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Dear Sir, Dear Madam,

Thank you for your letter of 27 April 2021 regarding the implementation of the EU acquis at the Greek-Turkish land and sea borders.

I agree that the issue of alleged pushbacks by the Greek authorities is highly concerning. My services continue to follow closely the situation by means of reports from its own staff deployed in Greece, international organisations, as well as civil society. I also continue to reiterate my position regarding the specific need for thorough and transparent investigations by the Greek authorities into such allegations.

My services are in constant dialogue with the Greek authorities in this regard, and I have made my position on this issue clear, both publicly and in bilateral meetings with the Greek authorities.

Ms Natassa Strachini
Refugee Support Aegean (RSA)

Mr Vasileios Papadopoulos
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On 28 April 2021, the Greek Ombudsman released an interim report concerning pushbacks at the Greek-Turkish land border between 2017 and 2020. The report expresses serious concerns and contains a number of recommendations to the relevant Greek authorities. The Commission has welcomed the report and looks forward to concrete follow-up on the findings of the report by the Greek authorities.

In parallel, the Commission is in discussion with the relevant Greek authorities regarding the reinforcement and improvement of existing independent monitoring tools in the context of border management to ensure compliance with fundamental rights.

Concerning your assertions regarding the number of people rescued, brought ashore, having reached Greece, or prevented from unauthorised crossing of the external borders, the Commission is not in a position to confirm the figures nor the alleged reasons for their apparent discrepancies.

However, with regard to your question related to compliance by Greece with the procedural obligations attached to respect for the principle of non-refoulement pursuant to Article 4(3) of Regulation (EU) 656/2014, let me clarify that the provisions of Regulation (EU) 656/2014 establish rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Border and Coast Guard Agency (Frontex), and they apply to maritime, aerial and land units of Member States participating in such operations. The inquiry of the ad hoc Working Group on Fundamental Rights, Legal and Operational Aspects established by the Management Board of Frontex did not find evidence linking Frontex units to possible breaches of the principle of non-refoulement¹.

During the deliberations of the Working Group on Fundamental Rights, Legal and Operational Aspects and of the Frontex Management Board, the Commission has repeatedly called for incidents occurring in an area in which a Frontex operation is taking place to be reported to the Agency, even if no Frontex maritime operation assets were involved.

In contrast, the Schengen Borders Code (Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders) applies to all border control activities, regardless of whether they are carried out in the framework of operations coordinated by Frontex or by the Member States' border guard authorities (at their section of the external borders for which they retain the primary responsibility).

The Schengen Borders Code sets out that the external borders may be crossed only at border crossing points. The prevention of unauthorised crossings of the external borders is an obligation for the Member States, and is the main purpose of border surveillance. This surveillance must be carried out in such a way as to prevent and discourage persons from circumventing the checks at border crossing points. No provisions of Union law, including the asylum acquis, aim to encourage unauthorised crossings of the external borders. Union law ensures, in accordance with corresponding provisions of international law, that refugees and other third-country nationals in need of protection are exempted from sanctions. Union law requires Member States to perform border control and surveillance tasks in full respect of the Charter of Fundamental Rights, relevant international law, including the Geneva

¹ <https://frontex.europa.eu/media-centre/management-board-updates/conclusions-of-the-management-board-meeting-on-5-march-2021-on-the-report-of-its-working-group-on-fundamental-rights-and-legal-operational-aspects-of-operations-in-the-aegean-sea-aFewSI> and <https://frontex.europa.eu/media-centre/management-board-updates/conclusions-of-the-management-board-on-cases-referred-to-in-the-wg-fralo-report-as-still-open-in-frontex-rPtFEd>

Convention, obligations related to the access to international protection, fundamental rights and in particular the principle of non-refoulement.

As regards your second question, to our knowledge, very few arrivals take place through designated maritime border crossing points. In case of such arrivals, third country nationals are swiftly transferred to the Reception and Identification Centres on the islands. Similarly, according to the information shared with the Commission, the stay of third country nationals in border police stations at the land border and in facilities of the Hellenic Coast Guard on the islands is very limited, and third country nationals are transferred to the Reception and Identification Centres of Fylakio in Evros or of the Eastern Aegean islands.

The Commission has received confirmation that information is provided at the holding facilities of Evros in English and in Turkish, as well as in other native languages in writing. The provisions of the Asylum Procedure Directive regarding information on the asylum procedures and interpretation, as well as access to the procedure, are implemented in the Reception and Identification Centres, following a transfer from the border crossing points.

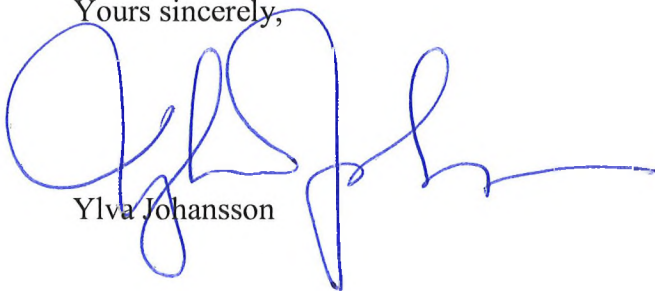
In the context of the COVID pandemic, the Megala Therma centre serves as a quarantine centre. While persons entering Megala Therma are recorded by the authorities, their asylum applications are not processed until their quarantine period has ended, when they are transferred to the temporary Mavrovouni Reception and Identification Centre and receive the relevant information and interpretation services². I understand this is an exceptional measure justified by public health concerns.

Through the Task Force Migration Management, the Commission actively engages with the Greek authorities to support and enhance the Greek migration management system, aligned with the EU asylum acquis. Through the EU Asylum, Migration and Integration Fund, the Greek Ministry for Migration and Asylum is for instance setting up a framework contract for interpretation services that will support both the Greek Asylum Service and Reception and Identification Service. Currently, interpretation services for the Greek Asylum Service are supported through a Commission Emergency Assistance grant. Similarly, the Greek authorities have recently expanded the registry for legal aid at second instance with financing under the Asylum, Migration and Integration Fund.

I wish to reiterate that the full and correct application of EU law is the responsibility of the Member State authorities. The Commission will not hesitate to make use of all its powers under the Treaties, including where necessary the launch of infringement procedures.

I thank you for raising with me your observations and concerns on this topic.

Yours sincerely,



Ylva Johansson

² See the Communication from the Commission on the implementation of relevant EU provisions in the area of asylum (Communication from the Commission of 16 April 2020: COVID-19: Guidance on the implementation of relevant EU provisions in the area of asylum and return procedures and on resettlement, C(2020) 2516 final).