

## **Annex: Response from Hellenic Police Headquarters**

Unofficial translation from Greek by Human Rights Watch

Athens, 01 March 2022

[Emblem of the Hellenic Republic]  
Hellenic Police Headquarters  
Aliens & Border Protection Branch

Subject: “Letter from Human Rights Watch NGO, reporting cases of alleged refoulement of asylum seekers”

- RE:    A)       The document under no. 1005/22/293248 dated 09/02/2022 of the Chief of the Hellenic Police Staff Office.  
      B)       The document under no. 1024/22/293682 dated 09/02/2022 of the Chief of Staff/Hellenic Police Headquarters.  
      C)       The order no. 9709-κΕ dated 09/02/2022 of the Chief of the Aliens & Border Protection Branch/Hellenic Police Headquarters.  
      D)       The letter from Human Rights Watch dated 09/02/2022.

Dear Mr. Frelick,

First of all I would like to thank you for your letter sent in the framework of your mandate to protect and promote fundamental rights.

Further to what is mentioned in the aforementioned letter, I would like to hereby inform you that the Hellenic Police, with Frontex’s support, protects the external borders of the EU, exercising its sovereign right and constitutional obligation to protect both its borders and social cohesion. The Hellenic Authorities, with the assistance of the European Union, have managed to effectively safeguard the external borders of the EU not only against illegal border crossing, but also against organised cross-border crime in the form of migrant smuggling and other hybrid threats where migrants have been instrumentalised by third countries, such as Turkey, which obviously manifest an aggressive disposition

against the European Union. Recently, Belarus displayed a similar behavior at its borders with Poland and Lithuania.

Specialised border agencies are in place in order to tackle illegal migration along the Greek-Turkish land border. Their mission mainly consists of the following: (a) border protection and (b) migration flows management.

Border protection and surveillance operations, which are carried out with the involvement of Frontex officers (European Border and Coast Guard Agency), are determined on the basis of specific and dedicated operational plans that focus on the following:

- a) border surveillance and control at Evros through sea and coastal patrols, using patrol vessels and modern technical equipment, with a view to timely locating attempted illegal border crossings by third country nationals and;
- b) prompt notification of the Turkish Authorities in order to locate attempted illegal border crossings before entering Greek territory.

Following their arrest, third country nationals are transferred to the Fylakio Reception and Identification Center at Orestiada, for further management in accordance with the Greek Law. The standard procedures followed at operational level after their detection, include first reception services (identification of vulnerabilities, nationality determination, registration, photo and fingerprinting etc.), during which people are informed about their rights (including their right to apply for asylum) and receive information material in a language they can understand. They are also given the right to contact over the phone their family members, Consulates or other Authorities of their countries or other humanitarian organisations.

In particular, in the case of people asking for international protection, the relevant request is immediately recorded upon their arrest and entered into the relevant electronic application, in order to be subsequently formalised at the Orestiada Reception and Identification Center and then be examined by the Regional Asylum Office inside the Orestiada RIC or other Asylum Offices operating in the region.

In case a third country national needs medical care, this is immediately provided and they are transferred to the appropriate local healthcare unit. The above-described management

process is carried out ensuring full respect of their rights and protection of their life and dignity.

In the case of underage irregular migrants, the competent Public Prosecutor's office is immediately alerted once they are identified and then they are transferred to the Orestiada Reception and Identification Center in order for all formal procedures to be completed. Then they are sent to a relevant Unaccompanied Minors Accommodation Facility. In particular, the RIC at Orestiada managed 410 unaccompanied minor cases in 2019, 112 in 2020 and 362 in 2021.

According to the available statistics, the period from September 2021 to January 2022 saw a total of 1,028 arrests of irregular migrants at Evros who entered Greece illegally crossing the Evros river. The respective number for April 2020-February 2021 was 3,344 people. The criminal and administrative procedures provided for in the institutional framework were followed for all arrested people arrested.

Apart from these procedures, it is worth mentioning the ethos and respect to the fundamental rights of third country nationals shown by all Hellenic Police officers who take part in the operations.

The police staff involved in the border control and surveillance operations abides by the strict internal disciplinary regulation and Code of Ethics (P.D. 254/2004, A 238), in accordance with international and European standards. In particular, in the framework of internal staff audit, all allegations and complaints related to fundamental rights' violations at the borders are investigated and any staff members involved face the respective sanctions.

In order to ensure top police staff training level, staff members continuously receive special training (in the form of both undergraduate education and re-training) on the legal framework and developments in human rights protection, the identification of racist violence motives and the approach and management of vulnerable social groups.

I would like to indicatively mention that in 2021, the UNHCR trained a total of 399 newly recruited border guards on the "Main principles of internal protection and handling of population groups at the border". In the same year we received approval to carry out an

online training on integrated external borders management, addressing various topics, including the following: “Vulnerable groups management”, presented by trainers from the Office of the Greek Ombudsman and the Ombudsman for the Rights of Children, “Hygiene and safety in the workplace” presented by KEELPNO (Hellenic Centre for Diseases Control and Prevention) and “Protective measures against COVID-19” presented by trainers from the Health Directorate of the Hellenic Police Headquarters. Last but not least, a 1-day online seminar on “Cultural awareness” was presented by a police officer from the Police Directorate of Orestiada, who debriefed both the Hellenic Police and Frontex on issues related to more effective communication and, thus, upgraded management of alien detainees at Evros.

It should be noted that for every police violence-related complaint, the Hellenic Police Headquarters and its Agencies order a disciplinary investigation. This investigation is carried out by an Officer who does not have any administrative relation to the Agencies or police officers concerned and the conclusions report as well as any sanctions imposed are not published, in accordance with the applicable law provisions.

Furthermore, the Greek Ombudsman, an Independent Administrative Authority, has been appointed internally as the National Mechanism for the investigation of arbitrary incidents by police officers or other members of the security forces, with the main mandate to collect, record, assess, investigate and promote complaints falling under four (4) major categories of misconducts (between third parties and Hellenic Police officers), which may occur during the fulfillment of their duties or by way of abuse of their position and concern tortures and other violations of human dignity, unlawful intentional attack against life, physical integrity, health or personal or sexual freedom, illicit use of a firearm and unlawful behaviour with a racist motive.

The Greek Ombudsman, as national mechanism, addresses a case either once a formal complaint is filed or ex-officio or once the relevant Minister or Secretary General has referred the case. Moreover, when the Greek Ombudsman refers a complaint or incident to the competent Agencies, the latter are obliged to proceed to all necessary actions related to its administrative investigation and then forward the full dossier contents to the Independent Authority. In addition to this, the national mechanism addresses cases for which the European Court of Human Rights has handed down convictions against Greece,

when these convictions identify shortcomings in the disciplinary investigation process or reveal new evidence that had not been assessed from a disciplinary perspective.

With regard to the reported cases of informal refoulement of migrants from the Greek-Turkish border to Turkey (through Evros river) in February 2021 and from 01/09/2021 to 31/01/2022, the key points are the following:

- i. Two (2) complaints reporting informal refoulement of migrants from the Greek-Turkish border to Turkey (through Evros river) were filed in February 2021. In particular:
  - a. The competent Agencies received a document from “the Greek Ombudsman”, the Independent Administrative Authority, revealing allegations made by a Syrian national about reprehensible police officers’ actions as well as about the unlawful refoulement to Turkey through Evros river, of himself and other aliens of various nationalities. These actions were allegedly committed on 23/02/2021.
  - b. The competent Agencies received a document from “the Greek Ombudsman”, the Independent Administrative Authority, revealing allegations made by a Syrian national holding a residence permit in Germany, about reprehensible police officers’ actions that allegedly took place in Alexandroupoli, at an unidentified detention area on 21/02/2021, as well as about the unlawful refoulement to Turkey through Evros river, of himself and other aliens of various nationalities on 22/02/2021.

The results of the disciplinary investigation that was ordered for both aforementioned cases are still pending.

- ii. One (1) complaint reporting informal refoulement of an alien from the Greek-Turkish border to Turkey (through Evros river) was filed from 01/09/2021 to 31/01/2022. In particular:
  - a. The competent Agencies received a document from “the Greek Ombudsman”, the Independent Administrative Authority, revealing allegations made by an Afghani national about reprehensible police officers’ actions that allegedly took place between 3 and 4 September 2021 (when he was working as interpreter at Frontex) during his transfer and detention at an unidentified Agency, along with three (3) more aliens, two (2) of them being minors, as well as about the unlawful refoulement to

Turkey through Evros river, of himself and other aliens, that allegedly took place in the afternoon hours of 04/09/2021.

The results of the disciplinary investigation that was ordered are still pending.

I would like to stress that in case of allegations and complaints, the lack of sufficient evidence regarding the exact place and time of the reported incidents, as well as the details of the alleged perpetrators, witnesses and aliens-victims, substantially hinders the verification of the said allegations. In case the international non-governmental organization “Human Rights Watch” provides more evidence in relation to the reported cases and sends them to the Hellenic Police Headquarters, it will be possible to establish and impose (once proven) the respective disciplinary sanctions on the police officer(s) involved in any way and means.

Apart from the national allegations and complaints audit and investigation framework, the European Border and Coast Guard Agency (Frontex), pursuant to Art. 111 of the Regulation (EU) 1896/2019, as supplemented by the relevant Decision of the Executive Director of the Agency (ED Decision No R-ED-2016-106 dated 06/10/2016), has established a process called “Complaints Mechanism”. This voluntary and anonymous process allows third country nationals who believe that their rights have been violated by law enforcement officers or border guards involved in joint operations with Frontex, to file complaints. Such a complaint may be founded on articles 18 (Right to asylum) and 19 (Protection in the event of removal, expulsion or extradition) of the Charter of Fundamental Rights of the European Union. Then, the member states whose officer was involved in any violation incident, must keep Frontex informed regarding the internal investigations, the adoption of disciplinary measures, etc.

Furthermore, we must not in any case disregard the actions undertaken by the national Authorities to safeguard the lives of the migrants attempting to illegally cross the borders through Evros river. In witness whereof, it should be stressed once more that in dozens of recorded cases, Hellenic Police officers went beyond their reasonably designated mandate and put their lives at risk to save hundreds of irregular migrants, in extreme weather conditions such as floods in Evros river.

It should be stressed yet again that no detained migrant requesting international protection is refouled, until their application is examined and rejected, in full compliance

with the domestic and international law and especially with the provisions of the Geneva Convention and the procedures laid down in Directive 2013/32/EU, which was transposed to our national law by virtue of L. 4636/2019, as well as with the respective case-law of the Council of the State (StE).

In conclusion, I would like to stress that police agencies and their staff will continue to operate in a continuous, professional, lawful and prompt way, taking all necessary measures to effectively manage the refugees/migration flows, in a manner that safeguards on the one hand the rights of the aliens and on the other hand the protection of citizens especially in the first line border regions.

Yours sincerely,

DIMITRIOS MALLIOS

[signature]

Major General

Chief of the Aliens & Border Protection Branch/Hellenic Police Headquarters