



**LEGAL  
CENTRE  
LESVOS**



Submitted by:

Legal Centre Lesvos AMKE  
Komninaki 20  
81100 Mytilene  
Lesvos, GREECE

and European Association of Lawyers for  
Democracy & World Human Rights (ELDH)  
Platanenstrasse 13  
40233 Düsseldorf, GERMANY

To:

Judge Pere Pastor Vilanova  
European Court of Human Rights  
Third Section  
Council of Europe  
67075 Strasbourg CEDEX, FRANCE

CC:

Mr Milan Blasko  
Section Registrar, Third Section  
European Court of Human Rights  
Council of Europe  
F-67075 Strasbourg CEDEX, FRANCE

in advance via fax: +33 (0)3 88 41 27 30 / +33 (0)3 90 21 43 10

19 November 2024

**Third Party Intervention in the case of:  
(Salman) Muhammad v. Greece, no. 34331/22**

## **I. Introduction**

1. The following submission is made by Legal Centre Lesvos (‘LCL’) and European Association of Lawyers for Democracy and World Human Rights (together ‘the Interveners’) pursuant to the notification that the President of the Section has granted leave, under Rule 44(3) of the Rules of the European Court of Human Rights.
2. The case of Muhammad v. Greece, no. 34331/22 (‘this Application’) concerns the killing of Muhammed Gulzar, who was shot on 4 March 2020, while attempting to cross the border from Turkey to Greece.<sup>1</sup> In the following submission, the Interveners will provide information on the systematic use of force by Greek law enforcement at Greece’s borders at the time of the incident subject to this Application and beyond (II); on the systematic inaccessibility and ineffectiveness of legal remedies in Greece in the context of border violence (III); and on how crucial evidence remains in the hands of the State, including through the systematic prevention of evidence collection and documentation of border violence as well as a deliberate practice of concealing the identity of perpetrators (IV). In the final section, the Interveners respectfully present their concluding remarks (V).

## **II. Systematisation of the use of lethal force and deadly practices in pushback operations since the killing of Muhammed Gulzar**

3. Well before March 2020, pushbacks were an established practice, particularly on Greece’s land border with Turkey along the Evros river.<sup>2</sup> As will be demonstrated herein, as of March 2020, we have witnessed an escalation and systematisation of this violent state policy,<sup>3</sup> using methods that inherently put migrants’ lives at risk.<sup>4</sup>
4. After Turkish president Erdoğan announced to open the borders with Greece in late February 2020, Greece unilaterally suspended the right to asylum in March 2020 and conducted a series of violent summary expulsions in the Evros region—including the use of lethal force in the killing of Muhammed Gulzar.<sup>5</sup> Instead of taking action against such brazen violations of EU law, EU Commission President von der Leyen thanked Greece for

---

<sup>1</sup> Further detailed in Forensic Architecture’s 2020 forensic reconstruction of *The Killing of Muhammed Gulzar*, issued in partnership/collaboration with Bellingcat, Lighthouse Reports, Der Spiegel and HumanRights360.

<sup>2</sup> See, for example, ECCHR, *Analyzing Greek Pushbacks: Over 20 Years of Concealed State Policy Without Accountability*; Amnesty International (2013), *Συνορα της ευρώπης: καταπατήσεις ανθρωπίνων δικαιωμάτων στα σύνορα της ελλάδας με την τουρκία* (English: *Borders of Europe: Human rights abuses on Greece’s border with Turkey*).

<sup>3</sup> In its most recent case law, the Court has confirmed that the failure to individually assess a person’s risks of treatment contrary to Article 3 ECHR prior to their removal in itself constitutes a violation of the Convention: case of *M.A. and Z.R. v. Cyprus*, no. 39090/20, §95, 8 October 2024.

<sup>4</sup> See Report of the UN Special Rapporteur on the human rights of migrants (2021), *Report on means to address the human rights impact of pushbacks of migrants on land and at sea*, §§53-55.

<sup>5</sup> See AIDA, *Country Report on Greece, Update 2020*, pp. 37-38.

acting as Europe’s “shield.”<sup>6</sup> Shortly after the killing of Muhammed Gulzar, the Commission announced an additional 700 million euros for “border and migration management in Greece”, stating “Greece’s border is Europe’s border”<sup>7</sup> and in June 2020 the EU’s Internal Security Fund awarded Greece a further 10.75 million euros for the Reinforcement of its Eastern Borders.<sup>8</sup> The vice-president of the European Commission has since cited the example of “Evros at the beginning of March [2020]” as proof that “Europe can...effectively ensure border management.”<sup>9</sup> This financial and political support and the related lack of accountability or condemnation following Muhammed Gulzar’s killing demonstrated tacit approval from European institutions for Greece’s aggressive and deadly border maintenance and paved the way for further expansion and systematisation of Greece’s pushback policy. Now, over four years later, the use of potentially deadly methods have become systematic and widespread at the Greek-Turkish border, through a coordinated strategy aimed at deterring migrant entry.<sup>10</sup>

5. Since March 2020, LCL has documented over 100 pushbacks, publishing two extensive reports,<sup>11</sup> contributing to Forensic Architecture’s Platform ‘Drift-backs in the Aegean Sea,’<sup>12</sup> submitting incident reports to the National Commission for Human Rights’ Recording Mechanism of Incidents of Informal Forced Returns,<sup>13</sup> and has represented over 50 survivors and surviving family members of pushback and attempted pushback operations before Greek courts, the European Court for Human Rights (‘the Court’ or ‘ECtHR’), and before UN treaty bodies.<sup>14</sup>
6. The pushbacks documented by LCL follow a consistent *modus operandi* which inherently put migrants’ lives at risk.

---

<sup>6</sup> European Commission (2020), *Remarks by President von der Leyen at the joint press conference with Kyriakos Mitsotakis et al.*

<sup>7</sup> European Commission (2020), *Press remarks by Vice-President Schinas on immediate actions to support Greece.*

<sup>8</sup> See European Commission (2020), *Managing Migration: EU Financial Support to Greece*, p. 2.

<sup>9</sup> Nikolaj Nielsen (2020), *EU migration pact to deter asylum*, euobserver.

<sup>10</sup> In a 2022 report, the UN Special Rapporteur on the Rights of Migrants stated that pushbacks at Greece’s land and sea border are the “de facto general policy”: Report of the Special Rapporteur on the Human Rights of Migrants (2022), *Human rights violations at international borders: trends, prevention and accountability*, §32; further, also IOM has shown itself alarmed by increasing migrant deaths and continuous reports of pushbacks at the Greek-Turkish border: IOM (2022), *IOM Concerned about Increasing Deaths on Greece-Turkey Border.*

<sup>11</sup> LCL (2021), *Crimes Against Humanity in the Aegean Sea*; LCL (2020), *Collective Expulsions in the Aegean Sea: March-July 2020.*

<sup>12</sup> Forensic Architecture (2022), *Drift-Backs in the Aegean Sea* platform.

<sup>13</sup> Greek National Commission for Human Rights (GNCHR), *Recording Mechanism of Informal Forced Returns*, available at: <https://nchr.gr/en/recording-mechanism.html>.

<sup>14</sup> Including several cases pending before this Court: *S.A.A. and Others v. Greece*, no. 22146/21, communicated 2 December 2021; *H.T. and Others v. Greece*, no. 4177/21, communicated 2 December 2021; and *A.A.N. and Others v. Greece and seven other Applications*, no. 38203/20, communicated 8 October 2024.

7. (a) Inherently life threatening practices: In *100 percent of the pushback cases* documented by LCL in the *Aegean sea*, migrants are abandoned either on previously damaged dinghies or on repurposed life rafts, without proper safety provisions, without any means to navigate, and often without any means to call for help, putting their lives in grave danger and causing extreme mental anguish and physical exhaustion. Likewise, in *100 percent of the pushback cases* LCL documented in the *Evros region*, Greek authorities take deliberate operational measures that pose an inherent and grave risk to migrant lives by expelling them across the fast-flowing river, often in the dark, with limited or no safety precautions. It is unknown how many fatalities have resulted from these practices given the clandestine nature of pushbacks. However, the BBC recently documented and analysed the killing of 43 migrants in 15 incidents between May 2020 and 2023 as the result of pushbacks in the Aegean region—including nine people “who were deliberately thrown into the water.”<sup>15</sup> The death toll related to practices of violent border maintenance continues to rise, as e.g. in July 2024, migrants who had been left adrift in the Aegean sea following a pushback operation crashed into a rocky island, causing their life rafts to capsize, resulting in the killing of eight people.<sup>16</sup>
8. (b) Use of extreme violence and lethal methods: In *100 percent of the pushback cases* documented by LCL, migrants are subjected to physical violence or other inhuman acts which has included dangerous manoeuvres of Hellenic Coast Guard (‘HCG’) vessels at high sea risking the sinking of migrant boats, and/or beating with batons, sticks, poles, hands or feet—as well as use or threatened use of firearms. The use of this extreme violence in some cases ends fatally. LCL currently represents the surviving family members of two individuals who were killed as the direct result of the Greek authorities’ use of extreme violence<sup>17</sup> and dangerous manoeuvres during pushback operations.<sup>18</sup> To give just a few further examples of the continued use of lethal force the Interveners would like to highlight the following recent cases:
- **Pylos shipwreck**: On 14 June 2023, according to survivors and experts who have analysed the available evidence, the HCG towed a migrant boat (‘Adriana’) carrying approximately 750 people, causing it to capsize and killing an estimated 600 people on board, with only 104 survivors<sup>19</sup>—despite this Court’s past judgement against Greece finding a violation of Article 2 ECHR related to similar conduct.<sup>20</sup>

---

<sup>15</sup> Lucile Smith and Ben Steele (2024), *Greek coastguard threw migrants overboard to their deaths, witnesses say*, BBC.

<sup>16</sup> Alarm Phone (2024), “*We are with the local police, do we have to be afraid?*”: 8 people killed by Hellenic Coast Guard.

<sup>17</sup> Hibai Arbide Aza and Andrés Mourenza (2023), *Who tortured Baris Büyüksu to death?*, El Pais.

<sup>18</sup> Hibai Arbide Aza (2023), *El viaje mortal de Said hacia Europa* (English: Said's deadly journey to Europe), El Pais.

<sup>19</sup> Forensis (2023), *The Pylos Shipwreck*.

<sup>20</sup> *Safi and Others v. Greece*, no. 5418/15, 7 July 2022.

- There have been several reported incidents of the HCG using live ammunition against migrant boats, killing at least one person in 2024.<sup>21</sup>
- Relatedly, this Court recently found that Greece had violated both the substantive and procedural limb of Article 2 ECHR in a case concerning two HCG officers who had shot at and seriously injured two Syrian nationals—one of whom subsequently died.<sup>22</sup>

### III. Systematic inaccessibility and ineffectiveness of legal remedies despite obligations under Articles 2 and 13 ECHR

9. Under Article 2 ECHR, the Respondent State is obliged to take appropriate steps to safeguard the lives of those within its jurisdiction.<sup>23</sup> Further, the right to life includes the obligation to conduct an effective investigation when a person may have died as a result of state action. Such an investigation must be promptly conducted by an independent body, comprehensive, thorough and unbiased. The investigation must be so that its results may provide the basis for a conviction.<sup>24</sup> Additionally, the authorities “must act *ex officio* as soon as the case is brought to their attention,” regardless of whether relatives have lodged their own formal complaint.<sup>25</sup> Further, pursuant to Article 2 read in conjunction with Article 13 ECHR, domestic remedies must be accessible and effective, not only in theory, but also in practice.<sup>26</sup> To fulfil these standards, judicial avenues must be capable of providing redress in respect to the complaint or offer reasonable prospect of success.<sup>27</sup>
10. Drawing from LCL’s experience in representing migrants who were exposed to pushbacks and other forms of violence at Greece’s borders as well as publicly available sources, the Interveners argue that Greek authorities systematically fail to adequately investigate allegations of border violence—both under their *ex officio* obligation and when survivors or surviving family members file related complaints. In practice, available (judicial) avenues fail to offer any accessible and effective domestic remedies to survivors of border violence and surviving family members and are not in any way adapted to provide real chances of redress. Generally, Greek law only provides for three types of avenues discussed hereafter:

---

<sup>21</sup> Hibai Arbide Aza (2024), *Frontex responsabiliza a los guardacostas griegos de la muerte de cuatro personas durante unas devoluciones en caliente* (English: Frontex blames Greek coast guard for the deaths of four people during hot roulements), El Pais; Aegean Boat Report (2024), *Greece’s ‘Coastguard’ Firing On Civilians*; Giorgos Pagoudis (2024), *Νεκρός πρόσφυγας σε καταδίωξη του Λιμενικού ανοιχτά της Σύμης* (English: Dead refugee in a pursuit by the Coast Guard off Symi), efsyn.

<sup>22</sup> See *Alkhatib and Others v. Greece*, no. 3566/16, 16 January 2024; see also, Sarah Tas and Agostina Pirrello (2024), *Advancing Accountability: The Case of Alkhatib and Others v. Greece*, Verfassungsblog.

<sup>23</sup> *Nencheva and Others v. Bulgaria*, no. 48609/06, §105, 18 June 2013.

<sup>24</sup> *Safi and Others v. Greece*, no. 5418/15, §§115-120, 7 July 2022.

<sup>25</sup> *Ibid.*, §119, with further references.

<sup>26</sup> *Molla Sali v. Greece* [GC], no. 20452/14, §89, ECHR 2018.

<sup>27</sup> *Selmouni v. France* [GC], no. 25803/94, §76, ECHR 1999-V; *Sejdovic v. Italy* [GC], no. 56581/00, §46, ECHR 2006-II; *Akdivar and Others v. Turkey* [GC], no. 21893/93, § 68, ECHR1996-IV.

11. (a) Criminal proceedings: In the present context, criminal proceedings are the most relevant as only they can satisfy the procedural obligations under Article 2 ECHR.<sup>28</sup>
12. Survivors of border violence and surviving family members theoretically can file a complaint before the competent Greek Prosecutors to request the opening of an investigation. In practice however, the filing of such a complaint requires that the complainants meet an onerous evidentiary burden for an investigation to be initiated,<sup>29</sup> which is excessive considering the circumstances and offences at stake.<sup>30</sup> Most importantly, if the perpetrators cannot be identified, which for systemic reasons is the case in the vast majority—if not all—incidents of border violence (see section IV), the Public Prosecutor can archive the case, among other reasons, either based on their assumption that there is not enough evidence in relation to the identity of the perpetrator(s), or if they determine that there is insufficient factual evidence to initiate a criminal prosecution.<sup>31</sup> Additionally, the latter depends on the cooperation of the implicated agencies to conduct an internal inquiry into the allegations.<sup>32</sup> Given the Greek government officials' consistent denial of collective expulsions and the inertia or archiving of previously initiated investigations, the prospect of Greek authorities' transparent and good faith cooperation is slim.
13. While there is generally no transparency on the number and status of investigations initiated by Greek prosecutors into pushback incidents, Greek authorities provided information on the matter in response to a question posed at the European Parliament this year. On 21 February 2024, the Hellenic Secretary General of Migration Policy mentioned that “[s]ince 2020, Public Prosecutors have opened 79 investigations of allegations in total. Out of those 79 cases: 48 cases have been archived, 15 cases are currently at the stage of preliminary investigation, nine (9) cases have been transmitted to other competent services, and seven (7) cases are pending”.<sup>33</sup> These statistics confirm that (i) compared to the estimated amount of pushbacks carried out against migrants since 2020, proportionally only very few investigations have actually been opened, and (ii) the vast majority of the opened investigations are in any event leading to the archiving of the cases without further prosecution.

---

<sup>28</sup> See, for example, *Hugh Jordan v. The United Kingdom*, no. 24746/94, §141, 4 August 2001; Proceedings, “which are undertaken on the initiative of the next of kin, not the authorities, and which do not involve the identification or punishment of any alleged perpetrator, cannot be taken into account in the assessment of the State’s compliance with its procedural obligations under Article 2 cannot be satisfied merely by awarding damages”: *Al-Skeini and Others v. the United Kingdom* [GC], no. 55721/07, §165, 7 July 2011.

<sup>29</sup> See, for example, Article 23, Disciplinary Law of Police Personnel 120/2008.

<sup>30</sup> See *Ananyev and Others v. Russia*, nos. 43535/07 and 60800/08, §228, ECHR 2012.

<sup>31</sup> See Article 43, Greek Criminal Procedure Code.

<sup>32</sup> See Article 1(3), Law 2713/1999.

<sup>33</sup> European Parliament (2024), *Answer given by Ms Johansson on behalf of the European Commission to parliamentary question E-000150/2024*.

14. Moreover, in response to a question recently raised in the Greek Parliament, the Public Prosecutors reported that no charges have been brought for such crimes so far. In three cases where prosecution was initiated, the cases were eventually archived because the perpetrators were ‘unknown’. Similarly, the Minister of Maritime Affairs and Insular Policy replied that no criminal nor disciplinary proceedings have been brought against any of the members of the HCG.<sup>34</sup> This lack of investigation into credibly alleged instances of border violence is further confirmed by civil society organisations<sup>35</sup> and the UN Human Rights Committee.<sup>36</sup>
15. Furthermore, the investigative structure in Greece in itself fails to meet the required standards of independence,<sup>37</sup> transparency and protection against collusion,<sup>38</sup> particularly considering the likely role of racist motives in the constitutive violations.<sup>39</sup> Greece’s failure to adequately investigate a racially motivated crime was already condemned by the Court, which emphasised that state failure to make links between similar cases will be a relevant factor in deciding whether an effective investigation has been conducted.<sup>40</sup> Finally, the Interveners seek to remind that this Court has recently condemned Greece for the lack of proper investigations in two cases concerning, *inter alia*, the death of migrants through the actions of Greek law enforcement.<sup>41</sup>

---

<sup>34</sup> Hellenic Parliament, Parliamentary question no. 6153 filed on 31 July 2024 and answers.

<sup>35</sup> See AIDA (2024), *Country Report on Greece: Access to the territory and push backs*; GCR (2023), *Στα Σύνορα της Ευρώπης: Μεταξύ Ατιμωρησίας και Ποινικοποίησης* (English: At Europe’s Borders: Between Impunity and Criminalization); oral submissions presented to the ECtHR during the *chamber hearing in the cases of G.R.J. v. Greece and A.E. v. Greece* on 4 June 2024, online broadcast.

<sup>36</sup> UN Human Rights Committee (2024), *Concluding observations on the third periodic report of Greece*, §19 finding a systematic lack of investigations into allegations of pushbacks.

<sup>37</sup> The lack of independence derives from the circumstance that “investigations into potential criminal conduct by law enforcement bodies are carried out by the very same state bodies (Hellenic Police, Hellenic Coast Guard) in their capacity as ‘general investigating officers’.” Vouliwatch et al., *Greece in Institutional Decline: Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report*, §29.

<sup>38</sup> See *Kolevi v. Bulgaria*, no. 1108/02, §§191-94, ECHR 2009.

<sup>39</sup> See *Bekos and Koutropoulos v. Greece*, no. 15250/02, §69, ECHR 2005. Such racist and anti-migrant motives may also be relevant in relation to the prohibition of discrimination pursuant to Article 14 ECHR: The enjoyment of the rights and freedoms set forth in the ECHR shall be secured without discrimination. In relation to the right to life, this is relevant for two reasons: If racist or other discriminatory reasons motivated a killing, the substantive limb of Article 14 taken together with Article 2 ECHR is violated. In parallel, the procedural limb of Article 14 taken together with Article 2 ECHR is violated if the competent State authorities fail to investigate the existence of such discriminatory motives for a killing: See *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98. In addition, the Interveners argue that, read in conjunction with Articles 6 and 13 ECHR, Article 14 ECHR guarantees a right to non-discriminatory access to justice.

<sup>40</sup> See *Sakir v. Greece*, no. 48475/09, §§72-73, ECHR 2016.

<sup>41</sup> See *Safi and Others v. Greece*, no. 5418/15, 7 July 2022 and *Alkhatib and Others v. Greece*, no. 3566/16, 16 January 2024.

16. (b) Compensation proceedings before administrative courts: Individuals who were harmed by the actions of the Greek State and its agents have, in theory, the ability to recourse to the administrative courts to claim compensation for injuries from illegal actions. In practice, however, survivors of border violence and their relatives face several procedural obstacles rendering this remedy effectively inaccessible, for example, through the imposition of an excessive burden of proof.<sup>42</sup> In any case, compensation proceedings can only lead to disciplinary and administrative remedies which do not constitute adequate and effective remedies in the event of an alleged violation of the right to life.<sup>43</sup>
17. (c) Non-judicial complaint mechanism: There are several non-judicial mechanisms available in Greece, particularly complaining to the National Transparency Authority (NTA); the Greek Fundamental Rights Officer of the Ministry of Migration and Asylum (FRO); or the Greek Ombudsperson.<sup>44</sup> As non-judicial remedies do not comply with the standards of a remedy required under the ECHR, the Interveners refrain from listing specific deficiencies identified in the individual complaint mechanisms.

#### **IV. Evidence suppression and state control of evidence to ensure impunity**

18. In the vast majority of pushbacks documented by LCL, Greek authorities are reported to steal and destroy the personal belongings of affected migrants, especially mobile phones. Therefore, the well established *modus operandi* of pushbacks involve regular searches—including strip searches.<sup>45</sup> In most cases—with only a few exceptions—this prevents the collection of evidence, making it extremely difficult to produce “sufficient proof” according to this Court’s case law.<sup>46</sup>
19. An additional systematic obstacle in accessing justice stems from the methodology applied in violent border maintenance operations that includes the deliberate concealment of identity: In most of the pushback cases documented by LCL, the acts detailed in section II are carried out by state agents who have their faces covered with masks and often are either wearing no uniform or uniforms without insignia.<sup>47</sup> The use of masks not only causes

---

<sup>42</sup> *Ananyev and Others v. Russia*, nos. 43535/07 and 60800/08, §228, ECHR 2012.

<sup>43</sup> See, for example, *Hugh Jordan v. The United Kingdom*, no. 24746/94, §141, 4 August 2001; and *Al-Skeini and Others v. the United Kingdom* [GC], no. 55721/07, §165, 7 July 2011.

<sup>44</sup> AIDA (2024), *Country Report on Greece: Access to the territory and push backs*.

<sup>45</sup> Stavros Malichudis (2023), *The Great Robbery: more than €2 million taken from asylum seekers*, Solomon; BVMN (2022), *Black book of pushbacks*, pp. 19, 45; GNCHR, Recording Mechanism of Incidents of Informal Forced Returns (2024), *Annual Report 2023*, p. 45; Grażyna Baranowska (2023), *Exposing Covert Border Enforcement: Why Failing to Shift the Burden of Proof in Pushback Cases is Wrong*, p. 486.

<sup>46</sup> Grażyna Baranowska (2023), *Exposing Covert Border Enforcement: Why Failing to Shift the Burden of Proof in Pushback Cases is Wrong*, p. 489; also see, case of *M.H. and Others v. Croatia*, nos. 15670/18 and 43115/18, 18 November 2021, including Judge Wojtyczek’s partly dissenting and partly concurring opinion.

<sup>47</sup> LCL (2021), *Crimes Against Humanity in the Aegean Sea*; ; BVMN (2020), *The Black Book of Pushbacks - Volumes I & II*; BVMN (2022), *Black book of pushbacks*; GNCHR, Recording Mechanism of Incidents of



terror among those affected but also obscures the identities of the perpetrators, making it nearly impossible for survivors to identify their abusers, which at the same time contributes to the ongoing policy of denial and creates a sphere of impunity.<sup>48</sup>

20. Relatedly, the Greek Government has so far not only refused to implement an independent border monitoring mechanism,<sup>49</sup> but also prevents civil society organisations from engaging in the documentation of border violence: in the Evros region, it is inherently difficult to monitor as much of the border region is a designated military area where civilian organisations do not have access. Likewise, monitoring in the Aegean region has been hindered with the enactment of Law 4825/2021, which limits the intervention of civil search and rescue organisations at sea. In parallel, the narrative that providing legal assistance to newly arrived asylum seekers could be considered a contribution to smuggling-related criminal offences has “created an increasingly hostile environment” for Human Rights Organisations causing a “widespread fear of criminalisation” further limiting related monitoring capacity.<sup>50</sup>
21. As recently demonstrated during the oral hearing in the cases of *G.R.J. v. Greece* and *A.E. v. Greece* before of this Court,<sup>51</sup> the Greek Government continues to categorically deny the use of illegal border maintenance methods.<sup>52</sup> As a result, Applicants in related cases are usually confronted with the situation that crucial evidence—e.g. records of border maintenance operations such as deployment plans, and shift logs—lies outside of their reach in the hands of a state that rejects the facts as presented by the Applicants by denying the involvement in the individual incident in question if not the very existence of the practice as such.<sup>53</sup> In this context, the Interveners consider the Greek authorities to systematically breach their obligation to conduct an effective investigation into allegations of border violence as they would be obliged to take all “steps reasonably available...to gather evidence.” According to this Court’s case law, any “shortcoming in the

---

Informal Forced Returns (2024), *Annual Report 2023*; Matina Stevis-Gridneff, Sarah Kerr, Kassie Bracken and Nimet Kirac (2023), *Video Shows Greece Abandoning Migrants at Sea*, New York Times.

<sup>48</sup> Elspeth Guild (2023), *The Problem of Impunity in Border Violence*.

<sup>49</sup> AIDA (2024), *Country Report on Greece: Access to the territory and push backs*.

<sup>50</sup> AIDA (2024), *Country Report on Greece: Access to the territory and push backs*; further see Letter of the UN Special Rapporteur on the situation of human rights defenders (2022), *Statement on preliminary observations and recommendations following official visit to Greece*; Report of the UN Special Rapporteur on the situation of human rights defenders (2023), *Visit to Greece*; GCR (2023), *Στα Σύνορα της Ευρώπης: Μεταξύ Ατιμωρησίας και Ποινικοποίησης* (English: At Europe’s Borders: Between Impunity and Criminalization).

<sup>51</sup> ECtHR (2024), Press Release issued by the Registrar of the Court, *Chamber hearing on alleged “pushback” of applicants from Greece to Türkiye*.

<sup>52</sup> ECtHR (2024), *G.R.J. v. Greece and A.E. v. Greece (nos. 15067/21 and 15783/21)*, Chamber hearing—4 June 2024, online broadcast.

<sup>53</sup> See Grażyna Baranowska (2023), *Exposing Covert Border Enforcement: Why Failing to Shift the Burden of Proof in Pushback Cases is Wrong*, especially pp. 475, 481 and 493.

investigation that weakens its ability to lead to the identification of the person or persons responsible” may lead to the conclusion that an investigation is inadequate.<sup>54</sup>

22. Illustrative of the general neglect of adequate collection of evidence is again the case of the Pylos shipwreck (see above §8): after the *Adriana* capsized, killing approximately 600 migrants, nine survivors were randomly selected and charged with, among other offences, causing the shipwreck.<sup>55</sup> In parallel, the Greek Naval Court opened an investigation into HCG’s potential responsibility, supported by the complaint of 40 survivors submitted to the Naval Court—this case is still pending.<sup>56</sup> While some of the charges against the nine survivors were dropped and the defendants were acquitted of the remaining charges in May this year,<sup>57</sup> it is worth recalling in the present context that the mobile phones of the HCG officers present at the time were only confiscated 119 days after the shipwreck.<sup>58</sup> This delay of four months includes the high probability that important information has been lost, deleted or altered in the meantime. In contrast, the survivors’ mobile phones were confiscated immediately after the shipwreck, rendering it impossible for the survivors to independently access any kind of evidence they might have had on their phones.<sup>59</sup> The Greek civil society input to the 2024 Annual Rule of Law Report on Greece confirmed that the related “evidence collection” was deficient.<sup>60</sup> Although this is only one example, the conduct of the relevant authorities, especially in light of the magnitude of the incident, is representative of the general failure to investigate allegations of border violence.

---

<sup>54</sup> *Safi and Others v. Greece*, no. 5418/15, §117, 7 July 2022.

<sup>55</sup> LCL (no date), *Pylos 9: Prosecution Following The Deadly 2023 Pylos Shipwreck*.

<sup>56</sup> Justice4Pylos (2023), *Greece: 6 Months On, No Justice for Pylos Shipwreck*.

<sup>57</sup> LCL (2024), *Statement by the Defense Lawyers of the Nine Survivors of the Pylos Shipwreck Who Were Acquitted*.

<sup>58</sup> The Press Project (2023), *Κατέσχεσαν τα κινητά των λιμενικών του ναυαγίου της Πύλου μετά από 119 μέρες*.

<sup>59</sup> LCL (2024), *Closure of the Pylos 9 investigation and rejection of requests for additional crucial evidence*; Lukas Stamellos (2024), *Ποιος φοβάται τη διερεύνηση των πραγματικών δεδομένων για την Πύλο;* (English: Who is afraid of investigating the real facts about Pylos?), omniatv.

<sup>60</sup> Vouliwatch et al., *Greece in Institutional Decline: Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report*, §§34-36.

## V. Concluding remarks

23. Taken together, the Interveners have demonstrated that Greek law enforcement agencies routinely apply extreme violence in their border maintenance operations. The policies described and their *modus operandi* display a complete disregard for the life of migrants who try to seek protection in Europe. The structural shortcomings and obstacles that prevent victims and their relatives from obtaining an effective remedy for their harm in the domestic legal system attest to the ways in which the Greek authorities' systematic practice of border violence is shielded and enabled by a principle disregard for the rule of law in related cases. Of particular relevance for the Court, is the demonstrated "power asymmetry in access to information" and gathering of evidence,<sup>61</sup> which is further amplified by the deliberate suppression of evidence and the systemic refusal to conduct investigations persistently rejecting the very existence of the in fact well documented border violence practices. This asymmetry "can only be addressed by the ECtHR's approach to evidence" and the related approach to the shift of the burden of proof.<sup>62</sup> This is all the more true, as the ECtHR often "has to handle [such cases] without relying on facts established in domestic proceedings," while many cases of alleged border violence at the same particularly raise "questions of facts rather than questions of law."<sup>63</sup> In this context, appropriate weight must be given to the testimonies of both Applicants and eyewitnesses, recognizing their essential role in substantiating claims and providing context to alleged border violence.
24. According to this Court's case law, when *prima facie* evidence is presented in cases of border violence, the ECtHR shifts the burden of proof to the Respondent State.<sup>64</sup> This is of particular relevance in situations of systemic failure of national authorities to investigate border violence perpetrated by their officials—as is the standard practice in Greece. The Interveners argue that the pattern of systematic violations of rights under the ECHR combined with the systemic failure to investigate related allegations in and of itself give reason for the burden of proof to be shifted to the Respondent State.

---

<sup>61</sup> Grażyna Baranowska (2023), *Exposing Covert Border Enforcement: Why Failing to Shift the Burden of Proof in Pushback Cases is Wrong*, p. 485.

<sup>62</sup> *Ibid.*, p. 485.

<sup>63</sup> Isabel Kienzle (2024), *Evidencing pushbacks: How the ECtHR may request information from states*, Refugee Law Institute Blog.

<sup>64</sup> See Grażyna Baranowska (2023), *Exposing Covert Border Enforcement: Why Failing to Shift the Burden of Proof in Pushback Cases is Wrong*, pp. 478-481; and, for example, *M.A. and Z.R. v. Cyprus*, no. 39090/20, §80, 8 October 2024.

## Annex: Alphabetical list of resources with full references, including links

- Aegean Boat Report, *Greece's 'Coastguard' Firing On Civilians*, 6 September 2024, available at: <https://aegeanboatreport.com/2024/09/06/greeces-coastguard-firing-on-civilians/>.
- AIDA (Asylum Information Database), *Country Report on Greece, Update 2020*, available at: [https://asylumineurope.org/wp-content/uploads/2021/06/AIDA-GR\\_2020update.pdf](https://asylumineurope.org/wp-content/uploads/2021/06/AIDA-GR_2020update.pdf).
- AIDA (Asylum Information Database), *Country Report on Greece: Access to the territory and push backs*, last updated: 10 July 2024, available at: <https://asylumineurope.org/reports/country/greece/asylum-procedure/access-procedure-and-registration/access-territory-and-push-backs/>.
- Alarm Phone, *"We are with the local police, do we have to be afraid?": 8 people killed by Hellenic Coast Guard*, 30 July 2024, available at: <https://alarmphone.org/en/2024/07/30/we-are-with-the-local-police-do-we-have-to-be-afraid/>.
- Amnesty International, *Συνορα της ευρωπης: καταπατησεις ανθρωπινων δικαιωματος στα συνορα της ελλαδας με την τουρκια* (English: *Borders of Europe: Human rights abuses on Greece's border with Turkey*), 9 July 2013, available at: <https://www.amnesty.org/en/wp-content/uploads/2021/06/eur250082013el.pdf>.
- BVMN (Border Violence Monitoring Network), *The Black Book of Pushbacks - Volumes I & II*, 18 December 2020, available at: <https://left.eu/issues/black-book-of-pushbacks-volumes-i-ii/>.
- BVMN (Border Violence Monitoring Network), *Black book of pushbacks*, 7 December 2022,, available at: <https://left.eu/issues/black-book-of-pushbacks-2022/>.
- ECCHR (European Center for Constitutional and Human Rights), *Analyzing Greek Pushbacks: Over 20 Years of Concealed State Policy Without Accountability*, without a date, available at: [https://www.ecchr.eu/fileadmin/Publikationen/ecchr\\_analysis\\_greek\\_pushback\\_practice.pdf](https://www.ecchr.eu/fileadmin/Publikationen/ecchr_analysis_greek_pushback_practice.pdf).
- ECtHR (European Court of Human Rights), Press Release issued by the Registrar of the Court, *Chamber hearing on alleged "pushback" of applicants from Greece to Türkiye*, ECHR 138 (2024), 4 June 2024, available at: <https://hudoc.echr.coe.int/eng-press?i=003-7962917-11102548>.
- ECtHR (European Court of Human Rights), *G.R.J. v. Greece and A.E. v. Greece (nos. 15067/21 and 15783/21)*, Chamber hearing—4 June 2024, online broadcast, available at: <https://www.echr.coe.int/w/g.r.j.-v.-greece-and-a.e.-v.-greece>.
- Elsbeth Guild, *The Problem of Impunity in Border Violence*, in: Elsbeth Guild (Ed.), *Monitoring Border Violence in the EU*, 2023, London: Routledge.
- European Commission, *Remarks by President von der Leyen at the joint press conference with Kyriakos Mitsotakis, Prime Minister of Greece, Andrej Plenković, Prime Minister of Croatia, President Sassoli and President Michel*, 3 March 2020, available at: [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_20\\_380](https://ec.europa.eu/commission/presscorner/detail/en/statement_20_380).
- European Commission, *Press remarks by Vice-President Schinas on immediate actions to support Greece*, 4 March 2020, available at: [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_20\\_395](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_20_395).

- European Commission, *Managing Migration: EU Financial Support to Greece*, November 2020, available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/202011\\_managing-migration-eu-financial-support-to-greece\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/202011_managing-migration-eu-financial-support-to-greece_en.pdf).
- European Parliament, *Answer given by Ms Johansson on behalf of the European Commission to parliamentary question E-000150/2024*, 14 March 2024, available at: [https://www.europarl.europa.eu/doceo/document/E-9-2024-000150-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2024-000150-ASW_EN.html).
- Forensic Architecture, *The Killing of Muhammed Gulzar*, forensic reconstruction issued in partnership with Bellingcat and Lighthouse Reports, and in collaboration with Der Spiegel and HumanRights360, 8 May 2020, available at: <https://forensic-architecture.org/investigation/the-killing-of-muhammad-gulzar>.
- Forensic Architecture, *Drift-Backs in the Aegean Sea* platform, launched on 15 July 2022, available at: <https://forensic-architecture.org/investigation/drift-backs-in-the-aegean-sea>.
- Forensis, *The Pylos Shipwreck*, 7 July 2023, available at: <https://counter-investigations.org/investigation/the-pylos-shipwreck>.
- GCR (Greek Council for Refugees), *Στα Σύνορα της Ευρώπης: Μεταξύ Ατιμωρησίας και Ποινικοποίησης* (English: *At Europe's Borders: Between Impunity and Criminalization*), March 2023, available at: <https://gcr.gr/el/gcr-reports/item/2110-at-europe-s-borders-between-impunity-and-criminalization/>.
- Giorgos Pagoudis, *Νεκρός πρόσφυγας σε καταδίωξη του Λιμενικού ανοιχτά της Σύμης* (English: *Dead refugee in a pursuit by the Coast Guard off Symi*), efsyn, 26 August 2024, available at: [https://www.efsyn.gr/ellada/dikaioματα/444293\\_nekros-prosfygas-se-katadioxi-toy-limenikoy-anoihta-tis-sy-mis](https://www.efsyn.gr/ellada/dikaioματα/444293_nekros-prosfygas-se-katadioxi-toy-limenikoy-anoihta-tis-sy-mis).
- GNCHR (Greek National Commission for Human Rights), *Recording Mechanism of Incidents of Informal Forced Returns*, *Annual Report 2023*, June 2024, available at: <https://nchr.gr/images/pdf/RecMechanism/Final Annual Report 202311.pdf>.
- Grażyna Baranowska, *Exposing Covert Border Enforcement: Why Failing to Shift the Burden of Proof in Pushback Cases is Wrong*, *European Convention on Human Rights Law Review*, 4 (2023), pp. 473–494.
- Hellenic Parliament, *Parliamentary question no. 6153 filed on 31 July 2024 and answers*, available at: [https://www.hellenicparliament.gr/Koinovouleftikos-Elenchos/Mesa-Koinovουλευtikou-Elegxou?pcm\\_id=99b2a984-b843-4271-9904-b1be00f12542](https://www.hellenicparliament.gr/Koinovouleftikos-Elenchos/Mesa-Koinovουλευtikou-Elegxou?pcm_id=99b2a984-b843-4271-9904-b1be00f12542).
- Hibai Arbide Aza, *El viaje mortal de Said hacia Europa* (English: *Said's deadly journey to Europe*), *El Pais*, 29 July 2023, available at: <https://elpais.com/internacional/2023-07-29/el-viaje-mortal-de-said-hacia-europa.html>.
- Hibai Arbide Aza and Andrés Mourenza, *Who tortured Baris Büyüksu to death?*, *El Pais*, 5 December 2023, available at: <https://english.elpais.com/international/2023-12-05/who-tortured-baris-buyuksu-to-death.html>.
- Hibai Arbide Aza, *Frontex responsabiliza a los guardacostas griegos de la muerte de cuatro personas durante unas devoluciones en caliente* (English: *Frontex blames Greek coast guard for the deaths of four people during hot refoulements*), *El Pais*, 6 July 2024, available at: <https://elpais.com/internacional/2024-07-06/frontex-responsabiliza-a-los-guardacostas-griegos-de-la-muerte-de-cuatro-personas-durante-unas-devoluciones-en-caliente.html>.
- IOM (International Organization for Migration), *IOM Concerned about Increasing Deaths on Greece-Turkey Border*, 18 February 2022, available at: <https://www.iom.int/news/iom-concerned-about-increasing-deaths-greece-turkey-border>.

- Isabel Kienzle, *Evidencing pushbacks: How the ECtHR may request information from states*, Refugee Law Institute Blog, 30 August 2024, available at: <https://rli.blogs.sas.ac.uk/2024/08/30/evidencing-pushbacks-how-the-ecthr-may-request-information-from-states/>.
- Justice4Pylos, *Greece: 6 Months On, No Justice for Pylos Shipwreck*, 15 December 2023, available at: <https://justice4pylos.org/2023/12/greece-6-months-on-no-justice-for-pylos-shipwreck-amnesty-international-and-human-rights-watch-full-report/>.
- LCL (Legal Centre Lesvos), *Collective Expulsions in the Aegean Sea: March-July 2020*, 15 July 2020, available at: <http://legalcentrelesvos.org/wp-content/uploads/2020/07/Collective-Expulsions-in-the-Aegean-July-2020-LCL.pdf>.
- LCL (Legal Centre Lesvos), *Crimes Against Humanity in the Aegean Sea*, 1 February 2021, available at: <http://legalcentrelesvos.org/wp-content/uploads/2021/02/Collective-Expulsions-in-the-Aegean-LCL-01.02.2021-1.pdf>.
- LCL (Legal Centre Lesvos), *Closure of the Pylos 9 investigation and rejection of requests for additional crucial evidence*, 1 February 2024, available at: <https://legalcentrelesvos.org/2024/02/01/closure-of-the-pylos-9-investigation-and-rejection-of-requests-for-additional-crucial-evidence/>.
- LCL (Legal Centre Lesvos), *Statement by the Defense Lawyers of the Nine Survivors of the Pylos Shipwreck Who Were Acquitted*, 24 May 2024, available at: <https://legalcentrelesvos.org/2024/05/24/statement-by-the-defense-lawyers-of-the-nine-survivors-of-the-pylos-shipwreck-who-were-acquitted/>.
- LCL (Legal Centre Lesvos), *Pylos 9: Prosecution Following The Deadly 2023 Pylos Shipwreck*, no date, available at: <https://legalcentrelesvos.org/litigation-of-the-legal-centre-lesvos/criminalisation/pylos-9/>.
- Lucile Smith and Ben Steele, *Greek coastguard threw migrants overboard to their deaths, witnesses say*, BBC, 17 June 2024, available at: <https://www.bbc.com/news/articles/c0vv717yvpeo>.
- Lukas Stamellos, *Ποιος φοβάται τη διερεύνηση των πραγματικών δεδομένων για την Πύλο;* (English: Who is afraid of investigating the real facts about Pylos?), omniatv, 15 January 2024, available at: <https://omniatv.com/853489068/poios-fovatai-ti-diereynisi-ton-pragmatikon-dedomenon-gia-tin-pylo/>.
- Matina Stevis-Gridneff, Sarah Kerr, Kassie Bracken and Nimet Kirac, *Video Shows Greece Abandoning Migrants at Sea*, New York Times, 19 May 2023, available at: <https://www.nytimes.com/2023/05/19/world/europe/greece-migrants-abandoned.html>.
- Nikolaj Nielsen, *EU migration pact to deter asylum*, euobserver, 24 September 2020, available at: <https://euobserver.com/migration/149530>.
- Sarah Tas and Agostina Pirrello, *Advancing Accountability: The Case of Alkhatib and Others v. Greece*, Verfassungsblog, 16 February 2024, available at: <https://verfassungsblog.de/advancing-accountability/#:~:text=In%20Alkhatib%20and%20Others%20v,near%20the%20island%20of%20Pserimos>.
- Stavros Malichudis, *The Great Robbery: more than €2 million taken from asylum seekers*, Solomon, 9 March 2023, available at: <https://wearesolomon.com/mag/format/investigation/the-great-robbery-during-illegal-pushbacks-in-greece-refugees-are-robbed-by-border-guards/>.

The Press Project, *Κατέσχσαν τα κινητά των λιμενικών του ναυαγίου της Πύλου μετά από 119 μέρες*, 2 October 2023, available at:  
<https://thepressproject.gr/kateschesan-ta-kinita-ton-limenikon-tou-navagiou-tis-pylou-meta-apo-119-meres/>.

UN Human Rights Committee, *Concluding observations on the third periodic report of Greece*, CCPR/C/GRC/CO/3, 7 November 2024, available at:  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FCO%2FGRC%2FCO%2F3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FCO%2FGRC%2FCO%2F3&Lang=en).

UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, *Report on means to address the human rights impact of pushbacks of migrants on land and at sea*, A/HRC/47/30, 12 May 2021, available at:  
<https://www.ohchr.org/en/special-procedures/sr-migrants/report-means-address-human-rights-impact-push-backs-migrants-land-and-sea>.

UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, *Human rights violations at international borders: trends, prevention and accountability*, A/HRC/50/31, 26 April 2022, available at:  
<https://www.ohchr.org/en/documents/thematic-reports/ahrc5031-human-rights-violations-international-borders-trends-prevention>.

UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, *Statement on preliminary observations and recommendations following official visit to Greece*, 22 June 2022, available at:  
<https://srdefenders.org/statement-on-preliminary-observations-and-recommendations-following-official-visit-to-greece/>.

UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, *Report of the Special Rapporteur on the situation of human rights defenders—Visit to Greece*, A/HRC/52/29/Add.1, 2 March 2023, available at:  
<https://reliefweb.int/report/greece/report-special-rapporteur-situation-human-rights-defenders-mary-lawlor-visit-greece-ahrc5229add1-advance-edited-version>.

Vouliwatch, Greek Council for Refugees (GCR), HIAS Greece, Refugee Support Aegean (RSA), Hellenic League for Human Rights, Reporters United, *Greece in Institutional Decline: Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report*, January 2024 available at:  
<https://rsaegean.org/en/rule-of-law-2024-report-greece/>.