

## **Response to the questionnaire from** **the Special Rapporteur on the human rights of migrants**

### **General remarks**

At the beginning of 2020, Greece faced an unprecedented and sudden attempt of thousands of persons to illegally cross Greek and European borders, and this instrumentalization of human suffering has been orchestrated by the Turkish authorities, as it has been widely acknowledged by international actors and media. In this framework, and despite the increased complexity of the situation, competent national authorities stepped up their efforts, having in mind first and foremost the protection of human lives which were endangered in this situation. In particular, the Hellenic Police and Coast Guard have intensified border control activities, via the dispatch of additional human and other resources, including personnel and equipment from all relevant departments.

These activities were based on the Schengen Border Code, thus an EU legal obligation, and in particular the provisions for preventing unauthorized crossing, while fully respecting the rights of all the persons concerned, including those who are entitled to international protection status. These actions were carried out in compliance with Greece's international obligations, as provided for in the UN Convention on the Law of the Sea, the International Convention for the Safety of Life at Sea, the International Convention on Maritime Search and Rescue and all international human rights conventions. In this vein, we have to underscore that the Hellenic Coast Guard (HCG) from 2015 until 2020 has rescued 319.242 migrants in search and rescue incidents.

However, the COVID 19 pandemic added the feature of public health in the already difficult to resolve migratory equation. Within this framework, Greece had to deal with the purposeful denial of Turkish authorities to respect their obligations stemming from the EU-Turkey Statement of 2016. While Hellenic authorities, having in mind to trace human trafficking rigs and dismantle them in order to reduce human suffering, mainly through the identification of boats carrying migrants before entering the EU's territory, Turkey does not respond in a timely manner to the alerts transmitted, let alone that it often demonstrates an aggressive behavior against deployed EU technical resources in the Aegean Sea.

Reacting to the Turkish inertia to say the least, enormous effort is being devoted every moment of the day by HCG during emergency situations at sea, in alignment with maritime law and international human rights obligations, thus prioritising the protection of vulnerable individuals or groups, including women and children and persons with disabilities. HCG prioritises the training of its personnel deployed at the external sea borders in order to be able to identify persons who might be part of vulnerable groups or in need of international protection (asylum seekers) and refer them to the competent authorities.

To this end, HCG cooperates with the UNHCR in the context of a Memorandum of Understanding concluded between the two sides in 2015 as well as with other respective healthcare providers and NGOs aiming to facilitate the access of vulnerable individuals and groups to necessary medical and legal services.

## Responses to questionnaire:

1. In line with EU and national legislation and operational practices, Hellenic Police personnel, when conducting border surveillance and border checks, is trained and experienced towards protecting basic fundamental rights of every person crossing the borders. Great emphasis is laid on the prohibition of inhuman and degrading treatments, the prohibition of discrimination, protection of human dignity, respect of the principle of non-refoulement and the right to information.

In particular, the principle of non-refoulement is embedded in Law 4636/2019 (ΦΕΚ 169/Α/1-11-2019, as amended by Law 4686/2020/ΦΕΚ 96/Α/12-05-2020), which introduced modifications in the existing legal framework concerning access to international protection. The amendments consist to an acceleration of the relevant procedures of examination of the asylum applications.

Under this legal framework (Law 4636/2019), the following provisions are to be considered:

Article 21 (προστασία από την απομάκρυνση/protection against refoulement) par. 1

- The original text is the following: «Οι αρμόδιες αρχές σέβονται την αρχή της μη επαναπροώθησης σύμφωνα με τις διεθνείς υποχρεώσεις της χώρας» (unofficial translation: The competent authorities respect the principle of non-refoulement according to the international obligations of the country).

Article 39 (Γενικές Διατάξεις για τις διαδικασίες υποδοχής και ταυτοποίησης/General provisions regarding the procedures of reception and identification) par. 1 – The original text is the following: «Στις διαδικασίες υποδοχής και ταυτοποίησης υποβάλλονται όλοι οι υπήκοοι τρίτων χωρών και οι ανιθαγενείς, που εισέρχονται χωρίς τις νόμιμες διατυπώσεις στη χώρα ή διαμένουν χωρίς τις νόμιμες διατυπώσεις στην Ελλάδα και δεν αποδεικνύουν την ιθαγένεια και την ταυτότητά τους με έγγραφο δημόσιας αρχής. Τα πρόσωπα αυτά οδηγούνται άμεσα με ευθύνη των αστυνομικών ή λιμενικών αρχών που επιλαμβάνονται αρμοδίως, σε Κέντρο Υποδοχής και Ταυτοποίησης. Η μεταφορά μπορεί να πραγματοποιηθεί και με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης, σε περίπτωση αδυναμίας των αρμόδιων αστυνομικών ή λιμενικών αρχών (...).» (Unofficial translation: All third country nationals and stateless persons, who enter the country, without complying with the legal provisions or reside in the country without the legal prerequisites, and do not prove their nationality and identity, with a public document, are subject to reception and identification procedures. These individuals are directed, to a Reception and Identification Center, by the competent police or coast-guard authorities. The transfer can take place by the Reception and Identification Service, as well, in case of lack of possibility by the other authorities (...).

2. The following good practices are included in the Standard Operating Procedures (SOPs) of the Greek Asylum Service and are part of the daily routine of its staff:

During the reception of an asylum applicant, the competent official must identify whether the applicant belongs to a vulnerable group and takes care of her/him as a matter of priority. In any case, when a person who clearly belongs to a vulnerable group (e.g. unaccompanied minors, people with disabilities, the elderly, pregnant women) presents itself, competent officials will deal with her/him as a matter of priority. If during the filing of the application for international protection, there are indications or information from which it appears or it is likely that the applicant belongs to a vulnerable group the registering official must record this fact («vulnerability») in the Asylum Service's electronic database.

During the holding of the asylum interview, special procedural guarantees are in place when dealing with minors, victims of trafficking, victims of torture or sexual violence, and all persons belonging to vulnerable groups. In addition, in the assessment of the evidence when a decision on the asylum claim of a vulnerable person is to be made, the case officer is obliged to show leniency if confronted with minor inaccuracies and inconsistencies in the claim of a vulnerable person, provided these relate to the applicant's specific situation. The best interest of the child is an overarching principle that is enshrined in the Standard Operating Procedures of the Asylum Service. It is a guide for all the staff of the Service and it governs their actions related to minors, unaccompanied or not, in the asylum procedures.

3. According to Law 4636/2019 (Article 42), “any third country national or stateless person, can submit an application for international protection on Hellenic territory, borders included, as well as the territorial waters and the transit zones, provided that they are given permission to stay in the country as asylum applicants. The respective provisions are applied to the members of the family of the applicants, provided that they are covered by the application, according to the national law” (...). Some extraordinary measures were temporarily put into place by the Hellenic government, during February-March 2020, in order to address the unprecedented intense migratory pressure, which resulted from massive attempts of crossing the land borders from thousands of persons, a situation orchestrated by Turkey. These provisional measures concerned the temporary suspension of the submission of asylum applications, to the respective Hellenic authorities of the persons illegally entering the country, without following the legal procedures.
4. The Hellenic Police, in the framework of its mandate, during the management of the borders, pays focused attention to the protection of fundamental rights of the persons crossing the borders. International, EU and national legal and administrative framework is implemented, guaranteeing the protection of human life and dignity, without discrimination, while respecting the right to international protection and non-refoulement.

Border surveillance activities have as objective the early detection of attempts of illegal border crossing, and the implementation of prevention measures, according to the Schengen Borders Code. The patrolling teams in Hellenic territory conduct national and EU Joint Border Operations, in cooperation with EU Border and Coast Guard Agency. Both national authorities and the EUBCG Agency follow a strict Code of Conduct and every accusation of ill-treatment, including unprocessed returns, on behalf of the border personnel, taking place in these activities, is investigated on internal and/or EU level. Criminal and administrative penalties are imposed, where applicable. During the implementation of these operations, there was no submission of operational report, regarding unprocessed returns, mistreatment or poor behavior by the Hellenic authorities.

5. The COVID-19 pandemic created a new environment at the borders, leading to necessary restrictions of movement. The direct impact of these measures was the drastic drop in arrivals, both via the legal and illegal paths. In the framework of illegal border crossings, since March 2020, a prolonged reduction was recorded in the Eastern Mediterranean Route, towards the EU. The border management in 2021 will, to a significant degree, continue to depend on the development of COVID-19 mitigation measures. Although, a safe and effective vaccine has been discovered, the end of the pandemic is not easy to predict, taking also into account the attitude and acceptance of the vaccination by the general population.

Regarding the immediate challenges at the borders, the Hellenic authorities had to deal simultaneously with -3- crucial issues: the proper application of movement restrictions at the border crossing points, the migration management activities (including managing tensions and finding hosting facilities for curfew purposes of the newly arriving illegally third country nationals) and providing the special protection equipment for the border personnel at adequate numbers.

6. The border environment is a complex operational area. Such situations can have an impact on the physical and mental well-being of all persons involved in the protection of the human rights of migrants, whether border guards, or other individuals, thus affecting the effectiveness of their work.

These challenges are met, via specific training, provided by law enforcement Academies and various mechanisms, available for psychological support, towards the border personnel, and all persons involved in the protection of the human rights of the migrants. Regarding the specific needs of the migrants, in terms of reception, referral and identification, these are met via training activities, provided to the personnel involved, with emphasis on fundamental freedoms and human rights. The needs in terms of facilities are met under specific programs, implemented by the Ministry of Migration Policy.