated: "Greek security forces and unidentified armed men at the Greece-Turkey land border have detained, assaulted, sexually assaulted, robbed, and stripped asylum seekers and migrants, then forced them back to Turkey ... the Greek government reinforced its border with police, army, and special forces, which fired teargas and [reportedly](#) rubber bullets at people who approached the Pazarkule crossing. Two asylum seekers who spoke to Human Rights Watch said that Greek security forces also used live fire to push people back. One of these people, interviewed in a hospital where he was getting treatment, said he was shot in the leg. [According to Turkish officials](#), Greek security forces have shot and killed at least three asylum seekers or migrants, but Human Rights Watch has not verified this number. All those interviewed said that within hours after they crossed in boats or waded through the river, armed men wearing various law enforcement uniforms or in civilian clothes, including all in black with balaclavas, intercepted everyone in their group. All said the men detained them in official or informal detention centers, or on the roadside, and stole their money, mobile phones, and bags before summarily pushing them back to Turkey. Seventeen described how the men assaulted them and others, including women and children, through electric shocks, beating with wooden or metal rods, prolonged beating of the soles of feet, punching, kicking, and stomping. Human Rights Watch also interviewed five Turkish residents of border villages who described how between February 28 and March 6 they had helped care for large groups of people who returned injured and almost naked from Greece saying that Greek security forces had beaten, robbed, stripped, and deported them. In one case, an interviewee described Greek security forces sexually assaulting his wife when they crossed the border. "They [Greek security forces] tried to search my wife and touched

her breasts,” said a Syrian man who was travelling with his wife and children. “Then they tried to take off her headscarf and her trousers. When I tried to stop them, they beat me really badly with their fists, feet, a heavy plastic rod, and a metal stick. They hit my 2-year-old daughter with a heavy plastic stick on the head so that she still has a bruise.” Human Rights Watch saw a bruise underneath the girl’s hair. In most cases, the interviewees, said that armed men stripped them down to their underwear, including some women, and forced them across the Evros river back to Turkey. Many said that they were passed between various groups, suggesting coordination between police or soldiers and the unidentified men... Some of the interviewees said they tried multiple times to enter Greece and were each time forcibly returned. Taken together, the interviewees described 38 deportation incidents involving almost 4,000 people, although some of these could be double counts... Their accounts confirm patterns that Human Rights Watch documented in similar situations in [2008](#) and [2018](#). In mid-2018, the [Council of Europe’s Committee for the Prevention of Torture](#) said it had received “several consistent and credible allegations of pushbacks by boat from Greece to Turkey at the Evros River border by masked Greek police and border guards or (para-) military commandos.” And in November 2018, the Council of Europe’s [human rights commissioner called on Greece to investigate allegations of Greek abuses at Turkey’s border, in light of information pointing to “an established practice.”](#)”

B3. Pushbacks and violence against refugees and migrants in Evros: Greek Helsinki Monitor March – May 2020 complaints and ensuing cover-ups

25. **The publication of such reports should have triggered ex officio prompt, thorough, unbiased and effective criminal and disciplinary investigations. The fact that this did not happen is the best proof that Greek authorities intentionally sanction (in the meaning of authorize) such unlawful behavior that amounts to torture or ill-treatment instead of intentionally sanctioning (in the meaning of punishing) it. Greek Helsinki Monitor took action which confirmed that, as it too was sanctioned (in the meaning of punished)!**
26. On 18 March 2020, **GHM** filed a [Complaint report to Prosecutor of Court of Cassation for illegal deportations, torture and attempted rape in Evros](#) with the 17 March 2020 fully documented report and some related tweets by **Human Rights Watch** describing a series of illegal deportations, acts of torture and an attempted rape by agents of the Greek authorities in Evros.
27. On 8 May 2020, **GHM** filed a second [Complaint report to Prosecutor of Court of Cassation for illegal deportations, torture and shooting deaths of migrants/refugees in Evros](#) with the 3 April 2020 fully documented report (with dozens of testimonies from victims) of **Amnesty International** describing a series of illegal deportations, acts of torture and deaths of migrants/refugees shot by Greek authorities in **Evros**. Of particular importance, were two confirmed deaths from deadly shootings by Greek forces in **Kastanies, Evros**, of 43-year-old Pakistani **Muhammed Gulzari** on 4 March 2020 (with eyewitness testimony from **Amnesty International** and a video of the investigation teams of **Forensic Architecture, Bellingcat and Lighthouse Reports**, which reconstructs the events of that day and is reported today by **Efimerida Syntakton** on its [website](#)) and of 22-year-old Syrian **Mohammad Arab** on 2 March 2020 (audiovisual documentation from **Forensic Architecture** available on the [website](#)). Also the disappearance of **Fatma** from Syria on 29 February 2020, south of **Edirne**, after shootings were fired against her, her husband and their six children.
28. In both complaints, **GHM** requested immediate, thorough and impartial investigations of these allegations of crimes, with an investigation of the racist motive, and added that, in order to be impartial, they cannot be done by the prosecutorial and police authorities of Evros Prefecture, as until then they have given the impression that they were deprived of the necessary objective

impartiality since hundreds of previous complaints have been “investigated” and archived, that is, covered up, something that has exposed Greece internationally, as well as before the relevant human rights bodies of the UN and the Council of Europe.

29. The **Prosecutor of the Court of Cassation** ignored the request to exempt the prosecutorial and police authorities of Evros Prefecture, sent both complaints to the Appeals Prosecutor for Thrace who in turn assigned them to the Evros local prosecutors of Orestiada and Alexandroupoli.
30. The **Prosecutor of Alexandroupoli** soon after it received the two complaints archived them. At the time of this writing GHM has not yet had access to the reasoning of the two archiving decisions.
31. The **Prosecutor of Orestiada** summoned **GHM’s Panayote Dimitras** to testify in the framework of both investigations. For the first investigation, related to the **HRW** report, Panayote Dimitras submitted [on 10 June 2020 a memo](#) with the HRW report in Greek and a detailed documented description of the two shooting deaths of asylum seekers in the Evros border, also on behalf of the relatives of the victims represented by the **Istanbul Bar Association (IBA)** lawyers and **Greek Helsinki Monitor**. A request was made that the case file is sent to the Greek Consulate in Istanbul so that the IBA lawyers and the relatives of the victims testify and provide all the evidence they have gathered from forensic and other authorities in Turkey. It was suggested that HRW and AI representatives are also called to testify, and it was mentioned that these cases were already the object of applications to the ECtHR. For the second investigation, related to the **AI** report, Panayote Dimitras submitted on 19 April 2021 the same 10 June 2020 memo with a cover letter recalling that he had testified on 10 June 2020 on the same matters, asking that the two case files be merged and again that to send the case file to the Greek Consulate in Istanbul, adding the authorization of a relative of the shooting death victim Muhammad al-Arab to GHM in the framework of an application submitted to the ECtHR (**Attachment 4**).
32. Subsequently, **GHM** was informed that the **Prosecutor of Orestiada** had archived on 20 November 2020 the case file related to the 18 March 2020 **GHM** complaint with **HRW** report. In the archiving decision (**Attachment 5**), all allegations mentioned by GHM in the complaint are listed but the source of these allegations is deliberately falsely claimed to be “*reproduction of publications of the Turkish authorities and messages in social media... reproduction of Turkish publications of questionable credibility*” that cannot be confirmed, while their alleged perpetrators cannot be found. It is noteworthy that in the archiving decision the prosecutor makes a reference to a sworn statement by an **Orestiada Security Police** officer who supposedly stated that all police operations are by the book and that his **Security Police** has never received any related complaints. However, in the case file, there is a statement by that officer (**Attachment 6**) in which he stated, on 13 November 2020, that he was assigned to investigate the allegations in the **Human Rights Watch** report (and not some Turkish authorities’ publications...) only to conclude that all actions were by the book. Nevertheless, the officer’s sworn statement shatters the credibility of the Prosecutor’s decision with its two false allegations therein that the **GHM** complaint was based on Turkish (state and other) sources -the officer correctly stated that the source was **HRW**- and that **Hellenic Police** had never received any complaints – the officer did investigate several complaints received by the **Hellenic Police**. **Most importantly though it is revealing that the Human Rights Watch allegations about pushbacks were investigated by an officer of the police division which is directly implicated in the alleged unlawful and violent pushbacks: hence he was investigating allegations about the operations he and/or his colleagues were carrying out!**
33. **GHM concludes that it is evident that, for the very detailed allegations in the HRW report, both investigating authorities, of the Prosecutor and of the Hellenic Police, intentionally**

failed to carry out proper investigations. There is a large number of such “cover-up investigations” for a series of allegations of abuses by law enforcement agents in the Evros border area, many on file with GHM and available upon request.

**B4. Pushbacks and violence against refugees and migrants in Evros:
Communicated cases by the ECtHR in 2019-2020**

34. The **CM** is requested to take into account that **GHM** is aware of two applications to the **ECtHR** for pushbacks in Evros in February 2020 which have already been communicated to Greece, *L.A. and Others against Greece* (a Syrian mother with two children) and *A.A. against Greece* (a Syrian unaccompanied minor) ([applications nos. 12237/20 and 12736/20](#)) as GHM is cooperating with **Istanbul Bar Association** lawyers on these and other applications. Another application, *Hasani v. Greece*, on a pushback of an Iranian in 2019, was also communicated ([application no. 38555/19](#)). These applications concern multiple Article 3 violations and therein are described practices of pushbacks similar to the ones described in the **HRW** and the **AI** reports, as well as in several complaints filed by **GHM**.

**B5. Pushbacks and violence against refugees and migrants in Evros and the Aegean Sea:
CPT November 2020 report**

35. Nevertheless, the most compelling conclusive evidence of an ongoing practice of illegal and violent pushbacks since at least 2018 is offered in the [CPT report on Greece](#) published on 19 November 2020 and copied here in full:

The practice of pushbacks across the Turkish border and at sea

53. In the report on the 2018 visit, the CPT addressed the issue of pushback operations from Greece to Turkey via boat across the Evros River border. In the course of the 2020 visit, the CPT's delegation again received consistent and credible allegations obtained through individual interviews in different places of detention of foreign nationals being detained, having their belongings confiscated and subsequently being pushed back across the Evros River border to Turkey. The allegations mainly referred to incidents that had taken place prior to March 2020 but within the previous six months. The persons who alleged that they had been pushed back from Greece to Turkey had subsequently re-entered Greek territory and had been apprehended and detained by the Greek police. By letter of 16 April 2020, the Hellenic Police assured the Committee that all police officers operating in the Evros region act in accordance with the law and in compliance with human rights standards. The *modus operandi* of the police along the border is summarised along the same lines as set out in the response of the Greek authorities to the report on the 2018 visit.
54. The persons who alleged to have been pushed back in the period prior to March 2020 described having been held for short periods in various detention facilities situated not far from the Evros River. Further, the persons alleged that they had had their personal belongings, including mobile phone and in some instances footwear, confiscated by their guards who had escorted them to the river and supervised the pushbacks (these persons all wore balaclavas which hid their faces and were dressed either in military-style fatigues or police uniforms).
55. A few of the persons met during the March 2020 visit alleged that they had initially been detained with other migrants, including families, who had subsequently been sent back across the river to Turkey. These persons described having been held together with many other people for a number of hours in a facility, the layout of which corresponded to that of the Poros detention facility visited by the delegation. Indeed, the Greek authorities confirmed to

the CPT's delegation that this facility had indeed been used for holding migrants for several hours before taking them to Feres or Soufli Police and Border Guard Stations. However, as the Hellenic Police did not keep any record of the persons who had been held at the Poros detention facility, it was not possible to trace the location to which these persons had been transferred. Records at Feres and Soufli did not state whether they had been held at Poros or not. The CPT is not convinced by the explanation provided to its delegation that the details of all persons taken to Poros were recorded upon entry to the facility and that at the end of each day, the form containing the information on these persons was simply thrown away. Moreover, persons held at the Poros facility claimed that while their personal belongings were taken away (bags, mobiles), they did not have to provide any individual personal information at that stage.

56. A telling manifestation of the human impact of this pushback practice is represented by a girl of two and a half years old who, along with her older brother of 21 years, was separated from her mother and father and five other siblings. The whole family had crossed into Greece on 29 February 2020 and had been apprehended in a field and taken to the quasi-official Poros centre. There were so many migrants present that some of them had had to remain in the courtyard sitting on the concrete floor in the rain. The officers, dressed in camouflage uniforms and with balaclavas over their faces, allegedly confiscated the mobile phones of the migrants as well as their personal bags and kicked anyone who did not obey their orders to remain seated. After around six or seven hours, the camouflaged officers are said to have loaded most of the migrants, including the mother and four of her children, onto about six vehicles and transported them to the Evros River, where they were put into wooden boats and taken across to the Turkish side. A day later, the father and another brother were pushed back across the river in a similar manner. All the belongings of this family, including a backpack with clothes and identity and property documents as well as money, were allegedly taken by the officers. The brother and his little sister were taken to Feres Police and Border Guard Station and two days later to the Filakio RIC. They were served with deportation papers to Afghanistan. The anguish of the mother who was forcibly separated from her child in such a manner cannot be put into words. And yet, this is but one tragic illustration of the pushback practice.
57. The evidence supporting the case that migrants are pushed back across the Evros River to Turkey after having been detained for a number of hours, without benefiting from any of the fundamental guarantees, by Greek officers operating in an official capacity is credible. The onus is now upon the Greek authorities to ensure that this practice ends once and for all, and that any officers (police or military) operating outside of official command structures are held to account and sanctioned accordingly. Moreover, the CPT reiterates that every instance of detention of a person must be fully and accurately recorded so that there can be no arbitrary detention.
- 58. The CPT reiterates its recommendation that the Greek authorities act to prevent any form of pushbacks taking place across the Evros River border by law enforcement officials and military personnel. All foreign nationals arriving at the border or present in the territory of Greece who wish to request international protection should be effectively protected against the risk of *refoulement*, including possible chain *refoulement*. In particular, they should have effective access to an asylum procedure which involves an individual assessment of the risk of ill-treatment, on the basis of an objective and independent analysis of the human rights situation in the countries concerned. To this end, clear instructions should be given to Greek police and border guards to ensure that irregular migrants who have entered Greek territory must be individually identified and registered, and placed in a position to effectively make use of**

the legal remedies against their forced return. The CPT would like to be informed of the actions being taken by the Greek authorities to ensure that such pushbacks no longer take place.

59. The CPT's delegation also received a number of consistent and credible allegations concerning acts by the Greek Coast Guard to prevent boats carrying migrants from reaching any Greek island. For example, in early March 2020, the Greek Coast Guard allegedly stopped a boat with almost 50 persons on board and removed the fuel leaving the migrants and the boat to float about aimlessly. It was apparently only some 15 hours later that the Coast Guard returned to tow the boat to Lesbos island. Moreover, since the delegation's visit, credible allegations have emerged of migrants having reached the island of Samos from Turkey by boat before being re-embarked on a dinghy by Greek officers and towed by a Greek Coast Guard vessel back to Turkish waters, where they were allegedly left adrift overnight until recovered by the Turkish Coast Guard on the afternoon of the following day. As the European Court of Human Rights has repeatedly made clear, whenever the State through its agents operating inside or outside its territory exercises control and authority over an individual, and thus jurisdiction, the State is under an obligation to secure to that individual the rights and freedoms of the European Convention on Human Rights. **The CPT would appreciate the comments of the Greek authorities on these matters. It also wishes to be informed of the official operating instructions provided to the Greek Coast Guard whenever they encounter a boat carrying migrants.**

**B6. Pushbacks and violence against refugees and migrants in Evros and the Aegean Sea:
GHM complaints calling for the investigation of 200+ cases of illegal, violent, racist pushback
or deportation of ca. 10,000 foreigners in March 2020 - May 2021**

36. **CPT** in its report introduced also the allegations of pushback operations in the Aegean Sea, calling them "credible:" *"The CPT's delegation also received a number of consistent and credible allegations concerning acts by the Greek Coast Guard to prevent boats carrying migrants from reaching any Greek island."* **GHM** has collected such allegations for the period since March 2020 and submitted complaint reports to **Prosecutors** as well as the **Ombudsman**. Many months to more than one year later, several of these complaints were archived in ways that indicated a determination not to carry out independent and effective investigations but to cover up the illegal practices and secure impunity to the alleged perpetrators.
37. The most indicative such cover up concerns a [complaint to the Prosecutor of the Supreme Court dated 27 August 2020 on 36 pushback operations of 1389+ foreigners in March – July 2020](#). The complaint was assigned to the **Prosecutor of the Naval Court of Piraeus**. The latter joined it with [a separate complaint GHM had filed on 3 March 2020 on the first of these 36 pushbacks](#) that included a video broadcasted by [BBC](#) and [Euronews](#). BBC described the video: *"Greek coast guards fire into sea near migrant boat: Footage has emerged of Greek coast guards firing into the sea near a migrant dingy, and shoving it around, as they attempted to force it back towards Turkey."* Nevertheless, on 14 October 2020 the **Prosecutor of the Naval Court of Piraeus** archived the whole case file. In the archiving decision (**Attachment 7**) the Prosecutor made clear he had based his conclusions on a statement by a **Hellenic Coast Guard Chief of Operations** (examined as witness and not as suspect) that explained why the actions of the **Hellenic Coast Guard** boat on 2 March 2020 including the fire shots were legal and aimed at deterring the foreigners which in the text were implicitly described as enemies... As for the long comprehensive complaint with 36 pushback operations of 1389+ foreigners in March – July 2020, it was also archived as *"repetitive of the claims in the complaint of 3 March 2020"* [!!!] without any investigation!

38. **GHM** has also similar archiving decisions for other complaints on individual incidents (non)investigated by the **Prosecutor of the Naval Court of Piraeus** available upon demand. In one, the eyewitnesses of an attempted pushback, foreigners who in the end of the day were towed by the **Hellenic Coast Guard** to Lesbos and were therefore available to testify and the NGO lawyer **Marianna Tzeferakou**, known to the ECtHR from her successful applications, who had alerted the **Hellenic Coast Guard** about the dinghy in peril (with a pregnant woman about to deliver) on 13 June 2020 were never asked to testify so that the Prosecutor could base its deliberately false conclusions on a **Hellenic Coast Guard** letter (not even a statement) to him sent almost four months later...
39. In view of this denial of justice, on 4 May 2020 **GHM** submitted a [Criminal complaint to Supreme Court Prosecutor calling for the investigation of 147 cases of illegal, violent, racist pushback or deportation of 7000+ foreigners in March-December 2020](#). Therein, **GHM** stated *"We request the exclusion of the Prosecutor's Office of the Athens Naval Court from the judicial investigation due to the denial of justice and bias with which he handled the previous "Criminal complaint for serial illegal pushbacks of foreigners March – July 2020" that we submitted to you on 27 August 2020."* The Prosecutor accepted the request and sent that complaint to 16 Prosecutors of First Instance for criminal investigations: [First Instance Prosecutors of Rhodes, Naxos, Syros, Samos, Chios, Mytilene, Thessaloniki, Alexandroupoli, Orestiada, Drama, Thesprotia, Kos, Chania, Rethymno, Heraklio and Lasithi](#).
40. Moreover, on 20 July 2021, **GHM** submitted an additional [Criminal complaint to Supreme Court Prosecutor calling for the investigation of 55 cases of illegal, violent, racist pushback or deportation of ca. 3000 foreigners in January-May 2021](#) asking again the exclusion of the Prosecutor's Office of the Athens Naval Court from the judicial investigation. It is expected that this compliant will also be sent to Prosecutors of First Instance around the country.
41. [Therefore, there are now well-documented allegations about 200+ deportations/pushbacks in a fifteen-month period at the hands of the Prosecutors as well as the Greek Ombudsman involving ca. 10,000 victims. We welcome the 8 July 2021 public call by the EU Commissioner Ylva Johansson that "there is a need for thorough and transparent investigations by the Greek authorities into such allegations" or else "the Commission will not hesitate to make use of all its powers under the Treaties, including where necessary the launch of infringement procedures."](#)
42. However, there is little hope that any of these investigations will be effective as Prosecutors tend to side with the Government and contribute to cover-up and impunity. This is why in its report ["Greek NHRI sheds light on the situation of migrants at its borders and challenges of NGOs assisting refugees"](#), published on 15 July 2021, the **Greek National Commission for Human Rights** stated that ["The GNCHR has recommended the Greek authorities to establish an official independent mechanism for recording and monitoring informal pushbacks complaints and to effectively investigate allegations of pushbacks and disproportionate use of force in order to hold those responsible accountable and protect victims."](#) **GHM would like to note though that the GNHCR misreported therein that "only two pushbacks cases were investigated in 2020 by the Hellenic Police and four cases by the Greek Prosecutor, but no case of pushback has ever resulted in a trial before a court," whereas it is evident from the documentation detailed here that there were more than 40 pushback allegations investigated...**

B7. Harassment and Persecution of Human Rights Defenders

43. The **Prosecutor of the Naval Court of Piraeus** not only does not properly investigate complaints but he also claims that they are evidently and intentionally false aiming at discrediting the

Hellenic Coast Guard. For two of them, he has fined **Panayote Dimitras** with the costs of a first instance trial of 200 euros imposed on the person convicted in that trial, without even summoning **Panayote Dimitras** to explain himself about the claim that he was aware that his allegations were false: in essence he convicted **Panayote Dimitras** “in absentia” evidently aiming with such chilling decisions to dissuade **Panayote Dimitras** to continue his work.

44. This is not a unique case but part of a pattern to harass and persecute human rights defenders that evidently expose the widespread illegalities of the Greek Government. The following is telling:



Greece: Ongoing crackdown on migrants’ rights defenders as pushbacks of people on the move continue

Statement

Geneva, 28 January 2021 - The World Organisation Against Torture (OMCT) is deeply concerned about the criminalisation of human rights defenders and humanitarian organisations providing assistance and defending the rights of migrants and asylum seekers on Lesbos island and urges the Greek authorities to immediately put an end to the outlawing of solidarity with people on the move.

On September 28, 2020, the Lesbos Police Directorate issued a [press release](#) indicating that 33 human rights defenders from four international NGOs working on migrants’ rights in Lesbos were to face charges including “espionage”, “violation of state secrets”, “creation of and participation in a criminal organisation” and “violations of the migration law”, for allegedly “having provided confidential information to refugee flows from Turkey via closed groups and internet applications under the guise of humanitarian action”. The press release further pointed out that the Greek intelligence service as well as the Greek counter-terrorism unit of the Hellenic police were involved in the investigations. Moreover, the text stated that the NGO members did carry out those illegal activities, thereby violating their presumption of innocence.

The OMCT underlines that the names of the 33 human rights defenders were not mentioned in the press release. Furthermore, at the time of publication of this statement, none of the individuals concerned have received any official communication regarding the ongoing investigation against them.

Nonetheless, the criminal file and the names of the allegedly investigated NGOs were leaked to several Greek media outlets following the publication of the Lesbos Police’s press release. This triggered a smear campaign against the NGOs Mare Liberium, Sea Watch and Josoor International Solidarity, as well as against the project Alarm Phone and the association FFM e.V, whose names appeared in the leaked information. Moreover, several newspapers [inaccurately reported](#) that the 33 human rights defenders had been arrested.

“The persecution of rights defenders and organisations on charges of “facilitation of irregular migration” and even “espionage” attacks the essence of the right to defend rights in Greece”, said Gerald Staberock, OMCT Secretary General. “Our intelligence and counter-terrorism services must protect our security and rights. When ‘they protect us from defending rights’ it is not only cynical but outright dangerous for democracy”.

Greek authorities publicly stigmatise the work of those defending migrants' rights by equating their work with human smuggling. In a press conference held on December 8, 2020, the Greek Minister for Migration and Asylum, Mr. Notis Mitarachi, [accused](#) the NGO Aegean Boat Report of facilitating the illegal crossing of migrants from Turkey into Greece. The unfounded accusations levelled against the NGO were [categorically rejected](#) by Aegean Boat Report. In an [interview](#) with the newspaper The Times in December 2020, Mr. Mitarachi further claimed that Al-Kahir Foundation and Aegean Boat Report are funding human traffickers to help migrants reach Greece.

Non-governmental organisations that work on migrants' rights play an [essential role](#) to defend the human rights of people on the move in a context of systematic violations of international human rights standards by the Greek authorities, including illegal [pushbacks and collective expulsions of migrants](#), as recently [denounced](#) by the UN Committee Against Torture (UNCAT).

The Greek state has consistently failed to submit the information concerning the alleged intimidation and harassment of human rights defenders and humanitarian workers and volunteers that was [required](#) by the UNCAT.

We strongly condemn this crackdown on civil society actors in Greece and call on the authorities to put an end to the ongoing criminalisation of NGOs and volunteers working in the country in the field of humanitarian assistance to migrants and asylum-seekers, and to guarantee in all circumstances that they are able to carry out their legitimate human rights and humanitarian activities without fear of reprisals.

45. The CM is requested to take into account that almost a year later none of these 33 NGO activists has been summoned in the framework of the related investigation, which was probably meant as a chilling effect and a threat on the activists. On the contrary, on 19 July 2021, the same authorities made a similar announcement alleging felony crimes committed by 4 NGO activists of 4 NGOs and 6 asylum seekers from Syria and Afghanistan. [The alleged crimes were:](#)

“In terms of their methodology of action (modus operandi), the stakeholders, acting in a humanitarian manner, through closed groups and applications on the internet, but also by using a specific application of telephone connections, provided migration flows from Turkey, but also received from information and confidential information relating to:

- the gathering places on the Turkish coast and the time of start of specific migration flows to the islands of the Northeast Aegean (Lesvos, Chios and Samos),
- the coordinates (longitude and latitude) of specific migration flows and their direction at a specific time and place,
- the number of foreign nationals aboard third country boats, as well as the prevailing situation during the voyage of the boats, their final destination (sunbathing area),
- photographic material from third-country nationals aboard boats both during the voyage of the boats and after landing in areas of the islands of the Northeast Aegean,
- details of the operational work of the vessels of the Hellenic Coast Guard,
- the locations of military installations and photographs of military vehicles,
- details of the accommodation structures of foreigners in the islands of the Northeast Aegean.

In addition, after using this information, they provided instructions to foreign nationals of third countries upon arrival in Greek territory, concerning their transition either to inaccessible areas of the islands to hide or to areas and structures of health support, systematically complicating the work of competent Greek authorities.”

46. In effect, such public police actions aim at creating a chilling effect on human rights activists and humanitarian workers and at criminalizing solidarity and human rights work. What police authorities described in these allegations of felony crimes is in effect the work carried out by civil society that has recorded or sometimes prevented scores of unlawful pushbacks or deportations, which are the real felony crimes.

47. On 3 September 2019, in its conclusions and recommendations on Greece, [UN CAT stated:](#)

Human rights defenders and humanitarian workers and volunteers

48. The Committee is seriously concerned about consistent reports of intimidation and harassment of human rights defenders and humanitarian workers and volunteers. In that connection, it regrets that only scant information has been provided by the State party regarding the cases raised by the Committee, including the prosecution and later acquittal of three Spanish firefighters, Manuel Blanco, José Enrique Rodríguez and Julio Latorre, and two Danish volunteers, Salam Aldin and Mohammed el-Abbassi, who were accused of trying to help migrants enter Greece via the island of Lesbos, and the arrest and pending trial of foreign NGO volunteers Sarah Mardini and Sean Biner on people-smuggling, espionage and money-laundering charges (art. 16).

49. **The Committee urges the State party to:**

(a) **Ensure that human rights defenders and humanitarian workers and volunteers are protected against threats and intimidation, and to allow them the necessary latitude to carry out their activities;**

(b) **Ensure that human rights defenders and humanitarian workers and volunteers are not prosecuted for engaging in aid work, including by participating in maritime search-and-rescue activities. The State party should refrain from detaining and persecuting humanitarian workers and volunteers as a means of intimidating them or discouraging them from delivering vital emergency assistance to refugees and migrants.**

48. One year later, Greece failed to properly address, in the follow-up report, the related UN CAT concerns which led the latter to give Greece a double failing grade:

Human rights defenders and humanitarian workers and volunteers
(para. 49 (a) of the Committee's concluding observations)

The Committee also regrets that the information submitted by the State party in its follow-up replies does not address the specific concerns mentioned in its concluding observations, mainly regarding the alleged intimidation and harassment of human rights defenders and humanitarian workers and volunteers (1/D).

[Meaning of grades 1/D: The information is vague and incomplete and/or fails to address the recommendations (unsatisfactory - 1). The information provided is insufficient to assess implementation (the State party has not provided enough information on the measures taken to implement the recommendation - D)]

B8. Endemic problem of police misconduct and dismissal of allegations as “isolated incidents”

49. On 14 July 2021, **Amnesty International** published a report with the title [Greece: Freedom of assembly at risk and unlawful use of force in the era of COVID-19](#) and a press release with the title [Greece: Authorities abusing power to trample on right to protest](#). The first and last paragraph of the report’s executive summary aptly summarize the endemic problem of both police misconduct and authorities’ dismissal of allegations as “isolated incidents:” *“Endemic, longstanding problems of police misconduct in Greece continued to be reported during the pandemic, but have been compounded by other forms of state overreach and abuse of power that have been wrongly justified by the Greek authorities in the name of protecting public health. Flawed legislation and problematic practices have had a chilling effect on the rights to freedom of expression and of peaceful assembly... The organization also urges the Greek authorities to stop characterizing incidents of unlawful use of force as “isolated”, acknowledge the systemic nature of the phenomenon and send a strong message that such incidents will not be tolerated. They must also ensure the prompt, impartial, independent and effective investigation of all allegations of human rights violations by law enforcement officials documented in this report.”* In the press release, **AI** highlights its researcher’s statement: *“The Greek authorities used shocking tactics to try to scare women’s rights activists, trade unionists, members of political parties, lawyers and others who were participating or called for participation in peaceful protests in November and December 2020 after the country entered its second lockdown. Many were arbitrarily arrested, criminalized and handed unjustified fines in a blatant abuse of power by authorities.”* said **Kondylia Gogou, Greece Researcher at Amnesty International**. In the press release **AI** highlights with the following two telling examples of the sexist and abusive language and treatment of female protesters and of serious allegations of torture or other ill-treatment in police custody:

Maria highlighted the sexist and abusive language and treatment that female protesters were exposed to during an attack by the police during a student protest in Ioannina on 17 November 2020: “From the moment this whole attack started, many female (protesters) like me heard (words such as) ‘Get down little slut because this is where you belong and never get up again’ ...”.*

Aris Papazacharoudakis, a twenty-one year old protester said that he was tortured during his questioning by police in relation to clashes and injury of a police officer that took place during a demonstration against police violence on 9 March 2021: “...(T)hey asked me to talk about the place from where they took me (and) where my (political) collective was hosted..., and as long as I did not respond I was beaten up more...They were throwing me from my chair, they were lifting me from my handcuffs (and) I felt that my shoulders would dislocate... It (was) a process of non-stop beating....”.

50. **GHM** has filed a series of complaints to the **Athens Prosecutor of First Instance** (for criminal investigation) and the **Ombudsman** in its mandate as **Mechanism** (for disciplinary investigation) on allegation of serious police abuses amounting to torture or cruel, inhuman or degrading treatment or punishment. It was expressly stated that they were filed in the framework of **GHM**’s future submission to the **CM** for the *Makaratzis groups of cases*. The five most important ones whose investigation is supposedly still on-going more than one-and-a-half year later are:

[10/12/2019: Concurrent unlawful use of force by Hellenic Police: complaint to the Prosecutor's Office and to the Ombudsman](#)

Three cases of police violence, that constitute torture, ie the use of force for the purpose of punishing or intimidating the victims: two concern the stripping of an arrested protester and the brutal violence against a fallen protester; the third concerns the alleged undressing, humiliation

and illegal arrest and detention of the 20-year-old student by anti-riot police while waiting at a bus stop.

[17/12/2019: Concurrent unlawful use of force by Hellenic Police: second complaint to the Prosecutor's Office and to the Ombudsman](#)

Unprovoked extreme violence by an anti-riot police officer against a passing-by youth. Violent sequestration for a body search with stripping of a passing-by student. Unprovoked very violent sequestration of a minor by a police officer (which led to public protests by his school community).

[19/12/2019: Concurrent unlawful use of force by Hellenic Police: third complaint to the Prosecutor's Office and to the Ombudsman](#)

Use of extreme violence against a family in their home, because they were refusing that police uses their apartment so as to raid an adjacent squatted apartment, without any order from the Prosecutor.

[31/12/2019: Concurrent unlawful use of force by Hellenic Police: fourth complaint to the Prosecutor's Office and to the Ombudsman](#)

Abusive arrest and inhuman and degrading treatment by police of well-known leftist activist, that included a series of violent beatings and undressing with the threat or simulation of rape.

[08/01/2020: Concurrent unlawful use of force by Hellenic Police: fifth complaint to the Prosecutor's Office and to the Ombudsman](#)

Unlawful use of police force, along with sexual harassment, racist and sexist behavior, etc. against foreign women detained in the detention centers of the Directorate for Foreigners of Attica on Petrou Ralli Street, in parallel with unacceptable to inhumane conditions of detention.

The **Athens Prosecutor of First Instance** joined these five complaints in one case brief whose preliminary investigation is still listed as pending at a Prosecutor's office. As for the **Ombudsman**, he has refused to provide any information even when asked on 6 July 2021 to provide it so as to include it in the present communication. In that 6 July 2021 request, information was also asked for two more complaints to the **Ombudsman** with a request for disciplinary investigations. One was [18 & 19/3/2020 Illegal pushbacks, torture and an attempted rape by Greek authorities in Evros: complaint to the Ombudsman](#) and concerned the **HRW** report mentioned above. Another was [27/01/2020: Concurrent unlawful use of force by Hellenic Police: sixth complaint to the Prosecutor's Office and to the Ombudsman](#) and concerned an unprovoked attack by a police officer against an 11-year-old Rom: it is telling that the Prosecutor has referred the officer to trial for dangerous bodily harm with racist motivation, whereas the Ombudsman appears to have done nothing or refuses to inform us, the plaintiffs, about anything he may have done. Additionally, the Ombudsman has refused to inform **GHM** despite seven requests since 7 May 2021 about three complaints concerning pushbacks, two of which are co-signed by the victims themselves while the third one is a 21 April 2021 [Complaint to the Ombudsman calling for the investigation of 147 cases of illegal, violent, racist pushback or deportation of 7000+ foreigners in March-December 2020](#). On 20 July 2021, **GHM** filed an additional [Complaint to the Ombudsman calling for the investigation of 55 cases of illegal, violent, racist pushback or deportation of ca. 3000+ foreigners in January-May 2021](#). It is really telling that the **Ombudsman** is much less (in effect not at all) transparent than the **Prosecutors** who promptly provide information on developments related to complaints investigated by them. **It will be sad but unavoidable that at some point such denial by the Ombudsman to provide information in violation of the Constitution and the Code of Administrative Procedures may force GHM to file a related complaint to the Prosecutor...**

51. Police violence in demonstrations was also raised in the 2019 conclusions and recommendations on Greece by [UN CAT](#):

Excessive use of force

26. The Committee is concerned at reports of excessive use of force by law enforcement officers acting to disperse demonstrators during the period under review. These include beatings and shooting of tear-gas canisters directly at people during an anti-fascist protest in Keratsini, in 2013, as well as police violence and extensive use of tear gas against migrants and asylum seekers protesting about living conditions in the RICs – ‘hotspots’ of Moria (Lesbos) and Samos, in 2017 and 2018, respectively. Regarding the fatal shooting of 15-year-old Alexandros Grigoropoulos by the police in 2008, the Committee takes note of the information provided that the delegation that, while the criminal proceedings are still pending following an appeal, a settlement was reached on the compensation and effectively paid in 2017. It notes, however, that no specific information was provided by the State party regarding the execution of the judgement in *Makaratzis v. Greece* and other cases of torture or ill-treatment examined by the European Court of Human Rights. The Committee is also concerned at reports about the ill-treatment of persons in police custody, including for the purpose of obtaining confessions, at the Agios Panteleimonas Police Station in Athens and at Demokratias Police Station in Thessaloniki (arts. 11 and 16).

27. **The State party should:**

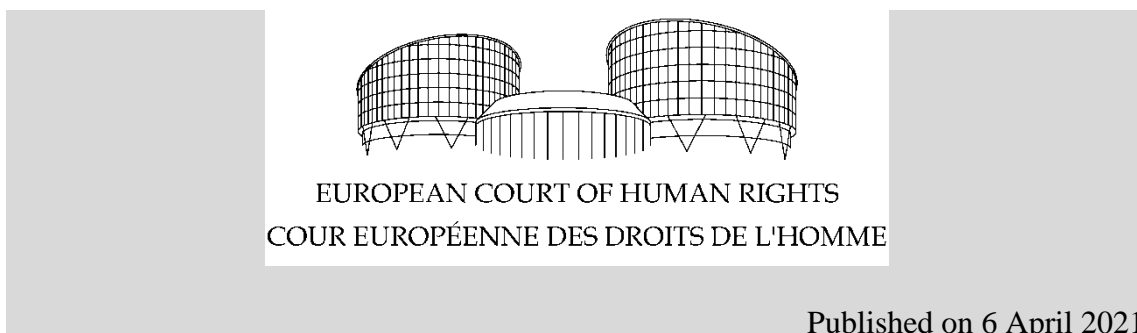
(a) **Review the crowd control procedures applied by the Hellenic Police in the context of demonstrations, including the use of tear gas, hand-held batons and shields, to ensure that they are not used indiscriminately and excessively or against peaceful protestors and that they do not result in an escalation of tension;**

(b) **Ensure that prompt, impartial and effective investigations are undertaken into all allegations relating to ill-treatment and the excessive use of force by law enforcement officers, in particular members of the Hellenic Police, and ensure that the perpetrators are prosecuted and the victims are adequately compensated;**

(c) **Increase the efforts to systematically provide training to all law enforcement officers on the use of force, especially in the context of demonstrations, taking into account the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.**

B9. The emblematic case of torture of Roma and ensuing impunity now before the ECtHR

52. On 18 March 2021 the **ECtHR** communicated to Greece the following application filed by **GHM**:



FIRST SECTION

Application no. 44758/20

[Athanasios PANAYOTOPOULOS and Others against Greece](#)

lodged on 30 September 2020

communicated on 18 March 2021

SUBJECT MATTER OF THE CASE

The applicants, three Greek nationals belonging to the Roma ethnic group, allege that they were subjected to acts of police brutality amounting to ill-treatment and/or torture during their arrest, transfer to and detention at the police station. They also complain that the competent authorities failed to carry out an adequate investigation into the incident and that the impugned events were motivated by racial prejudice.

QUESTIONS TO THE PARTIES

1. Were the applicants subjected to treatment contrary to Article 3 of the Convention as a result of the police officers' acts that took place during the applicants' arrest, transfer to and detention at the police station on 8 October 2016?

2. Given the applicants' Roma origin, did the treatment complained of demonstrate discrimination on the part of the State agents and was, in consequence, in violation of Article 14 taken in conjunction with Article 3 of the Convention?

3. Did the authorities conduct an effective and prompt investigation into the applicants' allegations, as required under the procedural head of Article 3 of the Convention? Have the authorities failed in their duty to investigate possible racist motives for the acts complained of, in violation of Article 14 taken in conjunction with Article 3 in its procedural aspect?

4. The respondent Government are requested to submit the documents relating to the administrative investigation.

53. As it is mentioned in the application, despite repeated requests for the forensic examination of the victims all the way up to government human rights officials, the state denied the victims such crucial evidence, obviously as it later emerged because it wanted to secure the impunity of the alleged perpetrators of police violence. Procedurally also, when the investigating judge closed the ridiculous one-month ceremonial criminal investigation in February 2019, in violation of the law he refused access to the complete file to the **GHM** lawyer representing the victims, giving him only the defense statements. The prosecutor to whom the file was then assigned in March 2019 also refused access to the file, again in violation of the law. Both requests were made so that an application to the **ECtHR** be filed already then, but the refusals made that impossible. The file was however assigned to a different Prosecutor. Seven months later, on 25 September 2019, she tabled a motion to the Indictment Chamber. In her description of the facts, she included unsubstantiated fake claims, with the most important one being that the disciplinary investigation had been completed by that time (whereas it is still on-going!) and made no reference to the hospitalization of the first applicant who had suffered a heart attack and serious injuries on his genitals. So, the police officers carried out their duties correctly. The injuries could have been provoked when the two cars crashed (!!! no one had made that claim) or when they jumped off the bridge (the fake story). The fake facts allowed her to conclude that not only there should not

be a referral to trial, but the three Roma should be fined 360 euros for having intentionally made false claims! On 20 December 2019 the Indictment Chamber agreed. As for the **Ombudsman, in its quality as National Mechanism for the Investigation of Arbitrary Incidents**, as late as 20 October 2020 (exactly four years after the alleged torture!), he informed **GHM** that the sworn administrative investigation (EDE) was not completed and hence access to the related file for the purpose of the application to the **ECtHR** was refused, including access to its own report dated 14 October 2020: given that he wrote therein that once concluded he will inform **GHM** and as no such information has been provided until mid-July 2021 (almost 5 years after the facts), it can be concluded that the EDE is still going on! The **Committee of Ministers** is requested to note that the Roma and their representative **GHM** had not been involved at all in the disciplinary investigation (and were intentionally denied access to its documents as said above, as there is an intention even by the **Ombudsman** not to involve the victims in its investigation) and all the information provided here became available to them when they received copies of the criminal case file in early 2020.

54. **GHM** calls this case emblematic because before reaching the **ECtHR** it was discussed with Greece by the **UN Human Rights Committee**, by the **UN Committee against Torture** and by the **Council of Europe Commissioner for Human Rights** which however apparently incited Greece rather than seriously, promptly and effectively investigating the well-documented allegations, punish with heavy fines the (poor) victims because, when called to testify in the framework of a complaint filed not by them but by **GHM**, they repeated again what they had said from the very beginning and were treated as liars! The relevant excerpts follow (Greece did not reply to **UN CAT**).

UN Human Rights Committee

124th session

8 October–2 November 2018

**Report on follow-up to the concluding observations
of the Human Rights Committee**

(...) Greek Helsinki Monitor describes the cases of three Roma, Thanasis Panayotopoulos, Yannis Bekos and Vasilis Loukas (one of whom was hospitalized as a result), who claim to have been the victims of torture by police officers. While several complaints submitted through the mechanisms in place were left unanswered, the individuals refused to testify in an internal investigation by local police that was subordinated to the division that they claim tortured them. (...)

[C]: The Committee regrets the lack of information on concrete measures taken after the adoption of the Committee's concluding observations to ensure that all allegations of unauthorized and disproportionate use of force by law enforcement officials are thoroughly and promptly investigated by an independent authority. It therefore requires information on:

(a) the measures taken to punish, as well as the sentences imposed on, law enforcement officials for misconduct, ill-treatment or disproportionate use of force, after the adoption of the Committee's concluding observations; (b) the progress of investigations made into the cases of Thanasis Panayotopoulos, Yannis Bekos, Vasilis Loukas and similar ones; (...) The Committee reiterates its recommendation.

[GHM note: the grade "C" **UN HRCttee** gave to Greece on that means "peply/action not satisfactory: a response has been received, but action taken or information provided by

the State party is not relevant or does not implement the recommendation.”]



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Ref: CommHR/NM/sf 020-2017

Mr Stavros KONTONIS
Minister of Justice, Transparency
and Human Rights of Greece

Mr Nikolaos TOSKAS
Alternate Minister of Interior
and Administrative Reconstruction of Greece

Strasbourg, 18 April 2017

“In addition, I received information about the alleged severe beating, amounting to torture, of three Greek nationals of Roma origin who claimed that in October 2016 they were subjected to the above treatment by officers of the Western Attica Police Division, in the course of an interrogation. Reportedly one of the victims was transferred to hospital having suffered a heart attack and serious injuries on his genitals. I understand that a complaint has been lodged with the Athens Special Prosecutor on Racist Violence.”

Response:



HELLENIC REPUBLIC
MINISTRY OF INTERIOR
THE ALTERNATE MINISTER

Athens, 15 May, 2017
Ref.: 8304-A

For the two (2) cases of alleged ill-treatment of aliens by police officers on the island of Samos in February and March 2017, as well as for the complaint lodged by the Greek Helsinki Monitor concerning ill-treatment to three (3) Greek nationals of Roma origin in October 2016, two (2) separate Preliminary Administrative Inquiries have been ordered and are still ongoing, in order to find out whether offences were committed by the police officers involved and, if so, to take relevant disciplinary action against them.

[Source](#)

UN Committee against Torture Sixty-seventh session

[Summary record of the 1764th meeting*](#)

Held at the Palais des Nations, Geneva, on Thursday, 25 July 2019, at 3 p.m.
Chair: Mr. Modvig

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Seventh periodic report of Greece (continued)

“50. **Mr. Hani** said he would appreciate information on the criteria used to calculate the capacity of the tents used at reception centres, bearing in mind reports that tents designed to hold 12 persons were sometimes shared by as many as 100. He also wished to know whether any investigations had been carried out into the excessive use of mechanical restraints in psychiatric institutions. He would be grateful for further information on the frequent and widespread use of ill-treatment by police to obtain confessions; in that regard he wished to know why the case concerning alleged ill-treatment in 2016 of three young Roma – Thanasis Panayotopoulos, Yannis Bekos and Vasilis Loukas – had reportedly been closed, despite the fact that the matter had been raised by the Council of Europe Commissioner for Human Rights in a letter of concern to the Greek Government on 18 April 2017.”

Recommendations to Greece that the Committee of Ministers is requested to make:

55. **As recommended by UN CAT, the offence of torture and other forms of ill-treatment should not be subjected to any statute of limitations, in order to preclude any risk of impunity in relation to the investigation of acts of torture and the prosecution and punishment of perpetrators. Moreover, the maximum penalty for the basic offence of torture –without aggravating circumstances– should be raised back to the maximum possible length of 15 years of imprisonment.**
56. **Greece should adopt the recommendations by the Ombudsman for the amendment of legislative provisions to secure that they will not prevent the adequate punishment of perpetrators of torture or ill-treatment and they will not hamper the efficiency of administrative investigations, including the imposition of financial consequences for those who have been dismissed from the service and are no longer subject to disciplinary proceedings, following a judgment of the Court finding violations of Article 2 and 3 of the Convention. Greece should also adopt the recommendations of the “Alivizatos Committee.”**
57. **Greek authorities should comply with CPT’s recommendation to act to prevent any form of pushbacks taking place across the Evros River border or the Aegean Sea by law enforcement officials and military personnel. All foreign nationals arriving at the border or present in the territory of Greece who wish to request international protection should be effectively protected against the risk of refoulement, including possible chain refoulement. In particular, they should have effective access to an asylum procedure which involves an individual assessment of the risk of ill-treatment, on the basis of an objective and independent analysis of the human rights situation in the countries concerned. To this end, clear instructions should be given to Greek police, Greek coast guard and border guards to ensure that irregular migrants who are entering Greek territory are not pushed back, are individually identified and registered, and placed in a position to effectively make use of the legal remedies against their forced return.**
58. **Allegations of unlawful deportations from Evros or the islands or pushbacks at sea should be the object of thorough and transparent investigations by the Greek authorities as Commissioner Johansson recommended and Greece should be warned by the Committee of Ministers as well that a sustained failure to do that will lead to infringement proceedings.**

The Greek NCHR's recommendation to establish an official independent mechanism to monitor and investigate such actions should be adopted and GHM adds that the Prosecutor of the Supreme Court should appoint a Deputy Prosecutor of the Supreme Court in charge of all such investigations in coordination with local Prosecutors and the NCHR proposed independent mechanism.

59. **The continuing excessive use of violence by law enforcement agencies also outside the border areas coupled with a very widespread impunity makes it necessary that the aforementioned recommended structure headed by a Deputy Prosecutor of the Supreme Court should also include in its mandate such investigations.**
60. **Greece should promptly stop the crackdown on civil society actors and put an end to the ongoing criminalization of NGOs and volunteers working in the country in the field of humanitarian assistance to migrants and asylum-seekers by dropping all charges, and guarantee in all circumstances that they are able to carry out their legitimate human rights and humanitarian activities without fear of reprisals.**
61. **All that is necessary if the Prime Minister meant what Greece reported to the CM on 25 June 2021. *“He stated that while police brutality and violence is a worldwide problem, what distinguished Greece from other countries was the existence of an informal code of silence (“omerta”) among police officers which led to ineffective investigation of such incidents and to lack of accountability of police officers and other law enforcement personnel. Establishing independent bodies, such as the Ombudsman, empowered to review incidents of abuse of the law by law-enforcement agencies and strengthening them demonstrates the Government’s willingness to ensure the effective investigation of all cases and to enforce the law against everyone, including law enforcement officers. It also demonstrates the State’s determination to address the cause of arbitrary use of violence, not just the symptoms, as well as the State’s strong commitment to setting the stage for a change of culture among law enforcement personnel.”* Greece is therefore called to demonstrate that State’s determination, in the words of its Prime Minister, by implemented all the recommendations made above, most by the independent bodies the Prime Minister praised.**