

What Happened at the Greece-Turkey Border in early 2020?

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Following the [killing of 34 Turkish soldiers](#) during the Spring Shield military operation in Idlib, Syria on 27 February 2020, as Turkey expected the arrival of more refugees from Syria, the Turkish President declared that Turkey would open its borders with the EU and not prevent refugees and migrants from crossing to Europe. This announcement immediately prompted an influx of migrants and refugees to Turkey's western border.

In response, Greece closed *Pazarkule-Kastanies* and *Ipsala-Kipi* border gates and took strict measures to prevent border crossings. Thousands of people, ranging from [12.000 to 25.000](#), started gathering along the land border in Turkey. On 28 February 2020 the Prime Minister of Greece [tweeted](#) that no illegal entries into Greece would be tolerated. Accordingly, Greece strengthened its border forces on the land and also asked for further EU support for border protection. In addition, Greece [introduced an emergency legislative decree](#) on 2 March 2020 for the suspension of the right to seek asylum for individuals entering Greece for a period of one month and for their return without registration, to their countries of origin or transit. Due to the Covid-19 pandemic the asylum services were [temporarily suspended](#) on 13 March 2020.

On the Turkish side, the *Pazarkule-Kastanies Border Gate* was the most crowded area. It was [reported](#) that since the first day of the arrival of migrants and refugees at the border Greece border authorities used tear gas, fog and smoke grenades as well as rubber bullets to prevent entries, and beginning from 4 March 2020 they started firing metal bullets on individuals who attempted to cross the border. It was also reported that gas shells were thrown [directly](#) on individuals. Due to the closure of the *Pazarkule-Kastanies* border, some groups headed to crossing points along *Evros River and nearby villages*. Around [5000 individuals](#) were estimated to have been pushed back as they attempted to cross to Greece through the River. [Some stated that](#) they left their countries of origin due to risk of persecution but failed to get registered and apply for protection in Turkey, or that their files got deactivated.

As Human Rights Watch [reports](#), a group of individuals testified that after crossing into Greece, they were intercepted by armed men, kept in official or unofficial detention centers and were stripped off their clothes, money and belongings. Some added that they, including women and children, were mistreated through the use of electroshock and that they were beaten up with sticks. Local residents of the border villages confirmed the veracity of these accounts and attested to the arrival of half-naked individuals after having been pushed back.

On the Turkish side of the border, the first couple of days after the arrival of the groups were [reported](#) to be quite hectic due to the size of the crowd and

cold weather conditions, coupled with continuous gas attacks which were felt more intensively by the individuals due to wind. After the first week, the situation got stabilized and as of mid-March the tension started gradually decreasing. Humanitarian and health assistance were provided by the Turkish authorities while some [protection concerns](#) such as limited hygiene conditions, accessibility of food distribution points, weaknesses in information sharing were pointed out from the field.

Following the identification of the first positive Covid-19 case in the country, the Turkish authorities introduced a new set of measures. Accordingly, the National Asylum Authority [announced](#) that a number of hygiene and health measures were taken, the groups in Pazarkule were transferred to removal centers for a 14-day quarantine and following the quarantine period depending on their status the foreigners would not be prevented from returning to their registered provinces or departing to any other country.

As mentioned above, reports have documented allegations about those in need of international protection being physically prevented from entering into Greece, being subjected to severe forms of mistreatment and deprivation of their liberty, property as well as being collectively expelled from the country without having the opportunity to apply for asylum. Thus, it could be argued there are violations of the right to seek and enjoy asylum, right to life, prohibition of torture, right to liberty and security and right to an effective remedy. Yet this blog will only focus on the most relevant rights/issues.

Greece's suspension of asylum applications is a clear breach of fundamental principle of non-refoulement and it implies that Greece incurs responsibility under international law and EU law. The right to seek asylum is granted in Article 18 and the prohibition of refoulement in Article 19 of the [EU Charter of Fundamental Rights](#). Besides, neither the 1951 Convention nor EU law provides for a legal basis for the suspension of accepting asylum applications. Article 78(3) of the [Treaty of the Functioning of the EU](#) was used as a basis by the Greek Government for the suspension of the aforementioned rights. Moreover, this provision requires provisional measures to be adopted by the Council upon a proposal by the Commission and in consultation with the European Parliament, in case one or more EU member states face an emergency situation characterized by a sudden influx of third country nationals. In fact, such a suspension does not apply for the internationally recognized right to seek asylum and the principle of non-refoulement.

International law grants a special regime and protection framework for refugees, the definition of which is internationally provided under 1951 Convention and translated into several domestic/regional laws including EU law. Such protection includes the principle of non-refoulement which obliges the states parties not to return refugees to countries where they would face persecution (Article 33 of the [1951 Convention](#)). The term "refugee" in Article 33 covers not only recognized refugees but also asylum seekers who are potential refugees. Although the provision has two exceptions concerning national security and public safety, these are subject to certain conditions and the requirement of individual assessment of each case. Thus, a blanket argument that a mass influx situation exists *per se* cannot form the basis

for these exceptions. The principle of non-refoulement is also supported by Article 3 (in some cases by Article 2) of the [ECHR](#) in the Council of Europe region.

At this point, it could be argued that removal of individuals to Turkey could not be considered problematic since Turkey is considered as a “safe third country” within the meaning of Article 38 of the [EU Asylum Procedures Directive](#). However, whether Turkey is a safe third country is questionable in particular after the adoption of the EU-Turkey Statement. [UNHCR has interpreted the concept of “safe third country”](#) as requiring strict substantive criteria and procedural safeguards including the individual’s ability to challenge the applicability of the concept to his/her case or existence of the close links or connection of the individual to the third country beyond merely being a “transit” country. (*On this point please see [Ilias and Ahmed v. Hungary](#) ECtHR where the Grand Chamber analysed the risk of the applicant being sent back to his/her country of origin either directly or indirectly without a proper evaluation of the risk under Article 3*). In their judgments the [Greek Council of State and Appeal Committees](#) have accepted Turkey as a safe third country. The suspension of the EU-Turkey Readmission Agreement by Turkey in July 2019 and the Greece-Turkey border crisis of early 2020 add further layers to the existing uncertainty about application of safe third country status to Turkey.

Excessive use of force violating the right to life and the prohibition of torture, inhuman and degrading treatment is another important dimension of the crisis. At least two death incidents and one disappearance caused by the shootings, and several physical injuries due to throwing of gas canisters and beatings by the Greek authorities were [reported](#). Under human rights law the use of force by the state agents may in some cases be justified; however, necessity and proportionality of the use of force play a strong role in the assessment of such justification. The ECtHR in several of its judgments has ruled that less extreme measures should be used to deal with crowd, protest or security problems (see [Güleç v. Turkey](#); [McCann and others v. UK](#)). In short, states have a positive obligation to protect the right to life; thus they must ensure that a proper system is in place not only to criminalize unlawful killings but also to initiate legal proceedings for the deterrence of future crimes (see [Kılıç v. Turkey](#)). A similar positive obligation of the state also exists to prevent actions that may constitute torture, inhuman, degrading treatment.

It is less doubtful that Greece can potentially be held responsible for certain acts as a perpetrator before the ECtHR. In fact as [reported a few cases against Greece have been brought to the ECtHR](#) on the basis of mistreatment by the Greek border authorities. However, particularly about the illegal crossings at the border, Turkey’s human rights responsibilities could enter into the scene as well. It could be argued that Turkey “encouraged” or at least “facilitated” the movement of asylum seekers and migrants towards its western border. [Interviews with those at the border](#) reveal that many of them were assisted with transportation to the border area and they were given the impression that the border on the EU side was open. They expressed that they had been motivated by public announcements of the Turkish authorities on the opening of borders and the possibility of crossing to Greece. Furthermore, there are [allegations](#) about Turkish authorities’ directing refugees to some (irregular) crossing points along with gendarmerie presence.

State authorities internationally called to ensure [safe passage](#) of asylum seekers and not to encourage irregular migration at international level. This overlaps with their positive obligations under human rights law. Particularly the right to life of asylum seekers, which was at high risk during crossings through the Evros River should have been protected in absolute manner as part of states' positive obligation (see [Öneri#ld#z v. Turkey](#)). Similarly, the public authorities are expected to take necessary measures to prevent the victimization of asylum seekers by smugglers. It is questionable if sufficient measures were taken by the Turkish authorities for the passage and security of those on the move (see [M.S.S v. Belgium and Greece](#)). Another important issue that needs to be taken into account is the destiny of the statuses of returning asylum seekers/refugees after going back to their provinces of residence. There is a risk that they could lose their statuses under the [Law no. 6458 on Foreigners and International Protection](#) which would lead to the issuance of deportation decisions against them. This risk requires close follow up in the field.

Overall the Greece-Turkey border events of early 2020 showed that both countries bear responsibility for the human suffering at the border.

Conclusion

The decision on the entry, stay/residence and removal of foreigners falls under the sovereignty of each state. At the same time, states also have human rights responsibilities which they need to fulfil while exercising their sovereignty.

The recent border crisis between Greece (the EU) and Turkey has more than ever revealed that the EU views the refugee issue as a matter of border management. There is an increasing trend of “repression” than “prevention” of irregular entries to the EU at the cost of serious interventions, even breaches of human rights. However, the asylum – migration nexus should not be disregarded during such border movements. Although many migrants seem to have left their countries for economic reasons, almost all come from conflict zones requiring proper examinations of their claims, which finally could qualify them for refugee status or at least subsidiary protection. Therefore, access to asylum is key for their protection.

Experience has proven that migration cannot be “managed” through unilateral actions, in fact such actions destroy migration management completely. Effective migration management requires responsible states to assume active roles and fulfil their positive obligations on whom they exercise jurisdiction/effective control. In this regard Greece (and other EU member states) must show more effort to stick to their own values and comply with human rights in their relationships and cooperation with refugee hosting transit countries. The human rights violations perpetrated within the EU soil and/or by EU member states undermine the overall credibility of the EU. Unfortunately, the EU is keener to view Turkey as a safe third country and to offer limited financial support than resettlement as a form of burden-sharing to assist refugees. Some EU states clearly [objected](#) to accepting more refugees while Turkey has been [hosting the biggest refugee population](#) in the world since 2014.

On the other hand, despite all its efforts in offering protection to refugees, Turkey gives emotional reactions, which at the end also puts refugees at risk. When global figures are taken into account, there is disproportionate weight on Turkey. However, this by itself cannot be an excuse for Turkey to apply policies that risk the lives and freedoms of refugees either. Turkey should also stick to its human rights responsibilities. Unless the EU and Turkey are able to reach effective responses in compliance with human rights, similar onward movements will be inevitable.

