EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 38555/19
M.H.
against Greece

The European Court of Human Rights (Fifth Section), sitting on 4 June 2026 as a Committee composed of:

María Elósegui, *President,*
Gilberto Felici,
Diana Sârcu*, judges*,

and Sophie Piquet, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 38555/19) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 5 July 2019 by an Iranian national, Mr M.H. ("the applicant"), who was born in 1984, lives in Van and was represented by Mr M. Kaçan, a lawyer practising in Van;

the decision to give notice of the application to the Greek Government ("the Government"), represented by their Agent, Ms N. Marioli, and their Agent's delegate, Ms I. Kotsoni, Legal Representative at the State Legal Council;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's alleged "pushback" from the Evros region in Greece to Türkiye.

2. The applicant alleged that he was an Iranian asylum seeker in Türkiye and that, fearing for his life in Islamic countries, he had crossed the land border into Greece on Friday 31 May 2019 at 12 noon and had arrived at a village around 5.00 p.m. The Greek police arrested him near the village. He told them about his situation and that his life was in danger in Islamic countries, but they proceeded to treat him in an inhuman manner. They

detained him with people from other countries but did not allow him to speak. They confiscated his personal belongings and after two days in inhuman conditions they herded everyone into a vehicle. The applicant alleged this had amounted to torture because they had been unable to breathe in the vehicle. After a long period of mistreatment, they were taken to the Evros River during the night and thrown into the water.

3. On 7 June 2019 at 10.04 p.m. the applicant sent an email to the Greek police communications centre containing the above-mentioned allegations.

4. The Government maintained that, after conducting a thorough investigation, the police authorities had found that on the date mentioned in the relevant email – that is, 31 May 2019 – the Border Protection Services in Evros had not arrested any Iranian nationals matching the applicant's profile for unlawfully entering Greek territory. Furthermore, during the month of May 2019, no Iranians were arrested at all. The Government emphasised that the applicant's version of events does not correspond to reality or to the behaviour and practices of border guards, stating that the police authorities never resort to "pushbacks" and that irregular migrants are arrested and returned to Türkiye in accordance with the return policy set out in the EU-Turkey Joint Statement of 18 March 2016.

THE COURT'S ASSESSMENT

5. The applicant complained under Article 3 of the Convention that he had been detained in inhuman conditions and subjected to ill-treatment before being illegally "pushed back" from the Evros region to Türkiye by the Greek authorities.

6. The Government invited the Court to reject the application on the grounds that the applicant did not have victim status. They argued that the applicant had never been registered as an asylum seeker by the competent authorities. Moreover, his version of facts cannot be confirmed, since he had not submitted any evidence whatsoever in support of his allegations, namely the circumstances surrounding his entry into Greece, as well as his arrest, detention, ill-treatment and subsequent *refoulement* to Türkiye by the Greek authorities.

7. The Court notes that the Government's objection that the applicant lacks victim status is based on their denial of all his factual allegations. Having regard to the parties' diametrically opposed positions as to the facts of the case, the Court considers it appropriate to examine the objection as a preliminary issue concerning the establishment of the facts (see *G.R.J. v. Greece* ((dec.), no. 15067/21, § 148, 3 December 2024, with further references).

8. The Court refers to the principles governing the establishment of facts and the burden of proof in relation to alleged *refoulement* from the Evros region and the Greek islands as set out in *A.R.E. v. Greece* (no. 15783/21,

§§ 204-21, 7 January 2025) and *G.R.J. v. Greece* (cited above, §§ 169-86). Even assuming it is established, a systematic practice of "pushbacks" does not exempt an applicant from the duty to furnish prima facie evidence in support of his or her allegations. In such cases, the applicant must establish that the alleged "pushback" was linked to this practice by supporting his or her account – which must moreover be detailed, specific and consistent, that is to say, free of contradictions – with concrete, comprehensive and concordant evidence on the basis of which the burden of proof will shift to the respondent Government (see *A.R.E. v. Greece*, cited above, § 217).

9. The Court has already concluded that, having regard to the large number, variety and concordance of the relevant sources, there are strong indications to suggest that, at the material time, there was a systematic practice of "pushbacks" of foreign nationals by the Greek authorities from the Evros region to Türkiye and that the Government have not succeeded in countering these indications by providing a satisfactory and convincing alternative explanation (ibid., §§ 226-29).

10. The Court also notes that the applicant's account is largely in line with the *modus operandi* documented in the competent national and international institutions' reports on "pushbacks" from the Evros region to Türkiye. It would point out, however, that this fact does not suffice to prove the applicant's alleged "pushback" in the present case. In order to determine that the alleged "pushback" actually took place, it is also necessary not only to show that the applicant entered Greece and then ended up in Türkiye on the relevant dates but moreover to establish a connection between those two facts (ibid., § 230).

11. Turning to the present case, the Court observes that the applicant referred exclusively to some of the sources supporting the existence of a systematic practice of "pushbacks" from the Evros region to Türkiye at the time of his alleged *refoulement*. The applicant presented no other evidence, whether documentary or digital, in support of his allegations. The Court is therefore of the view that the applicant failed to provide prima facie evidence to support his version of events – that is, his alleged presence in Greece, his detention and that he had been subjected to ill-treatment before being "pushed back" to Türkiye from the Evros region on the relevant dates. Accordingly, he cannot claim to be a victim within the meaning of Article 34 of the Convention.

12. Consequently, the Court, upholding the Government's objection, concludes that the application is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 (see *G.R.J. v. Greece*, cited above, §§ 225-26).

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 25 June 2026.

Sophie Piquet Acting Deputy Registrar	María Elósegui President