



Application by Afghan national dismissed for failure to adduce evidence in support of allegations of “pushback” from Greece to Türkiye

In its decision in the case of [G.R.J. v. Greece](#) (application no. 15067/21) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the alleged “pushback” from Greece to Türkiye of an Afghan national who was an unaccompanied minor at the relevant time.

The Court found that there were strong indications to suggest that there had existed, at the time of the events alleged, a systematic practice of “pushbacks” from the Greek islands to Türkiye. However, it took the view that the applicant, whose statements and allegations had appeared contradictory and inconsistent at times, had failed to provide prima facie evidence of his presence in Greece and of his “pushback” to Türkiye from the island of Samos on the dates alleged. Consequently, he could not claim victim status for the purposes of Article 34 of the Convention. In this connection, the Court pointed out that a systematic practice of “pushbacks” did not exempt an applicant from the duty to provide prima facie evidence to substantiate his or her allegations.

In addition, the Court has today delivered a judgment in the case of [A.R.E. v. Greece](#) (application no. 15783/21), which concerned the alleged “pushback” of a Turkish national from Greece to Türkiye ([link](#) to the press release).

Principal facts

The applicant, G.R.J., is an Afghan national, who was an unaccompanied minor (aged 15) at the relevant time.

G.R.J. submitted that, fearing persecution by the Taliban, he had left his country in 2018 and secretly entered Iran, then Türkiye, with a view to reaching Europe and seeking asylum there. He alleged that he had arrived on the island of Samos from Türkiye in the early morning hours of 8 September 2020 on board an inflatable boat carrying roughly 18 migrants in search of asylum. He submitted that he had gone to the Samos refugee camp in Vathy, where he had expressed his wish to apply for international protection in Greece. In his submission, the following day, he was forced onto a raft by coastguard officers and left adrift in the Aegean Sea, where he was subsequently recovered by the Turkish coastguard.

At the time when his application was lodged, G.R.J. was in Istanbul, where he was working in a factory. He was subsequently located in Thessaloniki in November 2021, where he was homeless. A few days later, the prosecutor responsible for minors ordered that he be accommodated and appointed a lawyer to file an asylum application, which was registered in January 2022. On 9 November 2022 the applicant obtained refugee status in Greece.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), the applicant alleged that his return to Türkiye had placed him at risk of being subjected to treatment prohibited by Article 3, and in particular to “chain-refoulement” from Türkiye to his home country of Afghanistan. He alleged, in this connection, that he was a member of the Hazara community and that he feared persecution by the Taliban on account of that fact. He also

complained that he had been deprived of access to asylum procedures in Greece and that there had been no effective remedy available to him at the domestic level in respect of his complaints.

Relying on Articles 2 (right to life) and 3 of the Convention, the applicant further submitted that his alleged “pushback” had placed his life and physical integrity at risk. He also submitted that he had been subjected to inhuman and degrading treatment before and during his removal to Türkiye. Under Article 13 of the Convention, he complained of the lack of an effective remedy in respect of his complaints under Articles 2 and 3 of the Convention.

Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 3 March 2021.

A number of third parties were given leave to intervene in the written procedure. The Greek Ombudsman, the National Commission for Human Rights and the Office of the United Nations High Commissioner for Refugees submitted observations in reply to a question as to whether there was a systematic practice of “pushbacks” from Greece to Türkiye.

A hearing was held before the Court on 4 June 2024.

The decision was given by a Chamber of seven judges, composed as follows:

Peeter Roosma (Estonia), *President*,
Pere Pastor Vilanova (Andorra),
Ioannis Ktistakis (Greece),
Jolien Schukking (the Netherlands),
Georgios A. Serghides (Cyprus),
Darian Pavli (Albania),
Andreas Zünd (Switzerland),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

The Court noted that the Greek Government contested in its entirety the applicant’s version of the facts as to his “pushback” on the dates alleged and denied that there was a systematic practice of “pushbacks” from Greece to Türkiye.

The Court chose to examine the question whether a systematic practice of “pushbacks” from Greece to Türkiye was in place, in particular from the Greek islands, before turning to the assessment of the evidence submitted by the applicant in support of his account. In this connection, it emphasised that a systematic practice of “pushbacks” – assuming such a practice was established – did not exempt an applicant from the duty to provide prima facie evidence to substantiate his or her allegations.

As to the existence of a systematic practice, the Court noted that a great many official reports detailed a systematic practice on the part of the Greek authorities whereby foreign nationals who entered Greek territory unlawfully to seek asylum were sent back to Türkiye from the Evros region and the Greek islands. On the basis of the complaints and testimony of persons who claimed to have been the victims of “pushbacks” at the Greek land or sea borders, the reports in question described a fairly uniform *modus operandi* on the part of the Greek authorities in this regard. Moreover, the same finding had been reached both by the national institutions for the defence of human rights, such as the Greek Ombudsman – which had noted a consistent practice repeatedly at work in the alleged incidents it had investigated – or the National Commission for Human Rights, and by international organisations such as the Council of Europe or even the United Nations, whose Special

Rapporteur on the human rights of migrants had asserted that, in Greece, “pushbacks” at land and sea borders were now essentially standard practice.

As to the question of prima facie evidence, the Court observed that the applicant’s account largely corresponded to the *modus operandi* that emerged from the reports of the relevant national and international institutions concerning “pushbacks” from Greece to Türkiye, including from the Greek islands. It pointed out, however, that this did not suffice to prove the applicant’s alleged “pushback” in the present case. To ascertain that the alleged “pushback” had in fact occurred, it was also necessary, not only to demonstrate that the applicant had entered Greece and was subsequently found to be in Türkiye on the dates alleged, but moreover to establish a link between those two facts.

Having analysed the materials in the case file, the Court took the view that the applicant, whose statements and allegations had at times appeared contradictory and inconsistent, had failed to provide prima facie evidence of his presence in Greece and of his “pushback” to Türkiye from the island of Samos on the dates alleged and, accordingly, **that he could not claim victim status for the purposes of Article 34 of the Convention.**

In consequence, the application was dismissed pursuant to Article 35 § 4. This conclusion made it unnecessary for the Court to examine the Government’s objections on the grounds of alleged abuse of the right of application and failure to exhaust domestic remedies.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.