



Border Violence
Monitoring Network



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POLICY BRIEF

evidence of Aegean Pushbacks



June 05, 2023



Briefing on New Evidence of Aegean Pushbacks:

Between 2020-2022, former BVMN member organisations Josoor and Mare Liberum (and other anonymous members) collected 14 testimonies of pushbacks in the Aegean from the islands of Lesbos, Chios, Rhodos, Kos, Samos, and other areas of Greek territorial waters, impacting 384 individuals. 13 of these testimonies (93%) involved minors, 12 (86%) reported the use of violence, and all 14 (100%) recorded the theft and/or destruction of personal belongings. Further evidence of these illegal operations can be found in two visual investigations which verify events by analysing [drone footage](#) and [videos taken by people on the move](#) during their pushbacks. In their testimonies, respondents have reported [severe beatings](#), the damaging of [their boats](#) and [the motors](#) before being [left adrift at sea](#), the [creation of waves](#) endangering their boat to sink, the [theft of their belongings](#), and being left [adrift on inflatable rafts](#). Furthermore, several cases indicate a practice of indiscriminate [forced undressings](#) of men, women and children, [sexual harassment or assault](#), and people being [threatened with firearms](#).¹ BVMN's work with Forensic Architecture on the [Aegean Driftbacks Platform](#) further geolocated and verified 1,018 incidents of asylum seekers being abandoned at sea, impacting [27,464 people between 2020-2022](#). Incidents of pushbacks have also been reported by Frontex officers themselves, as evidenced by Serious Incident Reports, obtained by I Have Rights through Freedom of information requests.²

Aegean pushbacks, therefore, incorporate multiple severe fundamental rights violations including of the right to life (Art. 2, ECHR) and the prohibition of torture and inhumane and degrading treatment or punishment (Art. 3, ECHR), and result in forced returns without individualised assessment, and collective expulsions with high risk of refoulement, making them in violation of Article 18 of the EU Charter of Fundamental Rights, Directive 2013/32/EU, the 1951 Geneva Convention Relating to the Status of Refugees and Article 14 of the Universal Declaration of Human Rights. Furthermore, leaving people adrift at sea amounts to a violation of Article 3 and, given [the conditions in Turkey](#), returns without individualised assessment further constitutes a violation of Article 3.

These violations, proven yet again by last week's [NYT visual investigation](#) of a pushback operation - evidencing on-land apprehensions for the first time - have been matched with a shrinking space for human rights monitors to report on these incidents and support people on the move in accessing their fundamental rights. The two BVMN member organisations who gathered 13 of the 14 documented testimonies in our database, [Josoor](#) and [Mare Liberum](#), have been forced to close in the last year due to criminalisation resulting in legal cases against their members. Whilst violations continue, the capacity to carry out human rights monitoring and advocate for the rights of those seeking asylum has substantially diminished.

Frontex has had a key role to play in these operations. The OLAF report proved that Frontex knew about Aegean pushbacks early on, and that they were [consistently covered up, and](#)

¹ See *testimonies in Annex I*

² See *Serious Incident Reports in Annex II*



[even financed by EU funds](#). In spite of the [FRO's recommendation to trigger Article 46](#) and withdraw from Greece due to evidence of persistent and systematic human rights abuses in his report to the Management Board, Frontex has retained its presence at both sea and land borders in Greece. The latest visual evidence shows that human rights violations continue unabated, despite [promises](#) made by the agency in January 2023 to end all illegal pushbacks, while there are serious concerns over the [FRO's restricted access](#) to operational areas, documents and personnel for effective monitoring.

Border Violence Monitoring Network and I Have Rights recommend:

- Frontex triggers Article 46 and withdraws from Greece (both sea and land borders) in the face of persistent and systematic fundamental rights violations
- The establishment of a truly independent border monitoring mechanism at all of the EU's external sea borders including:
 - The possibility for evidence to be submitted by CSOs
 - An alarm mechanism that can be triggered by people on the move in situations where they feel their rights are in danger of being violated
 - Funding that is independent from the Member State in which it is operating
 - The mandate to trigger investigations at its own initiative
- The cessation of legal cases against Search and Rescue (SAR) actors in Greece
 - Namely the case against [33 NGO members](#)
- Assure the implementation of Regulation 656/2014 and incorporated SAR obligations, with an accountability mechanism that prevents its false implementation in practice as well as its misinterpretation



Annex I: Testimonies

Date:	Collecting Organisation:	Location:
30/06/2022	Mare Liberum	Sea between Lesbos and Izmir
01/12/2021	Mare Liberum	Samos island
18/09/2021	Mare Liberum	Samos island
24/08/2021	Anon	Sea, 3 KM from Samos
27/01/2021	Josoor	Chios island
03/12/2020	Josoor	Lesvos island
19/11/2020	Mare Liberum	Sea south of Lesbos
30/10/2020	Mare Liberum	Sea near to Rhodos
24/08/2020	Josoor	Sea near to Kos
19/08/2020	Josoor	Sea near to Lesbos
27/07/2020	Josoor	Rhodos island
11/07/2020	Josoor	Sea near to Lesbos
05/06/2020	Josoor	Sea near to Lesbos
03/06/2020	Josoor	Lesvos island

ANNEX 5 – Final SI-Handler Report Template



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

Sensitive operational information

Sensitive operational information

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.	
Text removed - Reporting Tools	
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
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:
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:	
Text removed - Reporting Tools	
Sensitive operational information	“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 [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	Reporting tools
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 to 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]: the [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.