



EuroMed Rights
EuroMed Droits
الأورو-متوسطية للحقوق

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Ισότητα, Στήριξη, Αντιρατσισμός
Equality, Support, Antiracism



Input for the Special Rapporteur's report on pushback practices and their impact on the human rights of migrants and refugees, with a focus on pushbacks from Cyprus to Lebanon and Turkey

This submission - on behalf of KISA and EuroMed Rights in collaboration with Maybritt Jill Alpes - analyses the impact of Cypriot¹ policies and practices in relation to the right to claim and seek asylum. It provides information on recent, concrete instances of pushbacks of Syrian and Lebanese refugees and other migrants from Cyprus to Turkey and Lebanon. The submission also presents challenges faced by civil society organisations and individuals in protecting the human rights of refugees and other migrants. It underlines how these pushback practices cause a high risk of *chain refoulements* of refugees to Syria, a country where both the UN and human rights organisations have documented how nationals and refugee returnees are arrested, detained, tortured and/or forcibly disappeared upon their return. Lastly, it puts forward recommendations to States, particularly the Republic of Cyprus and the Lebanese Government, on how to better protect the human rights of refugees and migrants at international borders, in line with existing international human rights standards and obligations.

1. Existing restrictions or limitations in law and practice concerning the right to claim and seek asylum at international borders in Cyprus

At the end of 2019, a new Minister of Interior, Nikos Nouris, was appointed in Cyprus. Since he took office, he started to adopt a hard line on migration, asylum, civil society organisations (CSOs) and individuals protecting the human rights of migrants and refugees. In March 2020, he announced a [new Action Plan on migration](#) with problematic provisions. The proposed changes in asylum and migration policies included a shift from open reception centres to closed camps and introduced accelerated procedures, limited time limits for access to courts and designated a safe countries of origin list. Such policies led to the increasing use of detention as a form of punishment intended to deter asylum seekers from coming to Cyprus and apply for asylum and undermine fair and efficient asylum procedures and access to an effective remedy. Legislative changes also made it impossible for asylum seekers to access judicial review in case of negative decisions.

[According to the NGO KISA – Action for Equality, Support and Antiracism](#), “with the proposed legislative changes, the Government is essentially seeking to repeal procedural guarantees provided by both the European and International refugee law. Further to violating constitutionally guaranteed rights, the intended reduction of the time limit for filing an appeal will make it practically impossible

¹ For the sake of easy reading, this chapter will refer to the Republic of Cyprus as Cyprus. Hence, any reference to Cypriot authorities refers to authorities in the Republic of Cyprus.

for applicants to appeal to justice as well as the judicial decision required by the refugee law on their application”.

These restrictions and limitations significantly weaken the protection of refugee rights and negatively impact their fundamental right to access asylum and judicial remedies.

The Cyprus’s Government has been using the pandemic to justify discriminatory policies and severe human rights violations. The Interior Minister closed all reception centres, turned them into detention centres and moved detainees to decentralised detention facilities that have already been declared inappropriate for extended detention by the European Court of Human Rights.

For example, in the Pournara camp, which was set up as a first reception emergency centre for around 350 people for a maximum of 72 hours, [as of 24 January 2021](#), there are currently more than a thousand people who have been locked there, some for almost a year in precarious, inhumane and degrading conditions with no access to basic facilities. These also include families with children and unaccompanied minors, despite provisions of national law prohibiting the detention of unaccompanied minors. In May 2020, the Government prolonged for an indefinite period arbitrary detention in the Pournara camp under the pretext of scabies. Many NGOs, [including KISA](#), raised serious doubts as to the truthfulness of the infection which, in any case, would be the direct result of the government policies which created the conditions for the onset of the disease.

In a general climate of [criminalisation of solidarity](#), the Government has also [prohibited](#) KISA and other NGOs to access to Pournara, thus violating the law and asylum seekers’ right to access human rights NGOs. The Interior Minister has been stigmatising migrants, refugees and CSOs and fomenting hate speech, xenophobic and anti-migrant and refugee discourses.

During the COVID-19 crisis, the Interior Minister also banned any new entry in the country whether by sea, air or land. When the Cypriot police did grant access to territory, they brought new arrivals to the quarantine section of the Pournara camp. There was no vulnerability screening prior to the transfer and UNHCR or any NGOs did not have access to the quarantine section. Moreover, migrants were not included in the Government’s health protection measures and were prevented from accessing healthcare and essential services.

2. Challenges faced by civil society organisations and individuals in protecting the human rights of migrants at Cypriot borders

The government of Cyprus has repeatedly criminalised and defamed local CSOs and individuals active in the field of migration and asylum in Cyprus, [including KISA](#). In particular, its Minister of Interior has been acting with a clear intention of seeking to prevent CSOs from conducting their work and even closing them down.

On 14 December 2020, for example, the Ministry of Interior published a list of NGOs, [including KISA](#), to be removed from the Register of Associations and Foundations for not complying with formality requirements. The Registrar of Associations and Foundations considered, in particular, that they were inactive for not conducting general assemblies or for not submitting audited accounts.²

² See also: [KISA’s analysis](#) on “The Law on Associations and Foundations and on Other Related Issues of 2017 104(I)2017 and the risk posed by article 56 of outlawing active Civil Society Organisations, such as KISA”.

Civil society faces similar challenges also in Lebanon where the Lebanese Ministry of Social Affairs seeks to control humanitarian organisations by imposing a compulsory share of aid to be channelled to return and resettlement, rather than protection, access to services and integration measures³.

3. Summary pushback practices from Cypriot sea and land borders

Since March 2020, Cyprus has carried out a number of summary pushbacks and collective expulsions of Syrians, Palestinians and Lebanese to Lebanon and Turkey. Syrians face serious access barriers to meaningful protection in both countries,⁴ as well as a risk of *refoulement* to Syria. The UN and human rights organisations have documented how refugee returnees have been arrested, detained, tortured and/or forcibly disappeared upon return to Syria⁵. Summary pushback practices from Cypriot sea and land borders thus constitute potentially both *refoulement* and chain *refoulement*.

3.a Pushbacks to Turkey

As documented in a Joint Statement, On 20 March 2020 the coastguard of the Republic of Cyprus pushed back a group of 175 Syrian refugees as their boat was approaching the southern part of the island. This group of 175 refugees arrived by boat on 20 March and were pushed back to the sea by the coastguard of the republic of Cyprus as the boat was approaching the southern part of the island, which is under the jurisdiction and control of the government of the Republic of Cyprus. Many of these refugees were trying to join their families already settled in the Republic of Cyprus, which is a member of the European Union. The boat went north, capsized and the refugees were rescued by the “Turkish Cypriot administration” which has effective control over the northern part of the island. The refugees were housed in an apartment complex for a 14-day quarantine period due to the COVID-19 pandemic. At the end of the quarantine period, they continued to be detained – this time arbitrarily, in violation of the law of the “Turkish Cypriot administration” which authorises the detention of irregular migrants for eight days extendable only by a court order.

On 15 May 2020, the administration of the self-declared Turkish Republic of Northern Cyprus (TRNC) forcibly sent 100 Syrian refugees, including unaccompanied children, to Mersin, Turkey. They have been transferred to Kilis, near the Syrian border, Most of the 100 Syrian refugees – 56 – are children and women and girls are in the majority.

On 24 April 2020, the TRNC had already forcibly sent 75 Syrian refugees, including unaccompanied children, to Mersin, Turkey, from where they have been reportedly moved to a camp in the province of Kahramanmaraş. All 175 Syrian refugees have expressed their intent to apply for asylum and find protection in an EU member state. Syrians forcibly returned to Turkey face a risk of onward *refoulement* to Syria.

³ Ministry of Social Affairs, (2020), Policy Paper for the Return of Internally Displaced Persons.

⁴ See i.e.: Access Centre for Human Rights, (2020), Syrian Refugees in Lebanon: Confiscation of Identity Documents, and Denial of Rights; <https://www.amnesty.org/en/countries/middle-east-and-north-africa/lebanon/report-lebanon/> ; <https://www.hrw.org/news/2020/09/29/cyprus-asylum-seekers-summarily-returned>;

⁵ See for instance: Scheller, B., (2020), “Unwelcome in One’s Own Country – Return to Syria”, Get Lost! European Return Policies in Practice, 53, (Heinrich Böll Stiftung, Berlin); Syrian Association for Citizens’ Dignity (SACD), (2020), We Are Syria; SACD, (2020), Demographic change: the ultimate goal of the Syrian regime’s policy of forced displacement, Briefing; SACD (2019) Between Hammer and Anvil: Motives and Expectations of Syrians Forced to Return to Assad-Held Areas; SACD (2019) Vengeance, Repression and Fear: Reality Behind Assad’s Promises to Displaced Syrians’.

On [8 January 2021](#), Cypriot coastguards pushed back around 25 people on a boat from Cypriot waters to Turkey.

3.b Pushbacks to Lebanon

In 2020, KISA documented 15 instances of pushbacks from Cypriot waters to Lebanon. The peak of these pushbacks was in the late summer of 2020. In September 2020, Cypriot authorities pushed back 229 individuals in at least five separate instances from Cypriot waters to Lebanon (UNHCR Lebanon 2020)⁶.

According to UNHCR Lebanon, roughly 80% of individuals who left by boat from Lebanon to Cyprus from July to October 2020 were Syrian and just under 20% Lebanese. Boat departures from Lebanon to Cyprus have drastically increased from 2018 to 2020.

Human Rights Watch documented these pushback instances with the help of 15 witnesses, gathering eye witness evidence in particular about Cypriot coastguards repeatedly brandishing weapons at incoming boats from Lebanon, encircling them at high speed, abandoning some at sea without fuel and food and, in other instances, proceeding to beat passengers on board. Additional interviews with Syrian pushback survivors currently carried out by EuroMed Rights in Lebanon confirm these trends, as well as further document specific practices during the different pushback incidents.

Cypriot authorities have publicly acknowledged that they have pushed back and expelled individuals, from Cyprus to Lebanon in the summer of 2020. However, in September 2020, in its answers to the European Court of Human Rights, the Cypriot Government claimed that individuals on the boat had not expressed their intention to seek asylum. UNHCR Cyprus has credible reports indicating that some of those pushed back had repeatedly asked for asylum⁷. Eyewitness accounts currently collected by EuroMed Rights confirm that Cypriot authorities systematically ignored explicit and repeated asylum requests by individuals on boats just off the Cypriot coastline.

International maritime law imposes a clear duty on all vessels at sea to rescue people in distress. A survivor interviewed by Human Rights Watch, however, testified that a Cypriot coast guard or naval vessel encountered an inflatable boat carrying five men that was in distress on September 4 and then abandoned it to drift without fuel.

Following the first pushbacks to Lebanon, Cypriot authorities visited Lebanon on 5 October 2020 to hold talks on a readmission agreement, promising to “swiftly turn away boats proven to have left Lebanon and send them back to where they have departed from”. It seems that the meeting served to operationalise a 2002 bilateral readmission agreement between the two countries. While the agreement does not contain an explicit non-refoulement clause, article 11 provides that the agreement is subject to the obligations arising from the Geneva Convention and the European Convention on Human Rights. Even if the agreement does contain a clause for the readmission also of non-Lebanese citizens, provided they left from there, Lebanon only ratified the agreement, but not its implementation protocol.

⁶ See also data on the arrivals of refugees from Lebanon by boat provided by the Cyprus Police to the journalist Michalis Hatzivasili as published on 25th of September 2020 by Phileleftheros Newspaper: <https://www.philenews.com/f-me-apopsi/arthra-apo-f/article/1025188/>

⁷ UNHCR Cyprus was able to talk with individuals who were admitted to the territory and asylum procedures in Cyprus and some family members of others in the concerned boats. These individuals confirmed that many on the respective boats did express their intention to ask for asylum. Interview UNHCR Cyprus, November 2020.

Finally, Lebanon has a strict non-readmission policy for Syrians who have left the country and its the Higher Defence Council, an inter-ministerial body headed by the President of Lebanon, had decided in 2019 that Syrians who had entered Lebanon after April 2019 could be expelled to Syria without judicial procedure or legal remedies. Hence, it was entirely possible that pushed back Syrians could become victims of chain refoulement to Syria upon arrival at the Beirut port. While this did not happen in September 2020, this practice is not embedded in a legal framework that would constitute a guarantee for Syrians

Recommendations to States for better protection of the human rights of migrants at international borders, in line with existing international human rights standards

The Cypriot authorities should:

1. Abide by EU and international obligations to respect the right to seek asylum and the principle of *non-refoulement*, and provide assistance to boats in distress at sea by carrying out search and rescue operations, and stop endangering lives by using manoeuvres such as the high-speed circling of vessels.
2. Grant access to territory to people on boats who arrive on the coast so that the relevant authorities can establish people's nationalities and whether individuals came to Cyprus to seek asylum.
3. Conduct a transparent, thorough, and impartial investigation into allegations that Cypriot coast guard personnel are involved in acts that put the lives and safety of migrants and asylum seekers at risk. Any officer engaged in illegal acts and their commanding officers should be subjected to disciplinary sanctions and, if applicable, criminal prosecution.
4. Ensure full transparency about any type of cooperation agreements with third countries, notably by keeping the Cypriot parliament informed about any type of agreements reached with other countries.
5. Refrain from a) using the Covid-19 pandemic as an excuse to suspend access to asylum to those arriving by sea; b) restricting the freedom of movement of migrants and refugees and c) adopting discriminatory policies towards them.
6. Ensure asylum seekers have access to a vulnerability screening prior to being placed in quarantine, as well as access to UNHCR and service providers, including access to healthcare, during the quarantine period.
7. Stop criminalising, repressing and preventing CSOs and individuals' work in the field of migration and asylum in Cyprus, and respect their right to opinion and expression and the constitutional and human rights of association and assembly.

The Lebanese authorities should:

1. Uphold the **right to international protection** for Syrian refugees, as well as facilitate **access to legal residency** for Syrian refugees in Lebanon.
 - Allowing UNHCR to resume the registration of refugees.

- Review local provisions relating to residencies and work permits in accordance with domestic laws and Lebanon’s international obligations, including bilateral agreements in effect with Syria.
 - Honouring its commitments made by previous governments and expand the residency fee waiver to apply to all refugees regardless of entry date, registration profile or border crossed and ensures consistent implementation of the waiver.
 - Include representatives of civil society during all stages of policymaking concerning the future of Syrian refugees, as well as guarantee their access to all places of detention.
2. **Respect the principle of non-refoulement.**
- Annul the Supreme Defence Council Decision No. 50 of 15/4/2019 and the General Director of the General Security decision No. 48380 of 13/5/2019 ordering the expulsion or deportation of Syrian nationals who entered Lebanon through unofficial border crossing after 24 April 2019 without the application of the necessary legal procedural safeguards to prevent refoulement
 - Immediately implement the State Council’s ruling No. 421 of 8 February 2018 in order to ensure legality and public order in Lebanon and suspend the General Security regulations issued in 2015 and its subsequent amendments regarding the conditions of entry and residence for Syrian nationals in Lebanon.
3. Commit to a **moratorium on deportations of Syrian refugees – particularly if without due process guarantees**, notably by
- Ensuring the right of appeal against a deportation order with an independent administrative and/or judicial body within a reasonable period of time from the notification of that order and with the suspensive effect of the appeal on the enforcement of the order
 - Committing to guarantee the right of the Syrian refugee to be assigned a lawyer to defend him or her, in accordance with Art. 47 of the Lebanese Code of Criminal Procedure, as well as the Universal Declaration of Human Rights and the United Nations Convention against Torture.
4. Provide full clarity and transparency about the **modalities of the so-called “[return plan](#)”** issued by the Ministry of Social Affairs, and ensure that any such plan is based on Lebanon’s international human rights obligations as spelled out amongst others in the Convention Against Torture, as well as taking into account the conditions for safe, voluntary and dignified return outlined in the UNHCR Protection Thresholds. Halt any further steps towards implementation of the plan before a clear dialogue with relevant stakeholders – including with UNHCR, humanitarian INGOs and local CSOs – is conducted.

The “Turkish Cypriot administration” and Turkey should:

1. Respect the principle of non-refoulement and international human rights law, including the European Convention on Human Rights, by stopping the forced return of refugees and asylum seekers to Turkey and/or Syria;