

Executive Secretary
Monitoring mechanism of the Council of Europe convention on preventing and combating
violence against women and domestic violence;
Directorate of Human Dignity, Equality and Sport Values;
Directorate General of Democracy;
Council of Europe

Samos, 7th of March 2023

**Subject: GREVIO evaluation report on the implementation of the Council of Europe
convention on preventing and combating violence against women and domestic violence.**

Dear Madam/Sir,

Under Rule 35 of the Rules of Procedure of the Group of Experts on Action Against Violence
Against Women and Domestic Violence (GREVIO) we submit the attached communication as
follow up to the GREVIO visit to Greece.

The communication is in three parts, Part I is the material analysis and conclusions, Part II is
testimonial data, Part III are the Serious Incident Reports released by Frontex.

With the utmost respect,

On behalf of the NGOs:

I Have Rights

The Human Rights Legal Project



Part I: Material Analysis and Conclusions

INTRODUCTION: THE SUBMITTING ORGANISATIONS

1. The present submission is made as a follow-up to GREVIO's visit to Greece by two NGOs defending migrants' and asylum seekers' rights, the Human Rights Legal Project and I Have Rights.¹
2. The Human Rights Legal Project (HRLP) is an organisation providing legal aid. It deals with human rights violations and the criminalisation of people on the move. It maintains an open caseload of more than 130 cases which include, but are not limited to, police/state violence, collective expulsion, forced/informal returns, denial of access to healthcare and arbitrary detention. In 2022 the HRLP helped more than 1,000 people.
3. I Have Rights (IHR) is a non-profit refugee law clinic. It provides free legal information to asylum seekers, to guide them through the asylum process, ensure they understand their rights and support them in preparing their asylum claim. It also engages in advocacy and strategic litigation.
4. Both organisations are based on Samos, a Greek island two kilometres off the coast of Turkey, which is one of the five designated 'hotspot' zones in Greece - as per the EU Agenda on Migration of 2015 (the hotspot approach having been developed for Member States facing "specific and disproportionate migratory pressure").² This translates in practice into fast-track border asylum-determination procedures and *de facto* detention in the Closed Controlled Access Centre (C.C.A.C.).³ It also translates into informal forced returns (pushbacks).⁴ Samos is particularly interesting in this respect. From March 2020

¹ The Legal Coordinator of IHR met with the GREVIO delegation at the Wyndham Grand Hotel in Athens on 23.2.23.

² State Watch. 2015. Explanatory Note on the Hotspots approach. Available at:

<https://www.statewatch.org/media/documents/news/2015/jul/eu-com-hotspots.pdf>.

³ I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The de facto Detention of Asylum Seekers on Samos. Available at: <https://ihaverights.eu/de-facto-detention-in-the-ccac/>.

⁴ Council of Europe. 2022. Recommendation: Pushed Beyond the Limits. Urgent Action Needed to Stop Pushbacks at Europe's Borders. Available at:

<https://www.coe.int/en/web/commissioner/-/pushed-beyond-the-limits-urgent-action-%20needed-to-stop-push-back-at-europe-s-borders>; OLAF. 2022. FINAL REPORT Case No OC/2021/0451/A1 Available at:

https://cdn.prod.www.spiegel.de/media/00847a5e-8604-45dc-a0fe-37d920056673/Directorate_A_redacted-2.pdf; Recording Mechanism of Informal Forced Returns. 2023. Interim Report. Available at:

https://www.nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/2023/Interim_Report_mechanism_en.pdf; UNHCR. 2021. UNHCR warns asylum under attack at Europe's Borders, urges end to pushbacks and violence against refugees. Available at:

<https://www.unhcr.org/news/press/2021/1/601121344/unhcr-warns-asylum-under-attack-europes-borders-urges-end-pushbacks-violence.html>; IOM. 2022. IOM Concerned about Increasing Deaths on

Greece-Turkey Border. Available at:

<https://www.iom.int/news/iom-concerned-about-increasing-deaths-greece-turkey-border#:~:text=18%20February%202022-,IOM%20Concerned%20about%20Increasing%20Deaths%20on%20Greece%20DTurkey%20Border,border%20between%20Greece%20and%20Turkey>; OHCHR. 2021. Report on means to address the human rights impact of pushbacks of migrants on land and at sea. Available at:

<https://www.ohchr.org/en/special-procedures/sr-migrants/report-means-address-human-rights-impact-pushbacks-migrants-land-and-sea>; Dunja Mijatović. 2021. Letter to Mr Michalis Chrysochoidis, Mr Notis Mitarachi and Mr Ioannis Plakiotakis. Available at:

<https://rm.coe.int/letter-to-mr-michalis-chrysochoidis-minister-for-citizens-protection-o/1680a256ad>.

to March 2022, “(t)he Greek authorities carried out 1,018 deportations in the Aegean Sea, with at least 27,464 asylum seekers as victims [...] The majority of ... pushbacks ... to Turkey are recorded in the wider Lesvos region, where 386 incidents are attributed. Samos follows with 194”.⁵

5. The HRLP and IHR follow with interest the work of the monitoring mechanisms of the Council of Europe (CoE). They have already engaged with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Drawing on their unique experience on the ground, they have also made a Rule 9(2) submission to the CoE Committee of Ministers on the implementation of the Safi and Others judgement of the European Court of Human Rights (ECtHR).

THE ALLEGATIONS SUBMITTED AND THE SOURCES USED

6. The HRLP and IHR have studied with interest the first report Greece has submitted to GREVIO and look forward to GREVIO’s findings on the country’s compliance with the Istanbul Convention. Without wishing to comment extensively on the section dealing with migration and asylum (section VII), the HRLP and IHR would like to share with GREVIO their experience on some issues related to the application of the Istanbul Convention that have received scant attention in the Greek authorities’ report. These are: gender-based violence during pushbacks (pushbacks being a practice that keeps attracting nowadays a lot of criticism by the most authoritative sources);⁶ the conditions of detention of women in the C.C.A.C.; the rights of victims of sex trafficking, most of whom are women; and the possibilities that migrant victims of gender-based violence realistically have of raising their complaints with the competent domestic authorities.
7. The submitting organisations’ objective is to provide GREVIO with relevant information concerning concrete incidents involving violations of the Istanbul Convention affecting migrants. The information in question is presented either in the form of testimonies in Part II or in the body of this submission.
8. The testimonies in Part II have been collected by the HRLP from either the victims of human rights violations themselves or persons who have witnessed relevant incidents. The primary aim of this exercise was to present these testimonies to GREVIO; in some instances, criminal complaints have been also lodged in this connection with the competent national authorities. The information contained in the body of the submission is either based on IHR’s direct experience with migrant victims of violations of the Istanbul Convention or derived from Frontex documents regarding Serious Incident

⁵ We Are Solomon. 2022. Dark Waters of the Aegean: 1,018 illegal pushbacks. Available at: [https://forensic-architecture.org/investigation/drift-backs-in-the-aegean-sea#:~:text=Mapping%20drift%20Dbacks&text=Sixteen%20deep%20'drift%20Dbacks',off%20the%20island%20of%20Samothraki.](https://wearesolomon.com/mag/on-the-move/dark-waters-of-the-aegean-1018-illegal-pushbacks-carried-out-by-the-greek-state/#:~:text=Our%20News-,Dark%20Waters%20of%20the%20Aegean%3A%201%20C018%20illegal%20pushbacks%20carried%20out,resulted%20in%20injuries%20and%20drowning%20;,%20Drift-backs%20in%20the%20Aegean%20Sea,%20Forensic%20Architecture. Accessed at: <a href=)

⁶ Supra note 4.

Reports (SIRs) in the Aegean.⁷ The latter, which also appear in Part III, have been received by IHR as part of a number of Freedom of Information requests [FOI].⁸

VIOLETIONS DURING PUSHBACKS

9. The first issue the submitting organisations wish to bring to GREVIO's attention are **violations of the Istanbul Convention during pushbacks**. These take various forms, including **endangering the lives of pregnant women**. GREVIO's attention is drawn in this connection to HRLP's testimonies A, B, F and G. Also, one of IHR's beneficiaries was eight months pregnant when she was pushed back. Shortly afterwards, she gave birth prematurely and her newborn child nearly died.
10. Other – numerous – incidents involve violations of the Istanbul Convention resulting from **body searches of women** during pushbacks. There are several allegations of women having been obliged to strip naked in front of men (HRLP's testimonies A, B, C, D, E and G); also allegations of men conducting body searches on women (HRLP's testimonies B, C, D and G). Many of the incidents in question involved unnecessary intimate searches of women (HRLP's testimonies A, B, E and G), often by male officers (Testimonies B, E, and G) occasionally in an unhygienic manner (Testimony A). The cases reported to the HRLP are similar to one brought to the attention of IHR (its beneficiaries having reported anal and vaginal checks having been conducted on all women in the arrival group; the same pair of gloves was reportedly used to check every person). In some cases, the threat of lethal force was used to effect the search (Testimony E).
11. The HRLP and IHR wish to recall that obliging migrants/asylum seekers to strip naked in front of persons of another gender amounts *per se* to a human rights violation.⁹ The same holds true in respect of body searches carried out by persons of another gender. The HRLP and IHR respectfully submit that, when the victims of such an abuse are women, this should – by definition – be of concern to GREVIO.
12. The HRLP and IHR also recall that unnecessary intimate searches are against Greek law. Such searches also raise serious questions under Article 3 ECHR.¹⁰ Conducting them in an unhygienic manner (the testimonies refer to the same glove being used for several intimate searches) should be seen as a distinct human rights violation. Fingers being inserted – without any justification – into women's vaginas amounts, in the HRLP's and IHR's respectful submission, to gender-based violence *per se*.

⁷ SIRs are part of Frontex's internal reporting mechanism and are processed by the office of the Fundamental Rights Officer.

⁸ So far, FOI requests have been limited to the Samos area, or are from before 2021 and less relevant. This may be an explanation why the official reports regarding women are few in number. In the experience of the submitting organisations, this is in all likelihood a much more significant problem. To date, the HRLP and IHR have several outstanding FOI requests via which they expect to develop further their evidence base surrounding violence at the EU's border.

⁹ ECtHR, *Valasinas v. Lithuania* judgement, para. 117.

¹⁰ See, in general, ECtHR judgments in *van der Ven v. the Netherlands*, *Lorse and Others v. the Netherlands*, *Iwanczuk v. Poland* and *Valasinas v. Lithuania*.

13. Last but not least, **women are often beaten** during pushbacks.¹¹ This raises, in the submitting organisations' view, an issue under the Istanbul Convention even when the ill-treatment of migrants is generalised, affecting people of all genders. Thus, although ill-treatment by law-enforcement personnel is undoubtedly a human-rights violation in itself, the violation in question acquires a different dimension when the victim is a woman. The HRLP and IHR wish to recall in this regard that, according to the case law of the ECtHR, the gender of the person should be taken into account when assessing the level of severity of the treatment under Article 3 ECHR.¹² Kicking a pregnant woman in the belly (which is what allegedly happened in the pushback reported to IHR in paragraph 9) amounts to a particularly serious incident. Moreover, in the case detailed in HRLP's testimony E, the physical suffering experienced by the migrant woman who had been subjected to beatings must have been aggravated by the mental anguish she must have felt because of the mishandling of her baby.¹³
14. In the experience of the submitting organisations, the events detailed in the preceding paragraphs are not isolated. The HRLP and IHR often meet with persons who report having undergone serious human rights violations in the Aegean in recent times. As a matter of fact, at the time of writing, 23% of IHR's beneficiaries had reported being subject to at least one pushback from Greece. These often involve dangerous towing of boats, severe beatings and strip searches. The SIRs, in addition to the testimonies the HRLP has collected, provide clear evidence of the violations taking place in the Aegean and more specifically on Samos. This is further corroborated by MSF, which provided medical treatment to more than 570 people on Samos in 2022; many of their patients "ha(d) been subjected to or witnessed physical violence or inhuman or degrading treatment, including beatings, strip searches, forced genital examinations, theft of possessions and being left adrift in motorless dinghies at sea".¹⁴

CONDITIONS OF DETENTION

15. The second issue the submitting organisations wish to draw GREVIO's attention to concerns the conditions of detention in the C.C.A.C. quarantine zones. As a matter of fact, until November 2022, women (and children) were detained in these zones of the C.C.A.C. alongside men, in violation of multiple safeguards enshrined in European law.

THE RIGHTS OF VICTIMS OF SEX TRAFFICKING

16. The submitting organisations' third issue concerns the rights of victims of sex trafficking. 12% of IHR's beneficiaries are survivors of human trafficking. 95% of these persons are women who were trafficked to Iran and Turkey from Cameroon, Guinea and Sierra Leone, mostly for forced prostitution. A large percentage of these women arrive in

¹¹ IHR has, for example, referred to the Racist Violence Recording Network a female beneficiary who arrived in their office with a black eye. She testified that she had been beaten in the forest of Samos reportedly by the Hellenic Coast Guard, perhaps in a failed pushback attempt.

¹² ECtHR's judgement *Ireland v. United Kingdom*, para. 162.

¹³ In one of the recently released Frontex SIRs, 12584/2022 (See Part III), a person reports that his wife was robbed whilst holding his (*sic*) child.

¹⁴ MSF. 2022. Greece: MSF teams provide emergency aid to 570 people arriving on Samos island. Available at:

<https://msf.org.uk/article/greece-msf-teams-provide-emergency-aid-570-people-arriving-samos-island>.

Greece pregnant, having been raped during their forced prostitution. There are also high rates of sexually transmitted diseases and/or injuries sustained from sexual violence.

17. Recognising their special vulnerability has recently become very difficult. For almost a year, there is no state doctor permanently present in the C.C.A.C. on Samos. As a result, for the past few months vulnerability assessments are conducted by a volunteer doctor from the Samos hospital who visits the site for one or two afternoons a week. It is the doctor in question who must refer a patient to the camp psychologist for a psycho-social evaluation (an essential step for certification as a survivor of trafficking). The quality of the assessments made recently in the C.C.A.C. has been repeatedly questioned, with women reporting to IHR that their time with the doctor felt expedited and “like a tick boxing exercise”. This is not surprising as the volunteer doctor is obliged to work through a large backlog of vulnerability assessments during very short periods of time.
18. In addition, as the IHR has documented, during the ‘police interview’¹⁵ held by Frontex people are not asked whether they were trafficked. This question is not asked during the ‘registration interview’ either. During the ‘substantive asylum interview’ women often refer to their trafficking experience but are rarely asked follow-up questions by the caseworker. And, to cap it all, the asylum decision issued by the Greek Asylum Service hardly ever address the issue of whether being a survivor of human trafficking may give rise to a well-founded fear of persecution. As clearly shown by IHR’s client data, survivors of trafficking are never identified and are not referred to the National Referral Mechanism (NRM). In fact, no IHR beneficiary has been officially recognised by the NRM as a survivor of trafficking. Moreover, the NRM does not recognise child and forced marriage as a form of trafficking.
19. The latter is clearly mostly a women’s issue. And so are all the other issues identified above in the rights of victims of sex trafficking part of the submission. IHR and the HRLP respectfully consider that they raise questions under the Istanbul Convention that are worthy of GREVIO’s attention.

POSSIBILITIES OF RAISING COMPLAINTS

20. The submitting organisations’ fourth issue concerns the possibilities that migrant victims of Istanbul Convention violations realistically have of raising their complaints with the competent domestic authorities.
21. At the time of writing, both women and men are automatically *de facto* detained upon their arrival in Greece and for up to 25 days in the CCAC.¹⁶ IHR beneficiaries often report that they are not able to distinguish between the security forces present there and those responsible for the pushbacks. As a result of this and the general environment of the

¹⁵ This mostly concerns migration routes.

¹⁶ I Have Rights. 2023. The EU-Funded Closed Controlled Access Centre – The De facto Detention of Asylum Seekers on Samos. Available at: https://ihaverights.eu/de_facto_detention_in_the_ccac/. The European Commission has started infringement proceedings against Greece in this regard.

structure, they do not feel safe to speak out about the human rights abuses they have fallen prey to.

22. Generally speaking, victims of violations of the Istanbul Convention are well aware of difficulties experienced by those seeking to obtain redress in Greece in respect of human rights abuses at the border.
23. The difficulties are illustrated by the fate of four lawsuits the HRLP has filed with the Samos prosecutor concerning incidents of *refoulement* and related illegal acts and omissions by the Greek authorities. The first lawsuit that concerns such a *refoulement* in April 2021 was filed in September 2021 and is still with the Samos investigating judge. The remaining three complaints were duly referred to the prosecutor of the naval court-martial in Piraeus (which is the Athens port). Two of them, filed in 2021, are still with the prosecutor in question who has not yet ordered a preliminary examination. In the fourth lawsuit, filed in May 2022, the same prosecutor issued an order for a preliminary examination. Since this was to be conducted by Internal Affairs, the victims had to testify about the alleged misconduct of coast guards on the premises of the port authority. By December 2022 all witnesses had been heard. As of March 2023, HRLP is still waiting for the follow up. The six-month period set in the Code of Criminal Procedure (CCP) has been exceeded in all the above proceedings, which have been brought by persons on the move, who are often eager to leave the country. This, together with the nature of the abuse they have suffered (which they wish to overcome and restart their lives), deters them from seeking redress in Greece.
24. IHR is also aware that its beneficiaries avoid reporting violence to the police. This is linked to fear about the fate of their asylum claims and reprisals. There is also widespread belief that their complaints will not be adequately engaged with. To illustrate the above further, IHR would refer to the latest complaints it submitted, together with the HRLP, to the CPT and the Greek Ombudsman, on behalf of eight male asylum seekers. These concern allegations of police violence in the C.C.A.C. (especially the quarantine zone) and involve forced stripping and beating, beatings in the dark, kicks, punches, slaps, stampings, several officers beating one person together or in quick succession, insults and taunting of/laughing at people who were being beaten. The people IHR was in contact with did not want to complain to the police due to fear of reprisal. The persistent failure of the C.C.A.C. Director to take any action was reported in the press.¹⁷ It was only then that the Samos prosecutor was seized of the matter.
25. All the above make the HRLP and IHR believe that the Greek authorities will not be prepared to comment in detail on the incidents described in this submission. However, the HRLP and IHR consider that the concrete information they have provided will give GREVIO useful leads that may assist it in engaging meaningfully with the Greek authorities during the examination of their report with a view to elucidating the truth.

¹⁷ The Press Project. 2023. Άγρια κακοποίηση προσφύγων στο ΚΕΔ Σάμου από αστυνομικούς – «Ξεκινάμε άμεσα ΕΔΕ», η απάντηση της ΕΛ.ΑΣ στο ΤΡΡ. Available at: <https://thepressproject.gr/agria-kakopoiisi-prosfygon-sto-ke-d-samou-apo-astynomikous-xekiname-ame-sa-ed-e-i-apantisi-tis-el-as-sto-tp-p/>.

CONCLUSIONS

26. The HRLP and IHR wish, in general, to pay tribute to GREVIO's ground-breaking work. It is our firm belief that the mechanism's constructive dialogue with the Greek authorities is capable of bringing about radical change, which is absolutely necessary to make sure that Greece's borders are policed in full compliance with the country's human rights engagements, including the ones under the Istanbul Convention. Pushbacks are unlawful per se. When they are accompanied by gender-based violence they amount to a breach of Article 3 ECHR.
27. The HRLP and IHR are aware that other NGOs have already made submissions concerning pushbacks and their gender-based dimension. They hope that the issue and the other Istanbul Convention violations detailed above will be taken up in GREVIO's report on Greece. Naturally, the HRLP and IHR remain at GREVIO's disposal should GREVIO consider that they can be of further assistance during the examination of Greece's report.

Part II: TESTIMONIES

The following testimonies were directly gathered by HRLP. In some cases, they are only being used as part of the GREVIO report. In others, HRLP is representing the victim and filing lawsuits.

A. L.M. - October 2022 Samos

L.M. is a woman asylum seeker, currently residing in the Closed Controlled Access Centre (C.C.A.C.)

“I arrived in Samos camp on December 27th, 2022. However, it was not the first time I tried to seek asylum in Greece. In October 2022, I was on the dinghy and we were a few meters away from the shoreline when our boat was stopped by Greek police officers who were on a small boat. They told us to stop and made us stop the engine, they took the engine off of our boat and threw it in the water. They took the gas. Then they counted us, we were 38 people. They took ropes and attached them to the dinghy. They made a phone call and then three people came in a small speed boat. They attached the dinghy to the small speed boat and then they drove away, tracking us. We saw the lights get smaller.

The small speed boat took us to a big boat. We were forced to climb on the big boat hanging on the ropes. All the people who were on the dinghy with me were on the big boat. On the big boat, there were coast guards, there were more than 7 people, they were wearing hoods. **We were all forced to strip naked. We were all completely naked because we were even forced to remove our underwear. There were at least three babies, the coast guards even searched the babies’ diapers. We were all searched together at the same time. We were all naked in front of each other. The coast guards were beating up people who were not obeying fast enough. Women were searched by women. They searched in our vaginas. The women were wearing gloves but they didn’t change the gloves in between the searches. When I was searched, the woman inserted a finger in my vagina, she turned her finger, felt that there was nothing and then removed her finger. There were pregnant women amongst us. They were also stripped naked and searched.** The men were stripped and searched. For them, the men searching them inserted their fingers in their anus.”

B. D.M. - February 2022 Lesvos

D.M. is a woman asylum seeker, currently residing in the C.C.A.C with her husband and their baby daughter.

Note: D.M. was about seven months pregnant when the events detailed hereinafter took place.

“I reached the island of Ikaria on December 28, 2022, and was later taken to the refugee camp of Samos. Before that, my husband and I had landed on the island of Lesvos in February 2022. At that time, I was seven-months pregnant. We arrived on a Friday but I can’t remember the exact date. We were hiding in the bush, we knew that we couldn’t call for help because the organizations would not be working on the weekend. Our group had split, I was with my husband and 11 people. We were 5 women in total and I was the only one pregnant. The other group was composed of 11 people but we know that they were caught by the Greek police and

pushed back to Turkey on Friday. On Monday, around 5 in the morning, we reached a town. I don't know the name of the town but I would be able to recognize it if I was there again.

We were arrested by men wearing hoods and civilian clothes. They had weapons. They came with a car that my husband described as a green Toyota Rav 4. They took us to the bush where they stripped us all naked, in front of each other. That's when they started searching us. We were all naked and they put their fingers inside of us. In the vagina for women and in the anus for men. They were looking for money.

After they took everything we had, they kept most of our clothes, we were left in underwear. They put us on a dinghy, with a fish net, and we were left adrift in the sea."

C. M.G. - December 2022 Samos

M.G. is a woman asylum seeker. She is currently residing in the C.C.A.C.

The doctors M.G. refers to are the doctors of Doctors without Borders (MSF). They provide medical and humanitarian assistance to asylum seekers between the moment they arrive on the island and the moment they are taken to the camp and registered as asylum seekers.

"I came on the 21 of December 2022 in Samos, I was with a group of 45 people. The boat had entered Samos at 4 in the morning. Everyone climbed the hill but I couldn't climb because of my health so I was left alone in the bush. I was alone in the bush crying for about 5 hours. At this point, I was found by two coast guards. I know that they were Greek coast guards because of their uniforms. There were two, they pointed guns at me, I was begging for mercy and for them not to kill me. They forced me to walk with them outside the bush and onto a road. They patted me briefly to see if I was hiding something. It was not a thorough search. They made me sit by a dirt road while they started looking for the rest of the group. They asked me questions about the other people. I explained that we were 45 but that I couldn't follow the others when they went up the hill so I didn't know where they were. Two of the coast guards were looking around for other people. I was sitting there for about 45 minutes. Two other coast guards came out from the bush so then I was with four coast guards, all men.

Then they took me to where their car was parked. We walked a long distance to this car park. There were other men wearing uniforms in the car park. It was the same uniform as the four coast guards, dark blue. I was so cold, I was shivering. I told them that I was not well. They put me in the boot of the car, they closed it, I was there for at least 30 minutes, shivering from the cold as all my clothes were damp. They started interrogating me again. They had covered the car with a cloth so no one would see that I was in the boot. Then a new man came. He is bald, he was wearing the same deep blue uniform. He was not in the bush previously, we met him in the car park. **He came and shouted to force me to come out of the boot, he was shouting "stand" and then "take off your clothes". I was forced to take my clothes off, I only had my underwear left.**

The man searched me in front of all the other men. He was wearing plastic gloves. He put his hands on my breasts, took them out of my clothes to look for money. He put his hand

in my underwear where I had hid my phone and some money. He put his hands on my genitals. He took my phone, it was a black Samsung phone. He also took the money, I had a 20 euros bill that he took and 800 Turkish lira that he threw away. He also put his hands on my bottom, and along my 'crevice' [sic]. When he finished he started shouting to tell me to go back to the bush and find the doctors. From what I understood, at that point the rest of my group was found by the Doctors [Doctors without borders (MSF)] and they were being taken care of.

They left and I was by myself in the car park, I was alone and terrified. I started walking around, knocking on doors but no one opened the door to me. I walked for a long time, I was trying to stop cars to ask someone to take me to camp but no one stopped. After some time, a car finally stopped. Inside there was a man and a woman. The man talked to me and I told him that I needed help to get to the camp. He called the Doctors of Doctors without borders (MSF) so that they could pick me up and bring me to the camp. At this point, I told him what had happened with the coast guards and that they had stolen 20 euros from me.”

D. S.M. - 23rd January 2023 Samos

S.M is a woman asylum seeker. She is currently residing in the C.C.A.C.

This woman is represented by HRLP in a lawsuit filed against the Hellenic Coast Guard and police for the pushback and extreme violence she has experienced. She is 33 years old. HRLP has evidence of her presence in Samos and of her rescue by the Turkish Coast Guard.

“I arrived for the first time in Samos on January 23rd, 2023. We were a group of 10 people, including three women. We were hiding in the bush, waiting to be taken to the camp, when the Greek police came. They had two cars and they were 6, including one woman. They were wearing green military pants, black shirts and their faces were covered with balaclavas. **They hit us, tore our clothes, took our money and our phones.** I still have the coat that they cut. They stole my shoes. **When I requested my phone, they beat me harder. When I tried to talk to other people, they beat me harder as well. They handcuffed the 10 of us with cable ties.**

After a little while, they drove us to a house nearby. This house was on the seafront. I noticed that there were other cable ties on the floor. There were three rooms inside. In this house, they started searching us more thoroughly. The first time we were only patted. **They forced us to take off our clothes. Anytime they found a phone on someone, they would beat that person up more. Then they took us to one of the three rooms. One of the other women was stripped entirely naked and severely beaten up by police officers after they found her phone. They undressed cloth by cloth, in front of the entire group, until she was lying naked on the ground.**

Personally, they forcibly opened my coat and then beat me up. The men were also searched. They were all stripped naked at some point. All the searches were undertaken by male officers. The woman was around but she was not doing the searches herself.

When we were in the house, there were a lot of police officers coming and going, not only the 6 that found us when we were hiding. After about three hours spent in that house, the ten of us were taken to a boat. It was a boat of the Hellenic Coast Guard. On the boat we were searched

again. We were forced to sit down and bend our heads down. We were not allowed to look up. One man did and he was hit by the coast guards. At some point, we were put in an inflatable life raft. They pushed each one of us on this raft, they didn't let us go in a safe way. They did it in a very violent manner. When I was on the raft, they threw a man who landed on me and up to this day I have pain in my shoulder.

The Hellenic Coast Guard left us adrift on the raft with no life jackets and no phones. We were rescued by the Turkish Coast Guard."

E. G.B.A.K. - Pushed back from Samos on 31st December 2021

G.B.A.K. is an asylum seeking man. He is currently residing in the C.C.A.C.

He was a victim of several pushbacks. The events detailed hereinafter took place during the second pushback, on 31st of December 2021. His testimony evidences the gendered dimension of the genital searches carried on by the Hellenic Coast Guards on women, as men do not undergo such searches. However, as evidenced by some other testimonies, many men underwent anal searches. Such searches were not conducted on women.

"We landed on Samos on the 31st of December 2021, near Monasteri. It was around 3 or 4 in the morning. We walked and we went up a hill. We reached the monastery around 8 in the morning. Someone in the group called the United Nations in order to get help. They asked us for our location and the number of people. We explained that we were a group of 35 people and sent our location. At this point it was around 10 or 11 in the morning.

We split into two groups. I joined the first group, in which there were mostly women, including 2 pregnant women, and children. We were about 20 people in total. We saw a pick-up truck in which there were at least 4 people. These people put on balaclavas and then came out of the vehicle. They were wearing military uniforms. The four men took us by force and brought us very close to the monastery, 5 or 6 meters away from the entrance.

They searched us and stole all the phones. I had hidden my phone in my shoe and they hadn't found it. We stayed in this place from 11 in the morning to 10 at night. A car came, we were all forced to go inside and this car brought us to the port. We drove for less than 10 minutes. The four men gave us to men wearing balaclavas but who were wearing the dark blue uniform of the Hellenic Coast Guards.

The coast guards made us go into their boat. The military men had given us back our bags and coats, but not our phones.

Once on the boat, the coast guards started by taking our bags. Afterwards, they took us one by one and forced us to strip entirely naked. **I saw a man take a knife out to force women to undress. They were even searching inside the private parts of the women. They were taking everything they found.**

I was the last to be searched. My phone was still in my shoe, it was a Samsung 8. When the man who was searching me found my phone, three men gathered around me. They forced me to unlock my phone and to strip entirely naked. Once I was naked, the same three men started beating me up. I was lying naked on the 'ground' [*probably the deck - Ed.*], one man was punching

me, one was kicking me in the face and the third one was kicking me on my body. The pain was so intense I almost fainted. One of the three men finally gave the order to stop.

I saw a woman who was with her young baby, less than a year old. She had hidden her phone in the baby's diaper. The coast guards found the phone and started beating her in the same way they had beaten me. It was extremely violent.

When the boat finally reached the Turkish waters, the coast guards pushed us into an inflatable life raft. They threw the woman's baby on her. After that, they pushed the raft and left us floating. We had no phone and no life jackets.

We were not rescued in the sea, we had reached the land when the Turkish Coast Guards found us and rescued us."

F. M.K. - pushback from Samos on 9th February 2023

M.K. is an asylum seeking man. He is currently residing in the C.C.A.C.

Part of the group was pushed back, including this man's pregnant wife and son. Another part was rescued by MSF and registered in the camp. To this day, M.K. doesn't know where his wife and son are. He doesn't know if they reached Turkey safely.

"I arrived in Samos on Thursday 9th of February 2023. I was with Fatmata, my wife, and Ibrahim, my son from a previous marriage. Fatmata is now 9 months pregnant. It is her second pregnancy, unfortunately she had a miscarriage last year and we lost our 5 months old baby. My son Ibrahim is 11 years old. I paid 600 dollars for my family to be able to come to Greece. We landed on a Thursday, around 6 or 7 in the morning. We went up a hill. We were hiding in a bush as we feared being found by the Greek police. I decided to go alone with another man and look for a person whose help we could ask for. We walked for a while and then we met an old woman. We asked her to call the UNHCR in order to be taken to the camp. The woman did and at that point we started waiting for the doctors to intervene and rescue us. Around 4 in the afternoon, we were finally rescued by the doctors of MSF. At this point I was only with one other man, our group had split into several groups. Together with the doctors we started looking for the people from our group. At some point they even gave me their megaphone so that others could recognize my voice and feel safe coming forward. Some people started coming out of the bush. That's when they told us that a part of the group was pushed back. I did not witness the pushback myself but they did. Unfortunately, my wife and son never came out of the bush. To this day, I don't have any information on their whereabouts or wellbeing. I have some of my wife's clothes with me in the camp and all I can do is wait for news from them.

G. J.D.K. ; P.C.N. ; P.A.C.T. - pushback from Samos 15th September 2021

J.D.K is a woman asylum seeker; P.C.N. is a woman asylum seeker; P.A.C.T. is an asylum seeking man.

The following events were described by three clients of HRLP. They were represented in a lawsuit filed on the 2nd of March 2022.

"We arrived in Samos on the 20th of October 2021. It was our second time on the island because we had arrived on Samos on the 15th of September of the same year, in an area called Akrotiri Praso. We arrived around 7 in the morning, we were a group of 36 people. Shortly after we arrived, a boat of the Hellenic Coast Guards came. By the time they arrived, we had left the phone and started climbing the rocks. We started hearing gunshots and a man's voice on something like a megaphone telling you to go back. 8 people in our group managed to climb the rocks faster and hide in the woods. However, we couldn't escape because we had our minor children with us.

Shortly afterwards, another group of uniformed men appeared from the bushes. There were six in total. A man in a blue uniform, similar to those of the coastguards, was near our group and then one of the men on board shouted from the loudspeaker "Kristoff/Christoff, telephone", probably because he had noticed that I had previously used it and was taking pictures. Then **this man approached me, slapped me in the face four times while I was holding my baby in my arms and crying. Then he grabbed me by my hair and asked me where my phone was. I told him it was in my backpack, whereas I had previously hidden it in my underwear.** This man was of average height and build, not wearing a full face or mask, had brown, short-cropped hair and white skin.

The second and third of us, in our attempt to escape, hid in a bush, when we heard "Sitdown" from some uniformed men, who appeared from among the bushes. Some of them were dressed in blue uniforms and one was wearing a khaki military uniform and was of large build and did not wear a balaclava. However, we could not observe their particular features because they did not allow us to look at them. They then separated us into groups of about 10 and took us down to the rocks. Then they put a few people, three or four, on board the dinghy in which we came, because it had a small tear from its impact with the rocks. They tied the dinghy to the boat of a fisherman, who had remained on the spot and assisted in transporting us from the shore to the coast guard boat. At about 8 a.m. we had been transferred to the Coast Guard boat. We were 28 of the 36 people from our group. We waited seated until we were approached by a smaller speedboat carrying five men who wore balaclavas to cover their faces. These men went to the larger boat in which we were also on. **They put the men on one side and the women on the other and strip-searched us, one by one, in the middle of the boat in front of everyone.** They would find our cell phones and those of good quality and high value they would keep, while those that were not of high value they would throw overboard. **The body search was carried out by a man who wore a full face and was of high stature and quite a large build, who gave orders to the others. He wore disposable gloves, which he did not remove, and carried out the physical inspection of all persons, both men and women, including inside the genitals.**

The above-mentioned man carried out a physical check on one of us [P.C.N.] in a way that was extremely invasive and offensive to my sexual freedom and, by extension, to my personality. In particular, he penetrated his fingers into my vagina, touched my breasts and when I explained that I was breastfeeding he replied that this was not his problem and then lifted my bra and touched my breasts in front of everyone. He extracted a sum of five hundred euros which I brought on me and searched my pigtails for further money. He then asked me to remove the baby's diaper. On the third of us [P.A.C.T.] he carried out another humiliating physical control as he penetrated my anus with his hand.

I [J.D.K.] was holding my minor daughter in my arms, crying and in shock. I believe this was the reason why I was not beaten and not proceeded to have my genitals checked. However, the large man who did the physical check on all of us touched my breasts.

They then searched our backpacks threatening us that if they find mobile phones and money that we have not already handed over, they will beat us. After the backpacks were also checked they ordered us all to remain seated with our heads bowed. For several hours, about 7 hours, the coastguard boat sailed around the area until a suitable spot was found where they would leave us. One of the men who had been on the boat all along was watching the Turkish coast with binoculars. The third of us also noticed that there was a woman and an older man inside the boat.

At around 2 p.m. the boat finally sailed at high speed towards the Turkish coast. When we had now reached a point near the Turkish territorial waters, we were divided into two groups and two of the masked men in uniform pushed us and violently threw us into two black lifeboats which they were carrying, without providing life jackets, a total of 28 people, including the two children of us, another minor child and a pregnant woman.”



Warsaw, 20/09/2022

FINAL SIR REPORT

SIR – 12084/2022

SI-Handler: Fundamental Rights Office

Key Points

Incident reported:

Sensitive operational information

The reports of the Frontex deployed [redacted] Boat [redacted] and the HCG on the same incident raised questions as to what happened to a migrant boat with approx. 30 migrants. The boat was detected and accompanied by the [redacted] vessel until it was handed over to the HCG [redacted] inside the Greek territorial waters. The migrants later ended up in Turkish Territorial Waters (TTW) with the Greek authorities reporting that the boat had “altered course towards TTW to avoid the interception”.

Sensitive operational information

Sensitive operational information

Possible violation of fundamental rights enquired: Threat to right to life (Article 2 of the Charter of Fundamental Rights of the European Union), possible violations of human dignity (Article 1 of the Charter of Fundamental Rights of the European Union), and the prohibition of inhuman and degrading treatment (Article 4 of the Charter of Fundamental Rights of the European Union), Prohibition of collective expulsion (Article 19 of the Charter of Fundamental Rights of the European Union)

Party allegedly involved in the incident:

Personal data

Personal data

Members of the Frontex Standing Corps [redacted], Greek officers [redacted] (participants in JO Poseidon 2022)

Conclusion and impact:

The Fundamental Rights Office takes note of the statement by the Greek authorities according to which the migrant boat altered its course and proceeded to the Turkish Territorial Waters to avoid interception. Considering the seaworthy nature of the migrant boat, its high speed and previous attempts to avoid interception as reported by the [redacted] crew, the Fundamental Rights Office finds that a voluntary alteration of course to the Turkish Territorial Waters is possible.

Sensitive operational information

Sensitive operational information

At the same time, the Fundamental Rights Office took good note of the statement of the [redacted] crew according to which the HCG had performed dangerous manoeuvres upon arrival onsite putting at risk the migrants. The Office had enquired about specific measures taken with the Greek authorities but did not obtain any information in this regards.

Description of the event - Timeline

Personal data

Sensitive operational information

Frontex [redacted] identified inconsistencies between the reports of the Frontex deployed [redacted] Boat [redacted] and the HCG on the same incident:

Reporting tools

According to the [redacted]

Personal data

On 07/05 at 03:20LT, [redacted] deployed in Samos Island was requested by the HCG to clarify a target

situated on position [redacted]. At [redacted] arrived at the position [redacted] and detected a rubber dinghy with an unknown number of people on board information which was passed to the HCG. Course of the dinghy [redacted]. Calls for help were not heard, and the boat was apparently in a seaworthy condition. At 03:36LT, [redacted], with help of the searchlight, about 30 (thirty) people were detected in the dinghy. At 03:45LT, on position [redacted], [redacted], HCG [redacted] took over the dinghy from [redacted] and [redacted] was released from the operation.

Sensitive operational information

Sensitive operational information

Sensitive operational information

Sensitive operational information

Reporting tools

According to [REDACTED], the event was summarised as prevention of departure with the following characteristics:

“On 08th May at 03 35 LT, a rubber boat with approximately 30 migrants onboard was early detected by [REDACTED] at the sea area [REDACTED] of Samos Island, inside HTW. The information passed to HCG [REDACTED] which headed to the area. The HCG asset tried to intercept the rubber boat with negative results. The handler didn't comply with HCG commands and altered course towards TTW to avoid the interception [REDACTED]. Eventually a TCG patrol boat arrived and took over responsibility of the incident”.

The same description was entered in JORA under incident [REDACTED].

Upon request for clarification by FOCC regarding the diverting dates, [REDACTED] the incident date was in fact 07.05.2022 not 08.05.2022.

Information collected – Contributors/Entities consulted – Follow-up

The Fundamental Rights Office was able to obtain more details on the involvement of the [REDACTED] vessel in the incident, which latest approximately 30', from internal sources:

1. The [REDACTED] patrol vessel had attempted, from a small distance, to stop the migrant boat of approximately 8 meters, including through the shouting of respective instruction, but the skipper did not comply. The migrant boat continued its journey towards the Greek coast.
2. The instruction by the Greek [REDACTED] was to then to merely accompany the migrant boat as support by the HCG was expected to arrive shortly.
3. The [REDACTED] patrol vessel accompanied the migrant boat in direction of the Greek coast until approximately [REDACTED] inside the Greek territorial waters.
4. At the moment of the handover, the distance between [REDACTED] patrol vessel and migrant boat was approximately 100 meters.
5. Upon arrival, the HCG vessel arrived with high speed passing between the two vessels and then driving a curve around the migrant boat. The distance between HCG and migrant boat was approximately 50 meters.
6. Said manoeuvre created a lot of waves which were felt on the [REDACTED] patrol vessel which was rocking noticeably as a consequence.
7. The view from the [REDACTED] patrol boat to the migrant boat was then blocked by the HCG vessel.

On point 6. FRO takes note of the statement in the [REDACTED] summary of the event, according to which [REDACTED] had informed [REDACTED] already on 11/05/2022 about driving manoeuvres in the darkness during the incident by the HCG, which were considered as disproportionate and potentially dangerous by the [REDACTED] crew.

Furthermore, according to FRO internal information obtained from the crew,

1. According to the assessment of the [REDACTED] crew, the incident was no distress case. Reportedly, the migrant boat was not particularly overcrowded and travelled at high speed [REDACTED] with no apparent technical issue. Furthermore, migrants did not signal, try to get attention, display intention to stop or communicate.
2. There was no communication between the migrants and the [REDACTED] crew.
3. It remain unclear whether migrants had life jackets, but some reportedly sat on hoses.

The Fundamental Rights Office obtained the following information in its correspondence with the Greek authorities:

1. According to the Port Authority of Samos, at 03.45 LT, the [REDACTED] arrived in the area assuming the coordination of the incident from [REDACTED], in order for the latter to conclude her patrol as scheduled [REDACTED].
2. The HCG asset proceeded to intercept the respective rubber boat with the usage of [REDACTED]. The boat's handler altered course to avoid HCG CPB and headed towards the Turkish coasts, performing continuous manoeuvres and finally entered the TTW where it remained stationary in position ([REDACTED]), at 06.45 LT approximately.
3. The HCG CPB remained at the borderline monitoring the situation. At 06.52 LT, [REDACTED] informed [REDACTED] and at 07.45 LT a TCG patrol boat arrived in the area intercepted the rubber boat, assumed responsibility of the incident and towed it towards the Turkish coasts.
4. Moreover, according to HCG estimation, approximately thirty (30) TCN's were onboard the rubber boat which was in sea-worthy condition, able to manoeuvre and steer. However, taking into consideration the prevailing conditions (e.g. darkness), the HCG CPB's crew was not able to verify further specific details.

5. For the management of persons who illegally cross the maritime borders of Greece, the officers of HCG undertake the necessary and proportional measures in accordance with the international safety standards at sea having as priority to provide assistance to any person in possible distress taking into consideration the risks involved.
6. In particular, the non-cooperative behaviour of the migrants, in order to avoid the interception, must be taken under consideration which necessitates the engagement to such situations at the most appropriate ad-hoc manner for ensuring that the condition of the migrants will not be endangered.
7. The practice of alteration of the course by a migrants boat is common and very often adopted by facilitators in order not to be arrested. Similar cases have been recorded in the past by MS participating assets like the ██████████.”

Sensitive operational information

Assessment

The Fundamental Rights Office acknowledges previous reports by Frontex Standing Corps Officers describing skippers altering their course to the TTW in order to avoid interception and underlines that, with a view to protect the lives of migrants, members of coast guards may choose to not intercept but merely accompany boats should they refuse to stop.

The Office further finds that Frontex and Greek reports are consistent in suggesting that the boat was not in distress, while the availability of life-saving equipment or the presence of vulnerable persons remains unclear.

The Fundamental Rights Office takes note of the statement by the Greek authorities according to which the migrant boat altered its course and proceeded to the Turkish Territorial Waters to avoid interception. Considering the sea-worthy nature of the migrant boat, its high speed and previous attempts to avoid interception as reported by the ██████████ crew, the Fundamental Rights Office finds that a voluntary change of course to the TTW is a feasible explanation.

At the same time, Greek authorities have failed to provide detailed information on the measures used when attempting to intercept the migrant boat. Such lack of clarification stands in contrast to the detailed and credible description of HCG manoeuvres by experienced coast guard officers deployed by Frontex. The Fundamental Rights Office concludes that if waves resulting from HCG vessel’s manoeuvring caused the ██████████ vessel to rock noticeably, as reported, they must have impacted in a significant manner the small migrant boat of reportedly 7 to 8 meters only. As such, the Office considers that the HCG vessel manoeuvres may have disproportionately endangered the migrants.

Final conclusion – Proposals – Lessons learned

The Fundamental Rights Office enquired what happened to the migrants after detection and during handover to the HCG. It takes note of the statements by Greek authorities according to which the skipper avoided interception by altering the course to the Turkish Territorial Waters. This explanation is consistent with migrants’ earlier non-compliance as reported by the crew of the ██████████ vessel which equally did not succeed in stopping the boat. The Fundamental Rights Office further highlights that in the assessment of all stakeholders the incident was not a distress case.

At the same time, the Fundamental Rights Office took good note of the statement of the ██████████ crew according to which the HCG had performed dangerous manoeuvres upon arrival onsite putting at risk the migrants. The Office had enquired about specific measures taken with the Greek authorities but did not obtain any information in this regards.

Against this backdrop, the Fundamental Rights Office recommends the following:

To Frontex:

1. With a view to ensure information collection, Frontex assets should remain on-site and document sensitive scenarios in line with respective FraLO Recommendation;
2. To continuously sensitise participants in Frontex operations to the Serious Incident mechanism and the importance of timely reporting directly to the Fundamental Rights Office.

To Greek Authorities:

1. To follow up allegations of dangerous manoeuvres through enquires with involved staff and to share respective findings with the Fundamental Rights Office in the framework of SIR.

Sensitive operational information

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Sensitive operational information



Warsaw, 18/10/2022

FINAL SIR REPORT

12584/2022 – Cat. 1 – JO POSEIDON 2022

SI-Handler: Fundamental Rights Office

<p>Key Points</p> <p>Incident: A migrant orally reported to a Fundamental Rights Monitor multiple pushbacks by Greek authorities and masked men when attempting to reach Greece over a timespan from 2020-2022 in the Samos, Chios, Leros and Evros regions. The reporting person was able to provide details on some of the attempts such as the numbers of vessels used by the authorities to bring him out to sea after landing on Chios and Leros on two occasions.</p> <p>Possible violation of fundamental rights enquired: human dignity (article 1 of the Charter of Fundamental Rights of the European Union), right to life (article 2 of the Charter of Fundamental Rights of the European Union), the prohibition of inhuman and degrading treatment (article 4 of the Charter of Fundamental Rights of the European Union), prohibition of collective expulsion (Article 19 of the Charter of Fundamental Rights of the European Union)</p> <p>Party allegedly involved in the incident: Members of the Hellenic Police / Hellenic Coast Guard (participants in JO Poseidon 2020/2022 and Rapid Border Intervention EVROS 2020)</p> <p>Conclusion and impact: The Fundamental Rights Office was not able to conclusively establish the facts of the reported incident(s). The Office takes note of the statements of the Greek authorities according to which vessels with reported numbers do not exist or were not deployed at the moment when the incidents are reported to have taken place. At the same time, frequent allegations, including in the case under scrutiny, about collective expulsion by masked men and/or members of the Hellenic Coast Guard are of great concern to the Fundamental Rights Office. The Office regrets that Greek authorities often dismiss such allegations without conducting thorough investigations - sometimes referring to a lack of internal reports - which would be essential ensure diligent follow up, sanctioning and/or the implementation of new practices, where relevant.</p>
<p>Description of the event - Timeline</p> <p><u>Incident location:</u> Samos, Chios, Leros (Greek islands), Evros</p> <p><u>Reported allegations:</u></p> <p>During a monitoring mission conducted by a Fundamental Rights Monitor to Samos, an adult person stated that he was pushed back multiple times from Greece to Turkey by the Greek authorities.</p> <ul style="list-style-type: none">• During their first attempt to come to Samos from Turkey, he and other migrants were sent back to Turkey.• He managed to come to Samos on his second attempt by boat from Turkey. In total 21 persons of [REDACTED] origin were on board.• He tried to cross from Turkey to Greece 20-30 times and the Greek authorities sent him and other migrants back.• In 2021, he stayed for 3 days in Chios island [the person later rectified that it was in 2020 not 2021]• He landed on Leros island 4 weeks earlier, and masked persons took him and other persons by bus and returned them to Turkey. <p>When asked more specifically about his journeys, the migrant provided the following information:</p> <p>A. Regarding his arrival to Samos (Greece):</p> <ul style="list-style-type: none">• The person of concern arrived on Samos in mid-May 2022: a group of 21 persons (including the person of concern) landed in the island and then they split in the forest and mountains.• The person of concern with another migrant were found by a nongovernmental organisation and then they were arrested and handcuffed by the Hellenic Police.

Personal data

B. Regarding his landing in Chios (Greece):

- He landed on 23/03/2020. He travelled to Greece by boat, with 29 persons in total, including women and children. Some persons with plain clothes found them in the mountains, then the police arrived and measured their temperature. The police forced them to board on a ship and they were transferred to a smaller port with a fence around, where they were prevented from using the toilet and where they stayed for 3 nights. On the 4th day some masked officers forced them to board on another ship and tied their hands and legs. They were then put in 3 boats and left in the middle of the sea from where the Turkish Coast Guard collected them.
- The person of concern was able to name the numbers of the Greek Coast Guard boats, which were allegedly involved in the above incident as follows: [REDACTED] and he referred to an [REDACTED] Hellenic Coast Guard boat.

Sensitive operational information

Technical Equipment

C. Regarding his landing in Leros (Greece):

- He landed in Leros on 03/04/2022 with 24 persons and then they were hiding in the forest. The Greek authorities arrested them, put them on a vehicle and transferred them to a deserted camp, where they stayed for about 12-14 hours. Then, at night, they were transferred to a port. They also passed through a check point by bus, and at that time the lights of the bus were turned off and the curtains of the bus were pulled.
- The migrants were handcuffed one-by-one and put to [REDACTED] boat with number [REDACTED]. Then they were transferred to a small island, [REDACTED]. Sensitive operational information
- They were then put on rafts, which he described to be similar to fruit pallets, [REDACTED], where they stayed for one hour during night-time and then they were rescued by the Turkish Coast Guard.

Technical Equipment

Sensitive operational information

D. Regarding his crossing from Turkey to Greece through Evros river:

- He attempted multiple times to cross Greece through Evros river, approximately in October 2020. He was brutally beaten by the Hellenic Police, which returned him to Turkey by boat and in some cases then the Turkish authorities return him as well as other migrants to Greece.

Finally, the person also stated:

- The person of concern stated that during the above incidents he did not go through the official procedures, he was not registered, and he never applied for international protection.
- The person of concern also referred to an incident in which the Greek authorities confiscated from his wife 100 euros and "grabbed" the woman on the boat in front of his 3-year-old daughter.
- The person of concern clarified that he identified the persons who treated him this way as Greek authorities because they had insignia like the Greek flag and they were also speaking Greek. He also described that some of them were masked, dressed in black and were carrying pistols.
- The person of concern was able to identify that he was located in the aforementioned regions, e.g. Chios, Leros, etc. by using the map application on his mobile phone.

Information collected – Contributors/Entities consulted – Follow-up

In its enquiry with the Greek national authorities, the Fundamental Rights Office received the following feedback:

a. As regards the alleged incident on/near Chios:

According to the records of the Hellenic authorities, no incident concerning illegal border crossing occurred on the 23/03/2020 at Chios island. The Greek authorities also stated that the vast majority of the ports situated in the eastern Aegean have fences which means that they were not able to identify the "port with the fence around" mentioned in the report.

Concerning the alleged involvement of HCG assets, the Greek authorities stated that the numbers [REDACTED] do not correspond to any HCG asset nor have there ever been such assets registered with those numbers in the past.

Sensitive operational information

b. As regards the alleged incident near Leros:

According to the records of the Hellenic authorities, no incident concerning illegal border crossing occurred on the 03/04/2022 at Leros island. Concerning the alleged involvement of an HCG asset, the Greek authorities stated that one coast Patrol Boat is registered in HCG fleet with the number [REDACTED]. The latter's place of deployment is Piraeus and since 2007 it has been in a status of "long-term immobilization" (not working). On 2017, the respective asset was lifted to undergo repairs to Perama's port and is still in maintenance since July of 2021. [REDACTED] is specialized for antipollution and is not [REDACTED].

Sensitive operational information

Sensitive operational information

Technical Equipment

Finally, the Greek national authorities stated that

- no information is available regarding the alleged activities of "masked men" and the practices described do not correspond to the operational procedures of neither the Hellenic Police nor the Hellenic Coast Guard;
- no complaints have been submitted to the national authorities by the alleged individuals concerned;
- the source of the information remains unknown to the Hellenic authorities;
- none of the information provided coincides with the content of the official reports.

Reporting tools

Reporting tools

Technical Equipment

he Office was informed by [redacted] that Greek Search and Rescue Vessels are [redacted]. At the same time, the Fundamental Rights Office checked all reported incidents for JO Poseidon for March 2020 and April 2022 and did not find any which could match the descriptions contained in the migrant reports (vessel numbers, location, number of migrants).

Assessment

The Fundamental Rights Office was not able to obtain information in order to establish the veracity of allegations raised.

The Fundamental Rights Office took good note of the statements by the Greek authorities according to which vessels with reported numbers do not exist or were not deployed at the moment of the alleged incidents. This information could not be independently verified. The Office did not identify any incidents or vessels with reported numbers in the daily reports collected for JO Poseidon in March 2020 and April 2022 but cannot exclude their existence due to its limited access to information on GRC assets and their deployment.

The Fundamental Rights Office remains concerned based on the following grounds:

1. The Fundamental Rights Office notes with great concern the allegations of the involvement of masked men in the so-called pushbacks. Such allegations are not specific to this case but a common and consistent element in migrants' accounts about attacks and/or so-called pushbacks to which they were subject as reflected in recent SIRs [redacted]. The Fundamental Rights Office underlines that reports are numerous which stands in contrast to a lack of internal Greek reporting on such incidents and/or Greek authorities' blanket dismissal of such allegations. In the framework of SIR, these remain important obstacles to meaningful follow up in form of thorough national investigations.
2. Moreover, the Fundamental Rights Office is concerned by frequent reports alleging the involvement of the Hellenic Coast Guard in so-called pushbacks at sea [redacted]. The Office underlines that so-called pushbacks may constitute serious violations of fundamental rights, may amount to collective expulsions, expose migrants to inhuman and degrading treatment and/or a risk of refoulement, put their lives and health in jeopardy and/or result in a failing to ensure effective access to asylum.
3. Generally, the Fundamental Rights Office underlines that any handcuffing or other use of coercive / restraint measures must be necessary and justified in the particular circumstances of each case and based on an individual assessment. This is particularly true in the case of measures on persons aboard boats in general, with risks being particularly high on small, unstable surface vessels, in which such measures should be applied only if strictly necessary and with the utmost caution, taking all necessary safeguards, considering the risk of accidents, injury of persons going overboard and/or drowning. In the view of the Fundamental Rights Office, abandoning any person on rubber boats, rafts or similar vessels at sea or on islets, even more when restraint measures have been applied, put those persons' lives at risk and amounts to degrading and inhuman treatment.
4. In the case under scrutiny, ambiguous language and lack of information to corroborate or disprove allegations make it impossible for the Fundamental Rights Office to comment on the veracity of migrants' abandonment or their condition during such. At the same time, the Office notes with concern that it has in the past received allegations about incidents involving handcuffed migrants who were put in danger, sometimes even died, during alleged so-called pushback ([redacted]). Beyond the scope of this request

Beyond the scope of this request

Beyond the scope of this request

Final conclusion – Proposals – Lessons learned

The Fundamental Rights Office was not able to conclusively establish the facts of the reported incident(s). The Office takes note of the statements of the Greek authorities according to which vessels with reported numbers do not exist or were not deployed at the moment when the incidents are reported to have taken place.

At the same time, frequent allegations, including in the case under scrutiny, about collective expulsion by masked men and/or members of the Hellenic Coast Guard are of great concern to the Fundamental Rights Office. The Office regrets that Greek authorities often dismiss such allegations without conducting thorough investigations - sometimes referring to a lack of internal reports - which would be essential ensure diligent follow up, sanctioning and/or the implementation of new practices, where relevant.

Considering the above, the Fundamental Rights Office reiterates its earlier recommendations:

For Greek authorities

1. To initiate robust and diligent investigations into all allegations of ill-treatment and/or so-called pushbacks of migrants by unknown/masked men or members of the Hellenic Coast Guard/Hellenic Police;

2. To adopt a firm policy and enforce firm sanctions against Hellenic Coast Guard officer found involved, either directly or indirectly, in fundamental rights violations;

For Frontex

1. To continuously sensitise participants in Frontex activities to the Serious Incident Mechanism and their obligation to report directly to the Fundamental Rights Office;
2. To ensure access for Fundamental Rights Monitors to localities and individuals necessary for the monitoring of the fundamental rights compliance of joint operations.

ANNEX 5 – Final SI-Handler Report Template



Warsaw, 21/09/2022

FINAL SIR REPORT

SIR – 12603/2022

SI-Handler: Fundamental Rights Office

Key Points	
Incident reported: Sensitive operational information Based on information by the Greek Land Observatory, [redacted] intercepted, on 15/06/2022 at [redacted] a boat with 8 migrants at the sea area [redacted] island inside Hellenic Territorial Waters. A [redacted] [redacted] handed over the incident in form of a stationary migrant boat to the Hellenic Coast Guard. The migrants later ended up in Turkish Territorial Waters.	
Possible violation of fundamental rights enquired: Text removed - Reporting Tools Threat to right to life (Article 2 of the Charter of Fundamental Rights of the European Union), possible violations of human dignity (Article 1 of the Charter of Fundamental Rights of the European Union), and the prohibition of inhuman and degrading treatment (Article 4 of the Charter of Fundamental Rights of the European Union), Prohibition of collective expulsion (Article 19 of the Charter of Fundamental Rights of the European Union)	
Party allegedly involved in the incident: Personal data Members of the Frontex Standing Corps [redacted], Greek officers [redacted] (participants in JO Poseidon)	
Conclusion and impact: In the present case, the Fundamental Rights Office cannot exclude the possibility that migrants voluntarily moved to Turkish Territorial Waters to avoid interception. Yet, it also notes that the boat did not attempt to avoid or to flee from the Frontex vessel and was stationary only [redacted] at the moment of handover. The Fundamental Rights Office regrets that when requesting feedback by Greek authorities about the specificities of their and migrants actions it did not receive a reply.	
Description of the event - Timeline	
Personal data	[redacted] identified inconsistencies between the reports of the Frontex deployed [redacted] Boat and the HCG on the same incident: Sensitive operational information
	According to the [redacted] Reporting tools
Personal data	"At [redacted] a rubber boat with nr 8 migrants on board was intercepted in position [redacted]. Sensitive operational information [redacted] on board contacted Greek authority of Samos who disposed to remain in the area waiting for the Greek patrol boat, that arrived at [redacted] and assumed responsibility for the event. The patrol was resumed at [redacted]"
	Reporting tools Text removed - Reporting Tools Text removed - Reporting Tools
	According to [redacted], thee event was summarised as prevention of departure with the following outcome:
Sensitive operational information	Text removed - Reporting Tools "On 15th June a [redacted] a rubber boat with approximately 10 migrants onboard was detected by Land Observatory at the sea area [redacted] island inside HTW. The information passed to [redacted] and HCG [redacted] which headed to the area [redacted] Sensitive operational information LT the aforementioned rubber boat was detected by [redacted] at the respective area. At [redacted] approached and tried to intercept the rubber boat with the usage of sound signals and police lights. The boat's handler altered course by her own means and headed towards the TTW to avoid the interception. [redacted] informed [redacted] accordingly. The HCG Reporting tools [redacted] remained close to the border line to monitor the situation. Eventually a TCG patrol boat arrived in the area and took over responsibility of the incident."
Sensitive operational information	
Information collected – Contributors/Entities consulted – Follow-up	

Sensitive operational information

Sensitive operational information

Sensitive operational information Personal

Personal data

Sensitive operational information

Personal data

Sensitive operational information

Sensitive operational information

Sensitive operational information

Sensitive operational information

Reporting tools

The Fundamental Rights Office was able obtain more details on the involvement of the [redacted] vessel in the incident from [redacted]:

Sensitive operational information

1. [redacted] vessel approached the boat with some security distance and carefully in order not to create dangerous waves and to be prepared for any eventuality (behaviour of migrants).
2. Through the camera, the [redacted] crew observed a boat of 5-6 meters in good condition with an engine on the outside of the boat (unclear whether engine was off) which was stationary. The 8 persons on it seemed calm, there were no signs that they were in distress (no gestures, communication).
3. The pictures of the migrant boat show some rubber rings, presumably intended to serve as lifesaving ring in case needed. Sensitive operational information
4. The [redacted] vessel got as close as [redacted] which reportedly was close enough to see, while maintaining a security distance. Sensitive operational information
5. The instruction received through the [redacted] on board was to remain in the area pending the intervention of the Greek Coast Guard patrol boat.
6. The HCG arrived slowly with a big boat. At this moment the migrant boat was stationary. The [redacted] vessel moved a bit to allow for the passing of the HCG boat which arrived between the [redacted] PB and the migrant boat blocking the view of the [redacted] crew. The HCG boat reportedly was significantly closer to the migrant boat than the [redacted] PB (about half the distance it had to the migrant boat).

The Fundamental Rights Office obtained the following information in its correspondence with the Greek authorities:

Sensitive operational information

1. According to the official reports from [redacted] Samos, at [redacted]:he [redacted] CPB [redacted] arrived in the area assuming the coordination of the incident from [redacted] CPB, in order for the latter to continue her patrol as scheduled.
2. The HCG asset proceeded to intercept the respective rubber boat with the usage of sound signals, police lights and megaphone speakers. The boat's handler altered course to avoid HCG CPB and headed towards the Turkish coasts, performing continuous maneuvers and finally entered the TTW at [redacted] approximately where it remained stationary in position [redacted]. The [redacted] CPB remained at the borderline monitoring the situation. At [redacted] [redacted] informed [redacted] and a [redacted] a TCG patrol boat arrived in the area, intercepted the rubber boat and assumed responsibility of the incident. Text removed - Reporting Tools
3. Approximately ten (10) Third Country Nationals were on board the rubber boat which was in sea-worthy condition, able to maneuver and steer. However, taking into consideration the prevailing conditions (e.g. darkness), the HCG CPB's crew was not able to verify further specific details.
4. For the management of persons who illegally cross the maritime borders of Greece, the officers of HCG undertake the necessary and proportional measures in accordance with the international safety standards at sea having as priority to provide assistance to any person in possible distress taking into consideration the risks involved. In particular, the non-cooperative behaviour of the migrants, in order to avoid the interception, must be taken under consideration which necessitates the engagement to such situations at the most appropriate ad-hoc manner for ensuring that the condition of the migrants will not be endangered.
5. The practice of alteration of the course by a migrants boat is common and very often adopted by facilitators in order not to be arrested. Similar cases have been recorded in the past from MS participating assets like the [redacted] CPB ([redacted]). Sensitive operational information

Assessment

The Fundamental Rights Office takes note of the statement by the Greek authorities according to which the migrant boat altered its course and proceeded to the Turkish Territorial Waters to avoid interception. In this context, the Fundamental Rights Office further acknowledges previous reports by Frontex Officers describing skippers altering their course to the TTW in order to avoid interception and underlines that, with a view to protect the lives of migrants, members of coast guards may choose to not stop but merely accompany boats.

In the present case, the Fundamental Rights Office cannot exclude the possibility that migrants voluntarily moved to Turkish Territorial Waters to avoid interception. At the same time, it also notes that the boat did not attempt to avoid or to flee the Frontex vessel and was stationary at the moment of handover only approximately [redacted] from the coast of Samos. The Fundamental Rights Office regrets that when requesting feedback by Greek authorities about the specificities of their and migrants actions it did not receive a reply.

Finally, the Office finds that both Frontex and Greek border guards perceived that the boat was not in distress, while the presence of vulnerable persons remains unclear.

Final conclusion – Proposals – Lessons learned

Based on available information, the Fundamental Rights Office could not establish how the migrants ended up in Turkish Territorial Water. It takes note of the Greek authorities' statements according to which migrants decided to avoid interception but could not cross-check this information.

Against this backdrop, the Fundamental Rights Office recommends the following:

To Frontex:

1. With a view to ensure information collection, Frontex assets should remain on-site and document sensitive scenarios in line with respective FraLO Recommendation;
2. To continuously sensitise participants in Frontex operations to the Serious Incident mechanism and the importance of timely reporting directly to the Fundamental Rights Office of allegations related to a possible violation of fundamental rights.

To Greek Authorities:

1. To communicate in a detailed manner about cases enquired by the Fundamental Rights Office, particularly those with Frontex involvement and in the framework of SIR.