



**Permanent Mission of Greece  
to the United Nations Office  
and other International  
Organizations in Geneva**

**URGENT**

**No.: 6238.10/AS 591**

## **NOTE VERBALE**

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the High Commissioner for Human Rights and, with reference to the urgent appeal sent by the Special Rapporteur on the human rights of migrants, Mr. Felipe González Morales, under reference number UA GRC 1/2020 dated 13 March 2020, has the honour to enclose herewith the response by H.E. the Minister of Foreign Affairs of the Hellenic Republic, Mr. Nikos Dendias.

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 11 May 2020

**Office of the High Commissioner  
for Human Rights  
Special Procedures Branch**

**For the attention of the  
Special Rapporteur on  
the human rights of migrants,  
Mr. Felipe González Morales**

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*Encl.: 8 pages*



THE MINISTER FOR FOREIGN AFFAIRS

Athens, 7 May 2020

Ref.: E/94

Dear Mr. Morales,

*In response to your letter dated 13 March 2020, I have the honour to communicate the following:*

*During the last days of February and throughout March 2020, Greece was faced with a sudden, unprecedented and extraordinary situation at its land borders with Turkey, namely coordinated mass movements of civilians, trying to violently penetrate into its territory. Those persons, who had been residing in Turkey and overwhelmingly receiving protection there, were encouraged, on false pretexts, or even coerced, to reach the land borders with Greece. Turkish officials have been proclaiming that the borders with Greece, and subsequently the whole of Europe, were open, despite repeated public clarifications by Greek and by European Union officials to the contrary. In the meantime, boats carrying civilians had once again been pushed massively towards Greek islands in the Aegean.*

*These secondary, politically orchestrated mass movements of persons have been used by Turkey as an extortion tool in order to obtain political and financial gains from the European Union and its Member States. This has been recognized as a fact not only by all EU Member States and EU Institutions (see the Home Affairs Council statement dated 4 March 2020, the Statement of the Foreign Affairs Council of 6 March 2020 and the joint visit of the President of the European Commission, the European Parliament and the European Council in the region on 3 March 2020), but also by countries such as the United States of America and Israel.*

*Finally, in yet another spectacular move, after nearly 30 days of continuous endeavors by the abovementioned persons aiming to break through the Greek land borders, Turkish authorities changed their course of action and called back those persons who had moved to both land and sea borders, threatening nevertheless to revert to the same tactics at a more convenient juncture.*

*The situation at the Greek-Turkish land borders has remained stable since the day Turkish authorities took action to remove those persons from the border areas. However the amount of misinformation and fake news that these mass secondary movements of persons brought along is unprecedented, totally unacceptable and should be condemned. In more detail and with regard to the specific matters raised in your letter, I would like to offer the following observations:*

***1. Additional information / comments on the allegations mentioned in your letter.***

*It is useful to recall from the outset that, since 2015 and due to the developments in Syria and beyond (mainly Afghanistan, Pakistan, and Iraq), Greece has been faced with the arrival of an unprecedented high number of third country nationals (asylum seekers and irregular migrants), coming to Europe through or from Turkey, as a result of Greece's geographical proximity with the latter (land and extensive sea borders). From the very beginning of the migration / refugee crisis of 2015, Greek competent authorities and, in many cases, Greek citizens themselves have –and continue to do so – rescued lives at sea and saved thousands of persons in need of protection, more than any other EU Member State. These mixed flows have put an enormous stress on the reception and asylum system capacities of Greece. The large number of arrivals has also affected local host*

**Mr. Felipe González Morales**  
**Special Rapporteur on the human rights of migrants**

communities and has made integration of those entitled to international protection a major challenge. At the same time, the need for returns has increased and is also proving to be a significant challenge, for which Greece depends on the cooperation mainly of Turkey and of the countries of origin of those not in need of international protection.

The situation on the Greek islands of eastern Aegean remains a huge challenge. Due to increasing arrivals, in violation of the EU – Turkey Statement of March 2016, pressure on the reception capacity, the asylum applications processing capacity and the social structure of everyday life on the islands is growing by the day. And this regardless of the continuous efforts of the competent Greek authorities, in collaboration with relevant International Organizations such as IOM and UNHCR, to transfer large numbers of persons to the mainland. The support of EU Institutions and some EU Member States, both in financial terms and technical assistance, has been significant. However, thus far, the review of the Common European Asylum System and the reinvigoration of the EU Relocation Mechanism, which would have provided Greece with an essential tool to alleviate some of the pressure mentioned above and would have awarded the opportunity to restructure our relevant capacities, has not yet progressed, due to the stalemate in discussions regarding the elaboration of the new institutional migration framework of the EU.

It is also worth recalling that Greece has been complying, and will continue to do so, with its obligations under international law, including all relevant human rights treaties to which is a Party, also mindful of its obligations under the borders, migration and asylum EU legal framework, as enshrined in the EU Treaties. International cooperation and solidarity is crucial in dealing with unprecedented mass influx of persons, along with burden and responsibility sharing. In this spirit, Greece has supported the Global Compact on Refugees and the Global Compact on Safe, Orderly and Regular Migration. At this point, it is necessary to categorically underline that secondary, politically orchestrated mass movements of civilians, used as a means of "extortion diplomacy", as witnessed last February and March, go against International Law and Human Rights obligations.

Most of the individuals who attempted to, massively and forcefully, violate the land borders of Greece with Turkey were male adults from Afghanistan and Pakistan, not in immediate danger of persecution, nor fleeing the armed conflict in Idlib, as Turkish authorities falsely declared. They had been already receiving assistance in Turkey, but were deliberately misinformed that all borders across European countries up to Germany and Sweden had opened. They then were actively guided and instigated by the Turkish authorities to move forward, mainly by being directed to board buses which led them directly to the Greek-Turkish land border. It is to be noted that during this operation the Turkish authorities were actively preventing the same persons from moving towards the borders with Bulgaria. As it became conspicuously clear, the aim of these actions was to exert pressure on Greece and the European Union in order to achieve specific political and financial gains, at the very same moment that Turkey was closing its own borders with Syria.

Hence, Turkey's actions are in breach of its obligations under general international law; in violation of the EU – Turkey Statement of 2016 concerning Turkey's commitment to put an end to the irregular migration from Turkey to the EU; in violation of the EU-Turkey Re-Admission Agreement and the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime of 2000, as well as its obligations under bilateral agreements concluded with Greece, such as the Agreement on Cooperation on combating crime, especially terrorism, organized crime, illicit trafficking and illegal immigration, signed on 20.1.2000.

In this context, the Statement on the situation at the EU's external borders, agreed by the EU Ministers of Home Affairs on 4 March 2020 is very clear: "...This situation at EU's external borders is not acceptable. The Council expects Turkey to implement fully the provisions of the 2016 EU – Turkey Statement with regard to all Member States. ... The EU and its Member States remain determined to effectively protect EU's external borders. Illegal crossings will not be tolerated. ... Migrants should not be encouraged to endanger their lives by attempting illegal crossings by land or sea. The Council calls upon the Turkish government and all actors and organizations on the ground to relay this message and to counter the dissemination of false information. The EU will continue to actively fight human smuggling."

In the same vein, in the Statement of the Foreign Affairs Council of 6 March 2020 it is underlined that ".... The EU and its Member States ... strongly rejects Turkey's use of migratory pressure for political purposes. This situation at the EU's external border is not acceptable. ... Migrants should not be encouraged to attempt illegal crossings by land or sea. The Council calls on the Turkish government and all actors and organizations on the ground to relay this message and counter the dissemination of false information. ....".

According to international law, every State has the right and obligation to protect its borders and to preserve and safeguard its territorial integrity, as inherent to its sovereignty. Within this framework, as underlined in the recent Judgment of the Grand Chamber of the European Court of Human Rights (see the case *N.D. and N.T. v. Spain*, 13.2.2020), States have the right and obligation to protect their borders, including the external borders of the Schengen area. According to the abovementioned Judgment, attempts by numerous individuals to enter a country by crossing a land border in an unauthorized manner, taking advantage of their large number and using force, in the context of an operation that had been planned in advance, cannot be accepted; neither can it be considered as a form of exercise of any human rights.

In view of the above, Greece and the EU and its other Member States (see the above mentioned Statement of 4 March 2020), consider that persons attempting to enter into Greece illegally, massively and in a violent manner, by carrying for example tear-gas canisters and clubs, clearly create a situation of widespread unrest that endangers national security and public order.

The need to control Greece's (EU's) borders is further dictated by the need to prevent any further spread of the COVID-19 pandemic and to safeguard public health. In this regard, most countries around the world have drastically limited, or even forbidden, the entry into their territories, and restrictions with regards to international air travel have been introduced, whereas travel arrangements for resettling refugees are currently subject to severe disruptions, or even to suspension, as announced by IOM and UNHCR. It should be also noted that the Greek Asylum Service continued to register asylum applications by third country nationals who had entered Greece prior to March 1<sup>st</sup>, 2020, and until March 13<sup>th</sup>, 2020, when the provision of its services to the public was suspended with a view to averting the spread of the pandemic, as well as protecting public health. The situation amounts to a severe risk to public health safety in Greece, given that Turkey was one of the countries that undertook prevention and mitigation measures very late, as evidenced by the need to enforce 48-hour general curfews in 31 provinces recently, including Ankara, Istanbul and Izmir. Greece therefore is genuinely concerned as to the potential health threat emanating from any future flows. Furthermore, the COVID-19 pandemic has significantly altered the economic and overall environment we are all asked to operate in. Against this background, solidarity, cooperation and support by the international community and its instances, including that of all major stakeholders in our periphery, is more than ever before necessary.

Let me also stress that ensuring the territorial integrity of any country, including maintaining law and order and safeguarding national security, is a sovereign right and an essential State function under International Law as well as under Article 4 of the Treaty on European Union. It is also important to have in mind that effective protection of national borders is a prerequisite for the abolition of internal border controls between Member States of the Schengen Area. Therefore, it is Greece's predominant right and duty to ensure the effective control of its external borders in order to prevent and address threats to internal security and public health within the Schengen Area. According to the Schengen Borders Code, external borders are permanently controlled and under normal circumstances crossing the external borders of the EU is only permitted at the official border crossing points and in a manner prescribed in more detail by secondary EU law.

In conformity with all the international and European obligations stated above, from 28 February 2020 until 9 March 2020, competent Greek authorities managed to prevent around 41,000 illegal crossings into Greece, almost 5,000 per day. The intentional creation of chaotic conditions at the borders, if not addressed, would have overwhelmed the capacity of Greece, a State at the external borders of the European Union and the Schengen area, to address in an orderly and efficient manner the influx of a large number of persons.

Moreover, the above situation constituted an active, grave, exceptional and-hybrid attempt against the national security of the country, which was further aggravated by the health emergency due to the current COVID-19 pandemic. In addition, the massive uncontrolled influx of persons would seriously challenge Greece's ability to diligently detect and prevent the entry into its territory, and simultaneously into the Schengen Area, of any returning Foreign Terrorist Fighters.

## **2. Information on plans of individual assessment on the protection needs of the individuals which did cross the EU - Turkey borders in February - March 2020. Compliance with International Refugee Law and the principle of non - refoulement.**

For all the above-mentioned reasons, the temporary suspension of the submission of new asylum applications was a measure both proportionate and necessary, taking into account the gravity of the situation at the border. It was taken under the pressure of the above extraordinary, exceptional and urgent circumstances, and it was pursuing legitimate aims, such as the protection of national security, public order and safeguarding public health for the reasons analyzed above.

The suspension of the submission of asylum applications remained in force for one month, as provided for in the Act of legislative content dated 2 March 2020 and ratified by Parliament by virtue of Law 4681/2020, and was not extended thereafter. This exceptional measure has been lifted since April 1<sup>st</sup>, 2020.

Persons who entered Greece illegally in March 2020 have been transferred to two new facilities in Malakasa and in Sintiki areas. Following the expiration of the measure mentioned above, each asylum application will be individually assessed, in accordance with relevant legal provisions, in order to determine whether these individuals are entitled to international protection, or whether return procedures should be implemented.

Not a single return, in violation of the principle of non refoulement, has taken place.

It is significant that the European Court of Human Rights on 6 March 2020, in the context of an individual application against Greece, decided not to indicate to the Greek Government the sought interim measures, under Rule 39 of the Rules of the Court.

It is also to be noted that Greece continues to extend its full cooperation to the competent monitoring bodies. In this respect, the European Committee for the Prevention of Torture (CPT) of the relevant Council of Europe Convention, as stated in its press release, conducted a five-day rapid reaction visit to Greece between 13 and 17 March 2020 to examine the way in which persons attempting to enter the country and apprehended by the Hellenic Police or Coast Guard have been treated, notably since 1 March 2020, when inter alia the processing of asylum requests was suspended.

Furthermore, even during the pandemic crisis, all persons living in Greece, including those recently apprehended, continue to enjoy their right to effective judicial protection. In this respect, the President of the Council of State (Supreme Administrative Court) issued, on 31 March 2020, on the occasion of an application for annulment submitted to the Court, a provisional order by which he rejected the request to suspend the execution of the abovementioned Act of legislative content, having weighed the compelling reasons of public interest that motivated its adoption, taking also into account the fact that the Act has already been ratified by a formal law. In the relevant decision, it was also stated that the complaints put forward by the applicants were not manifestly well-founded. While rejecting the request to order the Administration to receive /register the asylum requests, the President of the Court ordered the Administration, as an appropriate interim measure, to refrain from the forced return of two of the three applicants, characterized as vulnerable persons.

### **3. Measures to ensure immediate provision of humanitarian assistance at the Greece - Turkey border.**

The individuals gathered along the land border with Turkey remained clearly on Turkish territory and thus under Turkish responsibility and jurisdiction. For this reason, any humanitarian need arisen remained under the responsibility of Turkey.

In fact, Turkey's actions with regard to those individuals, who, inter alia, stayed for weeks in makeshift camps under precarious conditions, fully disregarded their rights under the relevant human rights treaties and constituted a deliberate attempt to instrumentalize human suffering in order to promote a geopolitical agenda.

### **4. Action Plan presented by the European Commission on 4 March 2020 and its implementation.**

On March 4, 2020, the College of Commissioners of the EU approved an Action Plan for Greece, with six points: a) activating Frontex's (European Border and Coast Guard Agency) rapid intervention forces, b) coordinating a Frontex return program for rapid return to their countries of origin, of third-country nationals who do not have the right to reside in EU, c) additional funding of a total of 700 million (350 million directly available and 350 million that will result from an EU budget amendment), in order to strengthen the reception conditions, voluntary returns and all the infrastructure necessary for the procedure of screening, and for the health and the safety, of all incoming persons d) the activation of the civil protection mechanism for the provision of medical equipment, tents, blankets, etc., e) the acceleration by the EASO (European Asylum Support Office) of the mission of 160 special personnel for handling the asylum applications, f) the strengthening of the regional and operational cooperation with the countries of the Western Balkans.

### **5. Measures taken to ensure law enforcement officers uphold the principles of necessity and proportionality.**

In order to better understand developments on the ground at the Greek border with Turkey, it is worth recalling that Turkish authorities bear public order responsibilities as well. However, in the period that concerns us (end of February – March 2020) not only did they fail to take the necessary

measures to prevent acts of violence originating from the Turkish side of the border against Greek police officers, but on the contrary, such violent acts were instigated by them. Turkish Special Forces were deployed to the area, mixing with the crowds and inciting them to violence, while armed police vehicles were being used to demolish border fences. Greek border control police suffered repeated tear gas attacks from the other side, while Turkish police forces physically abused those migrants not willing to participate in the violence or those that simply wanted to return to their place of residence within Turkey.

The Greek police forces are well-trained and spare no effort in implementing the principles of necessity and proportionality while handling complicated and tense situations such as the one in question. Disciplinary procedures are envisaged in case of unwarranted violence. In addition, according to Greek legislation (Law 4662/2020, Law 3938/2011), the Greek Ombudsman, an Independent Authority, is operating as the national mechanism for the investigation of arbitrary incidents by Greek law enforcement personnel. The Greek Ombudsman has the right to conduct investigations, examine witnesses and make its findings public once these investigations are concluded.

It should be noted that even under such challenging circumstances, utmost attention has been given by the Greek authorities to protect human life, while they were under attack with tear gas and even the use of armed vehicles from the Turkish side of the border by persons attempting to demolish border fences.

Let me also mention that the European Border and Coast Guard Agency (FRONTEX) has been working very closely and supporting Greek border police forces with more than 600 officers and 11 vessels, deployed by 22 EU Member States.

#### **6. Measures taken to ensure the safety of migrants, asylum seekers, refugees, humanitarian workers and journalists on the territory of Greece.**

At the outset, it must be noted that, during the first three months of 2020, new arrivals on the islands have increased by 44% compared to the respective period of 2019. With no EU relocation mechanism in place, it is evident that Greece, although overstretching its potential and totally exhausting its resources can only do so much in addressing the multiple needs of mixed flows reaching its shores, in addition to the equally increasing needs of local host communities.

As far as arrivals by sea on the Aegean islands are concerned, an important volume of in-kind assistance, such as tents, beds, blankets and hygiene kits is being provided to the designated Reception and Identification Centers by the Greek Government, relevant International Organizations, other EU Member States and NGOs.

The already existing security measures for the protection of all categories of persons mentioned above as well as local residents have been intensified in the context of the overcrowded Reception and Identification Centers (RICs) and during the period in question on the islands that host such Centers.

There is a 24-hour police presence in all RICs ensuring the safety of both asylum seekers, migrants waiting to be returned and persons working or entering the Centers. This includes humanitarian workers and journalists.

As far as humanitarian workers and journalists are concerned, there have been no reported incidents of harassment or mistreatment within the RICs.

Regarding the most vulnerable persons inside the RICs (e.g. minors, women, persons with particular health conditions) there are employees designated as focal points to whom these persons can report any case of violence or other form of mistreatment. The referral system is then activated and legal procedures commence.

To contain the threat of a COVID-19 outbreak in the facilities, the Ministry of Migration and Asylum has taken a series of necessary measures and precautions, which include the deployment of special medical units and the creation of isolation areas within the RICs, the systematic screening of new arrivals for fever or other symptoms, the suspension of all activities within the RICs, a curfew on unnecessary movements, the dispatching of medical equipment and the launching of a campaign for raising awareness on COVID-19. For this reason, any new arrivals are kept away from the existing RICs and are being transferred to new facilities on the mainland. Under these prevention and precautionary measures, more than 1,100 persons who arrived at the islands since March 1<sup>st</sup>, 2020 have been transferred to the mainland.

#### **7. Plans to alleviate overcrowding for migrants, asylum seekers and refugees on the Greek islands, especially in Samos and Lesbos.**

Improving the infrastructure and living conditions in all the Reception and Identification Centers is a priority of the Greek Government, along with the necessary decongestion of the RICs through transfers to the mainland and to more suitable accommodation, especially for the most vulnerable. A mechanism for transfer of 15,000 persons from the islands to the mainland during the first months of 2020 has already been put in place. In this regard, two new facilities have been constructed on the mainland (one in the prefecture of Attiki and one in the area of Serres), while at the same time projects for the construction of new RICs on the islands are in the process of being implemented. Priority is given to transfers from the RICs located on the islands with the larger influx, namely Lesbos and Samos. The transfer of 200 persons (seniors of 60 years old and above), along with their families (a total of 500 persons) to a new RIC on the mainland (New Kavala region) is already under way.

Moreover, a number of EU Member States, on a voluntary basis, have taken the initiative to participate in unaccompanied minors' relocation programs, in response to the request of Greece, and specific pledges have been made in favor of 1,600 children. It is our wish that such measures will continue in the future and that all EU Member States will realize that solidarity and burden-sharing are crucial in order to tackle such phenomena, which no country can face alone.

It is in this spirit that we call for more cooperation within the EU, as well as between Turkey and the EU and all its Member States. For this to happen, we call on Turkey to stop its migratory "extortion diplomacy". Turkey unilaterally abrogated its responsibilities linked to the March 2016 EU - Turkey Statement and advertised its planned "migratory attack" against Greece and the European Union. The Turkish leadership went as far as to liken the situation they created at the land border with Greece to the plight of the Jewish people during the Holocaust. This is a flagrant disrespect to the memory of the millions brutally murdered by the Nazis.

#### **8. Information on the investigation into the death of a Syrian asylum seeker who allegedly died from a rubber bullet**

According to the Greek police investigation of the alleged incident, the claim that a man was shot by the Greek security forces is not corroborated.

It should be noted at this point that there has been a widespread use of fake news and blatant misinformation surrounding the events taking place near the land borders, thus special attention is warranted when repeating, or accepting these claims as real events and facts. Journalists working in the land border area have reported that the Turkish authorities attempted to stop effective independent reporting.

Please accept, dear Mr. Morales, the assurances of my highest consideration.

Sincerely,

Nikos Dendias