

When Monitoring Fails: Independent Monitoring Mechanisms and Systemic Border Violence under the EU Migration Pact

Summary

Amongst the rise of persistent state border violence and increasing anti-migrant rhetoric in politics, the European Union (EU) is undertaking an overhaul of EU migration laws with the EU Pact on Migration and Asylum. Among its ten legal acts is the Screening Regulation, establishing a common screening procedure for Third Country Nationals (TCNs) at external borders. This brief will investigate Article 10 of this Regulation: the Independent Monitoring Mechanism (IMM).

Nonetheless, BVMN's assessment of the IMM presents significant concerns that not only could this mechanism fall short of its stated goals, but it could actively be used at the detriment of people on the move's rights. This paper explores Article 10 using a case study, identifying several shortcomings in the legislation's guarantees of the IMM's independence and potential for accountability, mirrored by the OHCHR's recent findings. Given our reports of the EU's systemic violations of international obligations at borders, we urge the EU to put substantial safeguards in place to truly comply with human rights frameworks and reach the IMM's purported aim, for which we provide recommendations in our conclusion.

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1. Introduction

The Border Violence Monitoring Network (BVMN) is a coalition of organisations that has documented illegal pushbacks, collective expulsions, and police violence at and within the European Union (EU)'s borders, largely in Greece and the Western Balkans, since the formal closure of the humanitarian corridor in 2016. BVMN has recorded over 1,600 pushback testimonies affecting more than 25,000 people. This number reflects a fraction of the reality; the amount of people who have experienced pushbacks in the region is likely far higher. Since 2020, BVMN has also engaged with criminalisation, increased use of border technology, violence within state borders, and trial monitoring.

By 2020, it was clear to BVMN that pushbacks, torture, and arbitrary detention, including the use of black sites, were systematic to the management of the EU's external borders. The beginning of 2020 saw a proliferation of high profile reporting regarding mass fundamental rights violations at the EU's borders.¹ For example, the video documentation of the killing of Mohammad Gulzar at the hands of Greek border guards² allowed the world to catch a glimpse of the routine and brutal violence of the Greek authorities.

The 2025 Report of the Office of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 57/14 on the human rights of migrants calls for an urgent robust monitoring mechanism seen the context where people on the move experience human rights protection gaps, including unlawful profiling, gender-based violence, dangerous interception practices and arbitrary detention³.

Meanwhile in 2020, after a long period of postponements, facing increasing reports of systematic fundamental rights violations across the bloc, the Commission presented plans for a New Pact on Migration and Asylum. The New Pact was adopted by the Parliament and Council in Spring 2024. Member States have two years to implement the Pact with new rules coming into effect by 12th June 2026.

¹The New York Times. 2020. We Are Like Animals Inside Greece's Secret Site For Migrants. Available at: [nytimes.com/2020/03/10/world/europe/greece-migrants-secret-site.html](https://www.nytimes.com/2020/03/10/world/europe/greece-migrants-secret-site.html) ; The Guardian. 2020. Catastrophe for Human Rights as Greece Steps Up Refugee Pushbacks. Available at:

theguardian.com/global-development/2020/sep/27/catastrophe-for-human-rights-as-greece-steps-up-refugee-pushbacks

² Forensic Architecture. 2020. "The killing of Muhammad Gulzar" Available at: forensic-architecture.org/investigation/the-killing-of-muhammad-gulzar

³ UN General Assembly. Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Available at: docs.un.org/en/A/HRC/60/57

The New Pact pledges to work towards a more efficient and fair migration process, a claim which has been disputed by several NGOs and Civil Society Organisations.⁴ In this frame Commissioner Johansson proposed the creation of ‘a new independent monitoring mechanism for all Member States [...] to make sure that there are no *pushbacks* at the borders’.⁵ This point is crucial, as the monitoring mechanism currently laid out in the New Pact is limited in scope to only monitoring potential human rights violations within the proposed new screening procedures at official sites (police stations, reception or detention centres, etc). The proposal would leave unmonitored vast stretches of green and blue borders, and informal sites from which pushbacks are usually carried out. **Such a limited scope sets the proposed mechanism far from its stated goal.**

This policy paper will analyse the proposed independent monitoring mechanisms, and focus on a national case study in Greece that is illustrative of larger concerns on IMM implementation. Initially, there was a stand-off between the Commission and the Ministry of Migration and Asylum (MMA) whereby former Minister Mitarakis stated that Greece did not need an IMM. However, Commissioner Johansson rejected requests for additional funds for the Hellenic Coast Guard (HCG)⁶ until one was implemented. A statement from the former Commissioner stated that any additional EU border management funding to Greece “should be linked to the establishment of a mechanism to monitor fundamental rights”.⁷ By January 2022, Greece had acquiesced and officially begun to set up an Independent Monitoring Mechanism.

2. Short Overview of The New Pact Screening Regulation and Article 10 on the creation of Independent Monitoring Mechanisms

The Screening Regulation in the Pact introduces a screening procedure for Third Country Nationals (TCNs) arriving at external European borders. Here, individuals are not considered to have entered the territory of the EU, using the legal fiction of 'non-entry', and are de facto detained in closed centres where they undergo screening procedures which, in turn, decide if they will be referred to an accelerated border procedure or a full assessment of their claim under normal procedures. The screening process at the external border, including identification, registration, 'security checks', and a health and vulnerability assessment, should conclude within seven days. As laid out in the proposal, reasons for detention during the procedure covers almost all situations of “irregular” entry, **which remains one of the only available pathways to seek asylum in the EU. In conjunction with the Pact’s other regulations, the Screening Regulation would severely limit, if not abolish, the right to asylum in practice.**

Under the New Pact, the proposal for the implementation of pre-screening procedures also foresees the creation of an Independent Monitoring Mechanism (IMM) to “investigate allegations of non-respect for fundamental rights in relation to the screening”.⁸ While monitoring of the new pre-screening procedures is key to ensuring respect of fundamental human rights, the scope of the proposed IMM as

⁴ Border Violence Monitoring Network. 2020. New Pact on Migration Policy Analysis. Available at: borderviolence.eu/uploads/document/file/282/New-Pact-on-Migration-Policy-Analysis.pdf; ECRE. 2020. Joint Statement on New Pact on Asylum and Migration. Available at: ecre.org/joint-statement-the-new-pact-on-asylum-and-migration-an-opportunity-seized-or-squandered/

⁵ European Commission. 2020. Speech by Commissioner Johansson on the New Pact on Migration and Asylum. Available at: ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1733

⁶ Der Spiegel. 2021. EU Commission blocks payment to Greek Coast Guard. Available at: spiegel.de/ausland/pushbacks-von-fluechtlingen-eu-kommision-kuerzt-griechischer-kuestenwache-das-geld-a-028e8f42-cb75-41b9-97dd-bc28add93967

⁷ ibid.

⁸ Article 10.1 PE/20/2024/REV/1

it stands is heavily limited—and far from achieving the Commissioner's goal of ending pushbacks at the borders.

Member States are required to set up monitoring mechanisms in compliance with EU and national law, and to ensure that allegations of potential violations are dealt with "effectively and without undue delay".⁹ Particular attention is placed on ensuring compliance with national laws on detention within the context of the new screening procedures. The IMM will have "access to all relevant locations, including reception and detention facilities, individuals and documents, insofar as such access is necessary to allow the independent monitoring mechanism to fulfil [its] obligations".¹⁰ It will carry out its tasks on the basis of on-the-spot checks and random, unannounced checks, with the "power to trigger investigations on substantiated allegations of non-respect of fundamental rights" and "issue annual recommendations".¹¹

With this new mechanism, States will be obligated to provide "adequate safeguards to guarantee the independence of the mechanism".¹² Guidelines as to how to set up these safeguards for independence, as well as "monitoring methodology and appropriate training schemes"¹³ will be provided by the European Union Fundamental Rights Agency (FRA). Member States can also reach out to FRA for support with setting up the monitoring mechanism.

The Commission will consider the findings of the IMM in its assessment of the effective application and implementation of the Charter (based on Article 15(1) and Annex III of Regulation (EU) 2021/1060). They will then report on the implementation of the measures set out in the Screening Regulation in June 2028 and will evaluate the Regulation every five years.

In terms of who will be running the IMM, the Pact leaves this fairly open, stating that each Member State may invite "relevant and competent national, international and non-governmental organisations and bodies to participate in the monitoring".¹⁴ The European Network of National Human Rights Institutions (ENNRI) recommended the Commission to rely on existing National Human Rights Institutions (NHRI) rather than creating a new mechanism.¹⁵ National Human Rights Institutions are state-mandated independent bodies "periodically accredited in line with international standards (under the United Nations (UN) Paris Principles)¹⁶, providing evidence of their independence, plurality, and effectiveness".¹⁷ It is likely that these institutions will be tasked with IMM implementation under the New Pact. Clarification, however, is still needed on which institutions can be deemed "relevant" and "competent" for a Member State to invite them to participate in the establishment of the IMM.

⁹ ibid.

¹⁰ ibid.

¹¹ Screening of third country nationals at the external borders, Legislative Train Schedule, European Parliament. Available at: europarl.europa.eu/legislative-train/theme-promoting-our-european-way-of-life/file-border-screening

¹² Article 10.2 PE/20/2024/REV/1

¹³ ibid.

¹⁴ §27 PE/20/2024/REV/1

¹⁵ ENNRI. 2021. Feedback from ENNRI: European Commission initiative for a New Pact on Migration and Asylum. Available at:

ennri.org/our-work/topics/asylum-and-migration/opinion-on-independent-human-rights-monitoring-mechanisms-at-borders-under-the-eu-pact-on-migration-and-asylum/

¹⁶ Principles Relating to the Status of National Institutions (Paris Principles). Available at:

ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris

¹⁷ ENNRI. 2020 Stronger Human Rights Monitoring at Europe's Borders - why NHRI are part of the solution.

Available at:

ennri.org/wp-content/uploads/2020/05/ENNRI_Stronger-human-rights-monitoring-at-Europe%20%99s-borders-%20%93-why-NHRIs-are-part-of-the-solution.pdf

3. Case Study: Greece

Overview of the Contextual Situation

UNHCR reported 62,119 refugee and migrant arrivals in Greece in 2024.¹⁸ Most came from Syria (31.3%), Afghanistan (20%), Palestine (16.3%), and Somalia (6.5%).¹⁹ Women and children made up 28% each, while 54% were adult men.²⁰ This increase coincides with intensified border controls: expanded Evros border fences²¹, and the deployment of advanced surveillance technologies, including an Automated Border Surveillance System equipped with thermal cameras and radars. Civil society groups warn these technologies facilitate pushbacks under the guise of "preventing" crossings. For a while now, civil society organisations have been denouncing the dangers of the use of new technologies and Artificial Intelligence in the field of migration and border control, including the deployment of intrusive surveillance technology and the collection of biometric data from people on the move.²² The lack of transparency and regulation surrounding these processes and their impact results in a lack of accountability on the part of the authorities, technology companies, as well as public research institutions, as it **poses severe difficulties in the monitoring of likely violations of human rights.**²³

Media attention escalated when the trawler carrying approximately 750 people was brought to the attention of the Hellenic Coast Guard in June 2023, sinking 15 hours later, known as the Pylos shipwreck. Such a case exemplified not only the criminalisation of people on the move - charging nine survivors with smuggling and causing the accident, detaining them for almost a year - but also the systemic negligence and impunity that led to the shipwreck and substandard investigation thereafter. As of 23rd May 2025, 17 members of the Hellenic Coast Guard, "including senior officers of its leadership"²⁴ were criminally prosecuted and referred to a main investigation for "exposing others to danger" and the coastguard ship's captain for causing the shipwreck and the deaths of "at least 82 people", not to mention the additional 500 missing.²⁵

¹⁸ UNHCR, *Operational Data Portal*. Available at: data.unhcr.org/en/situations/europe-sea-arrivals/location/24489

¹⁹ ECRE. AIDA Country Report on Greece: Access to territory and Pushbacks. Available at: ecre.org/aida-country-report-on-greece-2023-update/

²⁰ *ibid.*

²¹ Οικονομικός Ταχυδρόμος. March 2023. Evros border fence planned extension becomes Greek election issue. Available at: pt.gr/2023/03/31/english-edition/evros-border-fence-planned-extension-becomes-greek-election-issue/

²² BVMN & EPIM. 2024. Surveillance technologies at European borders Assessment on Evros. Available at: borderviolence.eu/app/uploads/Border-surveillance-in-Evros.pdf; I Have Rights. 12 June 2025. New Report: Greek Ministry of Migration Fails to Comply with Data Protection Order in Samos CCAC. Available at: ihaverights.eu/border-tech-data-violations/

²³ *Ibid*; HIAS. 2024. The Hellenic Data Protection Authority Fines the Ministry of Migration and Asylum for the "Centaurus" and "Hyperion" Systems with the Largest Penalty Ever Imposed to a Greek Public Body. Available at: hias.org/statements/hellenic-data-protection-authority-fines-ministry-migration-and-asylum-centaurus-and-hyperion-systems-largest-penalty-ever-imposed-greek-public-body/

²⁴ Legal Centre Lesvos, 2025. Pylos Shipwreck: Criminal Prosecution for Felonies Against 17 Members of the Hellenic Coast Guard, Including Senior Officers of Its Leadership. Available at: legalcentrelesvos.org/2025/05/23/pylos-shipwreck-criminal-prosecution-for-felonies-against-17-members-of-the-hellenic-coast-guard-including-senior-officers-of-its-leadership/

²⁵ BBC, 2025. Greek coastguards charged over 2023 migrant shipwreck. Available at: bbc.co.uk/news/articles/cp8yjlzd3pvo

In 2024, UNHCR recorded 799 deaths and disappearances in Greece, continuing a disturbing trend since 2021, where over one in every 100 people seeking safety in Greece and the EU die or go missing.²⁶ Due to the absence of systematic data collection, true figures remain underreported.

In late September 2023, the UN Committee on Enforced Disappearances formally adopted its first General Comment on the application of the Convention on Enforced Disappearances in the context of migration whereby pushbacks are recognised as a form of Enforced Disappearances.²⁷ **In Greece, violent pushbacks are a daily reality in border management, carried out systematically without holding perpetrators accountable.** Govwatch reported a surge in pushbacks of 2,010 incidents affecting 55,445 individuals for the period from March 2020 to March 2023.²⁸ Data from the Turkish Coast Guard (TCG) highlights the scale of these abuses. Between April and June 2024, at least 3,895 people were pushed back to Turkey. Amnesty International,²⁹ UNHCR,³⁰ Human Rights Watch,³¹ and investigative outlets (Der Spiegel,³² Lighthouse Reports,³³ and Forensic Architecture³⁴) have extensively documented these systematic violations. Testimonies from survivors consistently highlight the systematic use of, *inter alia*, extensive physical violence, prolonged detention, violence within detention, abuses that amount to torture, the denial of access to the asylum procedure and medical care.³⁵ In 2024, the Council of Europe Commissioner for Human Rights visited Greece and in light of extensive reports of pushbacks by legal professionals, civil society organisations, third-country nationals and the media, recommended a zero-tolerance approach to summary returns (pushbacks) and that all allegations thereof should be thoroughly investigated³⁶.

On 7th January 2025, the European Court of Human Rights (ECtHR) delivered a landmark ruling, condemning Greece for its systematic practice of illegal pushbacks. The court found Greece guilty of violating the rights of a Turkish asylum seeker (A.R.E.), **affirming that Greek authorities routinely expel third-country nationals from Evros to Turkey in breach of international law.** This ruling

²⁶ UNHCR, Operational Portal, Mediterranean Situation: Greece. Available at: data.unhcr.org/en/situations/europe-sea-arrivals/location/24489

²⁷ OHCHR, CED/C/GC/1: General comment No. 1 (2023) on enforced disappearance in the context of migration. Available at: ohchr.org/sites/default/files/documents/hrbodies/ced/enforced-disappearances-in-context-mig-en.pdf

²⁸ Govwatch. September 2025. 4th Annual Report on the Rule of Law in Greece. Available at: govwatch.gr/en/reports/4i-etisia-ekthesi-gia-to-kratos-dikaioy-stin-ellada-2024/

²⁹ Amnesty International. 2021. Greece: Violence, lies, and pushbacks – Refugees and migrants still denied safety and asylum at Europe’s borders. Available at: amnesty.org/en/documents/eur25/4307/2021/en/

³⁰ UNHCR. 2021. UNHCR warns asylum under attack at Europe’s borders, urges to end pushbacks and violence against refugees. Available at: unhcr.org/uk/news/news-releases/unhcr-warns-asylum-under-attack-europes-borders-urges-end-pushbacks-and-violence

³¹ HRW. 2021. Greece: Investigate Pushbacks, Collective Expulsions. Available at: hrw.org/news/2020/07/16/greece-investigate-pushbacks-collective-expulsions

³² Der Spiegel. 2021. More than 100 refugee boats pushed back in Frontex operations. Available at: spiegel.de/ausland/griechenland-mehr-als-100-fluechtlingsboote-bei-frontex-einsaetzen-zurueckgestossen-a-402fdff2-1404-4690-8dd2-3db4801487d6

³³ Lighthouse Reports. 2020. Borders Newsroom. Available at: lighthousereports.com/wp-content/uploads/2021/07/Lighthouse-Report-2020-1.pdf

³⁴ Forensic Architecture. 2020. Pushback Across the Evros/Meric River: Situated Testimony. Available at: forensic-architecture.org/investigation/evros-situated-testimony

³⁵ Border Violence Monitoring Network Database. Available at: borderviolence.eu/testimonies

³⁶ Council of Europe Commissioner of Human Rights. April 2025. Memorandum on migration and border control, following the Commissioner’s visit to Greece from 3 to 7 February 2024. Available at: ecoi.net/en/file/local/2127448/CommHR%282025%2916_Memorandum+on+migration+and+border+control+following+the+Commissioner%27s+visit+to+Greece_EN.pdf

delivers the strongest legal rebuke yet against Greece's border policies, dismantling years of government denials and reinforcing what human rights organisations have long documented.

Recent developments in Greece involve increasing geopolitical tensions in the Aegean and Greek concerns over maritime security, as well as further growing anti-migration hatred in Greek political discourse. Greek PM Kyriakos Mitsotakis and the new Minister of Migration Thanos Plevris have framed the entry of people on the move to Gavdos and Crete over the last six months as an 'invasion'. ³⁷ Furthermore the Greek government, and more specifically, Minister Plevris announced suspension of the submission and examination of asylum applications for arrivals from the North African route, as well as their deportation without registration. This proposal was approved by a wide majority in the Greek Parliament on the 11th of July 2025.³⁸ Those whose asylum claims are rejected and who do not leave within 14 days also face a new Greek law which would imprison them for between two and five years, while unregulated migrants who have been in Greece for seven years will no longer have the right to legalise their status.³⁹ This law also permits the detention of those who arrive without documentation for up to 24 months and the imprisonment of those labelled 'undesirable aliens' who try to re-enter Greece for up to 3 years alongside a fine of at least 10,000 euros.⁴⁰ Several of these elements are from the EU Pact on Migration and Asylum, which should only be applicable from June 2026.

Mounting pressure on Greece to establish independent monitoring mechanisms

Given the circumstances, Greece has been under mounting pressure to establish an independent monitoring mechanism. In August 2021, the European Commission reiterated its demand for a rights monitoring mechanism as a precondition for migration management funding for Greece, who had requested €15.83 million to increase the Hellenic Coast Guard's patrolling capacity.⁴¹ "Setting up an independent and credible monitoring mechanism will help prevent fundamental rights violations at the borders and ensure that procedures are in place to effectively investigate any allegations of such violations," an EU spokesperson told EURACTIV, also noting that this was a matter of urgency for the Commission.⁴²

On 9th September 2021, UNHCR, in collaboration with ENNHRI, released ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece which

³⁷ MIT, IHR, BVMN Statement on Greece's Suspension of Asylum. July, 2025. Available at: borderviolence.eu/reports/our-joint-statement-on-greece-s-suspension-of-asylum

³⁸ ibid.

³⁹ The Guardian. 2025. Greece passes draconian legislation with prison terms for rejected asylum seekers. Available at: theguardian.com/world/2025/sep/03/greece-passes-draconian-legislation-with-prison-terms-for-rejected-asylum-seekers

⁴⁰ I Have Rights. August 2025. Joint Statement: Urging the Greek Government to withdraw the new draft law on returns. Available at: ihaverights.eu/joint-statement-urging-the-greek-government-to-withdraw-the-new-draft-law-on-returns/

⁴¹ ECRE. 2021. Greece: Council of Europe Concerned Over Crackdown on NGOs, Human Rights Monitoring a Precondition for Additional Funding, Pushbacks Continue, Afghan Refugees Stuck in Limbo. Available at: ecre.org/greece-council-of-europe-concerned-over-crackdown-on-ngos-human-rights-monitoring-a-precondition-for-additional-funding-pushbacks-continue-afghan-refugees-stuck-in-limbo/

⁴² EURACTIV. 2021. Commission asks Greece for transparency on pushbacks to release migration funds. Available at: euractiv.com/news/commission-asks-greece-for-transparency-on-pushbacks-to-release-migration-funds/

built on the European Commissions' proposal in the Pact on Migration and Asylum.⁴³ The UNHCR stated:

"We look forward to supporting the Greek Government in the discussion regarding the parameters and the safeguards for the establishment of a truly independent border monitoring mechanism, an important guarantee for the observance of fundamental rights under international, regional and national law, to which all persons are entitled".

Conversely, on 29th September, **former Greek Minister for Migration, Mitarakis, stated that "There [was] no proposal from the European Commission for a border control mechanism" and that "For us alone to do something about an issue that we do not consider to exist [...] is not among our priorities".**⁴⁴

On 29th September 2021, the Commission released a Communication from the Commission to the European Parliament on the Report on Migration and Asylum, claiming that:

"A key part of this work is an independent and credible monitoring mechanism being developed by the Commission and the Greek authorities that will help prevent fundamental rights violations at the borders and ensure that procedures are in place to effectively investigate any allegations of such violations".⁴⁵

This appeared to be in clear contradiction with the statement of Minister Mitarakis, and hence it was unclear to what mechanism the Commission was referring at this point. Nonetheless, in 2022, Law 4960/2022 introduced a Fundamental Rights Officer and a Special Commission on Fundamental Rights Compliance for the Ministry of Migration and Asylum.⁴⁶

Existing Monitoring Mechanisms

The following section considers the mandate, past and ongoing actions, and criticisms of institutions that have a monitoring aspect. We will then outline and analyse the process through which the National Transparency Authority (EAD), Fundamental Rights Officer, and the Special Commission on Fundamental Rights Compliance of the Ministry of Migration and Asylum were officially mandated to set up the mechanisms and their progress.

Greek Ombudsperson's Office

The Ombudsperson's mission includes safeguarding children's rights, promoting equal treatment, and fighting discrimination in the public sector based on race, ethnicity, religious or other conviction, disability, age, or sexual orientation. Furthermore, they are tasked with monitoring public sector

⁴³ ENNHRI and UNHCR. 2021. Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece. Available at:

unhcr.org/gr/en/news/ten-points-guide-establishment-independent-and-effective-national-border

⁴⁴ Iefimerida. September 2021. Mitarakis: "There is no proposal from the European Commission for a border control mechanism". Available at: iefimerida.gr/politiki/boymi-mitarakis-epitropis-mihanismo-synoron

⁴⁵ European Commission. 2021. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on the Report on Migration and Asylum. Available at:

eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0590

⁴⁶ LAW NO. 4960/2022. Government Gazette 145/A/22-7-2022. National Guardianship System and Framework for the Reception of Unaccompanied Minors and other provisions within the competence of the Ministry of Immigration and Asylum. Available at: e-nomothesia.gr/kat-allodapoi/nomos-4960-2022-phek-145a-22-7-2022.html

services, including the police, prisons, regions, and municipalities. As a mediator, the Greek Ombudsman makes recommendations and proposals to the public administration when illegal action or wrongful omission is committed by the public administration, breaching the rights or legal interests of individuals or legal entities.

The three main monitoring projects by the Greek Ombudsperson relevant in this period were: (1) monitoring work on forced returns,⁴⁷ (2) the interim report on alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection,⁴⁸ and (3) Special Reports on the National Mechanism for the Investigation of Arbitrary Incidents.⁴⁹ Of particular relevance here is the Ombudsman's work on monitoring forced returns, as the Office has access to information regarding deportations and can make unannounced visits. In several reports, the Ombudsperson made strong suggestions regarding substandard conditions and the lack of basic services (interpreters, sufficient bed covers, and preventive medical examinations) in detention facilities, the importance of protecting the right to effective remedy, procedural issues in the context of return procedures, and the apparent systematic nature of pushbacks in Greece.⁵⁰

In terms of follow-up or accountability on the part of the Greek state, and the scope of the Ombudsperson's actions as an independent monitoring mechanism, there have been substantial critiques, starting with the ability of the Ombudsperson's Office to function as an independent monitoring mechanism. In the interim report, which detailed the reported pushbacks of asylum seekers, the response of the police departments in question was to issue standardised letters denying any wrongdoing or complaints against them.⁵¹ The Ombudsperson himself reflected that in the context of the investigation, he had not "been equipped by law with the necessary statutory tools and means to investigate effectively and comprehensively the factual basis of the complaints, in order to reach a definite conclusion". To sum up, this investigation revealed: (1) the Ombudsperson's Office to be statutorily incapacitated to undertake a full investigation and to reach decisions regarding the validity of pushback claims in this particular investigation, and (2) unable to function as an independent monitoring mechanism due to this limitation and the mechanism's general lack of impartiality given its subordination to the government.

Greek National Commission for Human Rights (GNCHR)

The Greek National Commission for Human Rights (GNCHR) is the National Human Rights Institution in Greece, tasked with the protection of human rights, while acting as the independent advisory body on these matters. The main mission of GNCHR consists of:

⁴⁷ Greek Ombudsman. 2020. Monitoring Forced Returns Operations. Available at: nationaleombudsman.nl/system/files/bijlage/Greek%20ombudsman%20monitoring%20forced%20returns.pdf

⁴⁸ Greek Ombudsman. 2020. Interim Report on alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection". Available at: statewatch.org/media/2325/gr-ombudsman-pushbacks-interim-report-4-21.pdf

⁴⁹ Greek Ombudsman. 2020. Special Report on the National Mechanism for the Investigation of Arbitrary Incidents. Available at: synigoros.gr/api/files/download/649

⁵⁰ Greek Ombudsman. 2020. Special Report on Return of Third Country Nationals. Available at: synigoros.gr/api/files/download/650 ; BVMN. 2021. Response to the Ombudsperson's Interim Report on Alleged Pushbacks to Turkey. Available at: borderviolence.eu/app/uploads/Reponse-to-Greek-Ombudsman-Interim-Report-by-BVMN.pdf

⁵¹ Greek Ombudsman. 2020. Interim Report on alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection". Available at: statewatch.org/media/2325/gr-ombudsman-pushbacks-interim-report-4-21.pdf

- The constant monitoring of developments regarding human rights protection, continuous briefing, and the promotion of relevant research;
- The maintenance of permanent contacts and co-operation with international organisations, such as the United Nations, the Council of Europe, the OSCE (Organization for Security and Co-operation in Europe), National Human Rights Institutions of other states, as well as national or international non-governmental organisations;
- The formulation of policy advice on human rights issues.

Its advisory role is not limited to submitting opinions, recommendations, reports, or proposals and participating in parliamentary sessions, but also “assisting the reports submitted by national competent authorities for their compliance with international, regional and/or European human rights standards (reporting), as well as encouraging the ratification of international human rights treaties”.⁵²

As an independent monitoring mechanism, the GNCHR has monitored borders, engaged with national and international stakeholders, and advised the Greek government and Parliament on asylum laws. It has provided expert opinions for UN reviews, worked to close protection gaps, and pushed for compliance with international standards. It has published reports on EU border policies and migrant rights, including statements on pushbacks from March 2020.⁵³

An important past initiative of the GNCHR is the Racist Violence Recording Network. The GNCHR’s Racist Violence Recording Network, launched in 2011 with UNHCR and NGOs, addresses Greece’s lack of a formal system for recording racist violence. Using a common methodology, it connects organisations documenting incidents and engages in policy recommendations, public awareness, consultations, cooperation with anti-racism bodies, and training programmes.⁵⁴ While the work of the Racist Violence Recording Network is crucial in that it attempts to fill the gap of reporting mechanisms for racist violence and public awareness on these issues in Greece, it lacks structures to push for accountability or follow-up. More broadly, the GNCHR has limited capacity to enforce remedies for human rights violations. In 2019, its former president resigned, citing concerns over the institution’s structural and financial independence, criticising government overreach and its failure to uphold UN Paris Principles for human rights bodies.⁵⁵

Following the former President’s resignation, the GNCHR pursued a reform of its founding law in line with the Paris Principles, resulting in the adoption of a new law amending the GNCHR’s founding legislation (2667/1998).⁵⁶ **The Greek National Commission was later explicitly recognised as the National Human Rights Institution in Greece and has been upgraded to an independent authority - operational, administrative, and financially independent.**⁵⁷ While these developments mark progress toward establishing independent human rights monitoring bodies in Greece, the GNCHR remains limited in its mandate and capacity. It lacks the authority to enforce

⁵² Mandate of GNCHR. Available at: nchr.gr/en/gnchr.html

⁵³ GNCHR. 2020. Statement on the Reported Practices of Pushbacks. Available at:

nchr.gr/images/English_Site/PROSFYGES/GNCHR-Statement-on-the-reported-practices-of-push-backs.pdf;

GNCHR. 2020. Press Release: Racist Violence Recording Network expresses concern over xenophobic reactions against refugees. Available at:

nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/Press%20Release%20_RVRN_EN.pdf

⁵⁴ See more on the Racist Violence Recording Network here: rvn.org/en/

⁵⁵ EFSYN. 2019. Resounding resignation of the president of the National Commission for Human Rights. Available at: efsyn.gr/ellada/dikaiomata/189920_ihiri-paraitisi-toy-proedroy-tis-ethnikis-epitropis-gia-ta-dikaiomata-toy

⁵⁶ GNCHR. 2021. Press release on Law 4780/2021: The new law amending the founding legislation of the EEDA was passed. Available at:

nchr.gr/en/news/1334-law-4780-2021-the-new-law-that-amends-the-founding-legislation-of-gnchr-was-passed.html

⁵⁷ ibid.

accountability, initiate investigations into misconduct, and access necessary documentation and sites for thorough inquiries.

On 12th May 2021, the Sub-Commission for the protection of human rights to aliens convened a special hearing of stakeholders on the new EU Pact on Migration and Asylum with particular focus on asylum procedures and the right to an effective appeal, border security and search and rescue missions, solidarity mechanisms for relocation of beneficiaries of international protection, the mechanism of crisis management for refugees and migrants, and screening procedures at EU external borders. **In its National Report on the situation of human rights of migrants at borders of July 2021, the GNCHR stated that it would launch a “new Mechanism for recording incidents of pushbacks to contribute to filling this accountability gap”, stressing the importance of such a structure containing strong accountability mechanisms and being truly independent.⁵⁸**

This mechanism, known as the Recording Mechanism of Informal Forced Returns (IFRRM) was officially launched in September 2021, having established “common, transparent and scientific methodologies in data recording”.⁵⁹ **This mechanism is not the IMM of the New Pact but rather an initiative of the GNCHR composed of accredited civil society organisations (CSOs) active in Greece in this field.** Member projects used a shared methodology to record incidents of illegal returns with the intention of increasing visibility of pushbacks in the Greek context and gathering a body of credible evidence. The GNCHR has an advisory role in the Greek Parliament⁶⁰ which means its findings and recommendations may be given more weight than other monitoring efforts. **The mechanism constitutes a national human rights organisation setting up an independent border monitoring mechanism specifically to address pushbacks.**

The most recent reports from the IFRRM document multiple cases of informal forced returns. By informal forced returns the IFRRM refers to: “the informal deportation, removal, ‘pushback’ or return, conducted summarily and outside the legal framework, of third-country nationals, including asylum seekers and holders of legal residence titles in Greece, from the Greek territory, without individual examination of international protection or other needs, and without the possibility of having recourse to legal remedies”.⁶¹ In 2023, the informal forced returns involved at least 1,438 third-country nationals, including 158 women, 190 children, and 41 persons with additional needs such as medical conditions, disabilities, and the elderly. Among them were two recognised refugees and one registered asylum seeker with a pending application in Greece. In its 2024 report, GNHCR recorded a further 52 incidents, 4 four of which took place in 2022, 15 in 2023 and 33 in 2024.⁶² The reported incidents amount to the already massive evidence of systematic violations of international law, including the principle of non-refoulement and the prohibition of inhuman or degrading treatment under the ECHR. Moreover, victims reported severe abuses: physical violence, verbal threats—often at gunpoint—sexual abuse, deprivation of belongings and identity documents, detention in degrading

⁵⁸ GNCHR. 2021. National Report on the situation on human rights of migrants at the borders. Available at: ennhri.org/wp-content/uploads/2021/08/Greek-National-Report.pdf

⁵⁹ ENNHRI. 2021. The power of community: Together for equality and human rights. Available at: ennhri.org/news-and-blog/the-power-of-community-together-for-equality-human-rights/

⁶⁰ Greece General Secretariat for Legal and Parliamentary Affairs. National Commission for Human Rights (NHRC) Legal Framework. Available at: gslegal.gov.gr/en/committees-and-authorities/national-commission-for-human-rights/

⁶¹ Recording Mechanism of Incidents of Informal Forced Returns. Annual Report. 2023. Available at: nchr.gr/images/pdf/RecMechanism/Final_Annual_Report_202311.pdf

⁶² Recording Mechanism of Incidents of Informal Forced Returns. Annual Report. 2024. Available at: nchr.gr/ekthesiis.html

conditions, family separations, lack of medical care, and 3 testimonies reported that others in the group had lost their lives during the physical removal operations.

The Recording Mechanism does not aim to document every case but adheres to rigorous standards to expose systematic patterns of abuse. Its findings confirm the persistent use of pushbacks by Greek authorities, targeting individuals from countries with high asylum recognition rates.

The appointment of the National Transparency Authority (EAD):

On 6th October 2021, Lighthouse Reports released an investigation,⁶³ including visual evidence, which further contributed to the mounting body of proof that pushbacks are occurring at the EU's borders. The report released video footage obtained from open sources that showed masked men, who were later identified as members of the Hellenic Coast Guard, conducting pushbacks in the Aegean. Commissioner Johansson met with Greek and Croatian interior ministers that same day, calling the reports "shocking" and urging them to take the matter "very seriously".⁶⁴ Two days later on 8th October, Greece said it would investigate the reports.⁶⁵

Later in October 2021, it was announced that the Greek government was considering designating the EAD to act as the independent body that would investigate reports of migrant pushbacks, including the aforementioned case. Established only in 2019, the EAD is tasked with assuming all the responsibilities of five public auditing bodies: Office of the Inspector General of Public Administration, Body of Inspectors - Public Administration Auditors, Body of Health and Welfare Inspectors, Body of Inspectors General of Public Works, and Public Works Officers Secretariat for Combating Corruption. The mandate of the EAD is relatively clear in terms of its scope, but it lacks authority over security forces.

Immediate concerns were raised around how the EAD would operate in establishing the IMM's independence, ability to trigger investigations into misconduct on its own initiative, and have access to documentation and relevant sites to conduct these investigations given their past work and lack of relevant experience in the field of migration and human rights. Looking into pushbacks and other illegal practices of Greek border authorities as only being tied to financial mismanagement or fraud largely misses the point: **in their actions, it has been shown that Greek Police and Border Guards perpetrate human rights violations, and that these violations occur at least partially within police stations during working hours, using equipment they would be issued anyway.** It did not take long for these concerns to materialise as well founded when the EAD issued a press release on 29th March 2022 announcing the conclusion of a three-month investigation following up on the findings by Lighthouse Reports and connected European media outlets. The investigation took place between November 2021 and March 2022. Notably, it did not include testimonies from pushback victims, representatives of UN agencies, the Greek Ombudsman, or the Greek National Commission for Human Rights.⁶⁶ The EAD stated that they had found no evidence of pushbacks and nothing to substantiate the Lighthouse allegations as "no supporting evidence or relevant documentation has

⁶³ Lighthouse Reports. 2021. Unmasking Europe's Shadow Armies. Available at: lighthousereports.com/investigation/unmasking-europees-shadow-armies/

⁶⁴ Reuters. 2021. EU executive demands probe into alleged migrant pushbacks in Greece, Croatia. Available at: reut.rs/3LON8cu

⁶⁵ Reuters. 2021. Greece promises investigation into migrant pushback accusations. Available at: reut.rs/3y1nvQd

⁶⁶ ECRE. AIDA Country Report on Greece: Access to territory and Pushbacks. Available at: ecre.org/aida-country-report-on-greece-2023-update/

emerged".⁶⁷ Initially, the EAD did not publish the full report which prompted a press release from the International Rescue Committee (IRC) co-signed by 25 CSOs demanding a full report of the investigation in order to "review the Authority's methodology and conclusions, ensure the accountability of the implicated actors and preserve the public's trust towards national authorities".⁶⁸

On 12th May, the EAD finally made the full report public but had to remove it just days later due to improper redaction. **Serious concerns were also raised about the EAD's failure to correctly anonymise the data of the report.** Researcher, Phevos Simeonidis, first revealed that the personal data of individuals could easily be attained,⁶⁹ including the email and phone number of the Lighthouse Reports Director. **People on the move and civil society actors engaging in solidarity work are continuously subject to reprisals and criminalisation both in Greece and across Europe. It is mandatory that testimonies are kept anonymous** in order to ensure the protection of their rights and to protect people from the dissemination of their personal data through failed redaction, which may have devastating consequences for both people-on-the-move and violence reporters on the ground.

Even more worrying was what the failed redactions revealed about those interviewed for the report. Those working within security bodies and immigration-related authorities, including the Hellenic Coast Guard and Hellenic Police, constituted 45% of the sample group whilst only one civil society actor was interviewed.⁷⁰ In spite of these events, and the tensions caused with the European Commission due to the breach of EU data protection rules, the head of the EAD was appointed head of Internal Audit Capability at Frontex in June 2022.⁷¹ This marks a further departure from the principle of impartiality and neutrality required to facilitate a truly independent monitoring mechanism.

Since 2022, the EAD's Governor of the Authority, the Chairperson, and two other members of the Board have resigned. The Governor of the Authority was not replaced until August 2025⁷², raising concerns about "legality and sustainability" during this three year period.⁷³ The LIBE Committee of the European Parliament raised serious concerns about the independence of the mechanism after a visit to Athens in 2023. Several institutions have continued to note the lack of transparency on prolific investigations such as the pushback of a Frontex interpreter in 2022, on which the EAD was supposed to report to the EU Commission, as well as the pushback operation in Lesvos in 2023. Nonetheless, the Commission confirmed that access to the outcome was not shared nor is any information on such investigations made publicly available. HIAS has made several requests for statistical information on the number of complaints received by the EAD, but this information has been denied based on 'data protection legislation', despite being merely a statistical request.⁷⁴ The consistent refusal to share information, years of incompetent management, and the questionable independence of the EAD was

⁶⁷ National Transparency Authority. 2022. Completion of an investigation on the management of migration flows on Greek territory and the findings in a publication on informal forced returns (pushbacks). Available at: ead.gr/press/press-releases/oloklirwsh-ereunas-ws-pros-th-diaxirisi-twn-metanasteutikwn-rown-stin-elliniki-epikratia-kai-ta-dialamvanomena-se-dimosieuma-peri-atipwn-anagastikwn-epistrofwn-epanaprowthisewn

⁶⁸ International Rescue Committee. 2022. Greece's National Transparency Authority should publish its full report regarding pushbacks. Available at: rescue.org/eu/press-release/greeces-national-transparency-authority-should-publish-its-full-report-regarding

⁶⁹ Simeonidis, Phevos. Tweet on 15 May 2022. Available at:

x.com/phesimeonid/status/1524796453125771264?s=20&t=Prh4UGd6HVXJ-DBeOrhcBA

⁷⁰ Simeonidis, Phevos. Tweet on 15 May 2022. Available at: x.com/phesimeonid/status/1524796472411271168

⁷¹ Politico. 2022. Brussels Playbook. Available at: politi.co/3Csoift

⁷² National Transparency Authority. Available at: ead.gr/en/nta-en/governor

⁷³ Greece in Institutional Decline Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report. January 2024. Available at:

rsaegean.org/wp-content/uploads/2024/01/RoL2024_JointSubmission_CSO_Greece.pdf

⁷⁴ ibid.

summarised perfectly by the fact that in 2022, the EAD publicised that there was no evidence of “systematic, illegal and violent pushbacks of refugees seeking asylum”, whilst still investigating 200 cases of pushbacks by the Greek Police and Coast Guard involving over 10,000 people.⁷⁵ Such a huge failure of independent monitoring does not instil confidence in the effectiveness of an independent border monitoring mechanism.

Fundamental Rights Officer and the Special Commission on Fundamental Rights Compliance of the Ministry of Migration and Asylum

In 2021, Greece introduced the position of the Fundamental Rights Officer (FRO) within the Ministry of Migration and Asylum, alongside the creation of the Special Commission on Fundamental Rights Compliance. The Fundamental Rights Officer (FRO) was appointed through an open call and a selection process involving multiple governmental and independent bodies.⁷⁶ The Special Commission on Fundamental Rights Compliance works alongside the FRO to monitor adherence to national, EU, and international human rights standards in migration and asylum procedures.⁷⁷ These mechanisms were formally institutionalised through Law 4960/2022 and Presidential Decree 20/2023, which also established the Autonomous Office of the FRO to provide administrative support. Greece is, to date, the only EU Member State to have created such a national-level structure.⁷⁸

Legal Basis and Institutionalisation

The establishment of the Fundamental Rights Officer (FRO) and the Special Commission on Fundamental Rights Compliance is grounded in Law 4960/2022 (Government Gazette 145/A/22-07-2022), which formally institutes these bodies within the Ministry of Migration and Asylum.⁷⁹ The law outlines the FRO’s mandate to monitor compliance with fundamental rights in migration and asylum procedures, to receive and assess complaints from third-country nationals, and to forward admissible cases to competent authorities. It also defines the composition, advisory role, and functions of the Special Commission, providing a legal framework for its operation and its interaction with the FRO. By codifying these positions, the law aims to strengthen the administrative mechanisms for safeguarding human rights, while also responding to EU-level recommendations for monitoring compliance in the migration context.

Mandate and Functions

The FRO’s responsibilities include monitoring the respect of fundamental rights during entry, reception, and international protection procedures. The officer collects and conducts a preliminary assessment of complaints from third-country nationals alleging violations of their rights by public authorities. Admissible complaints are forwarded to the National Transparency Authority or other competent bodies. To support this process, a Complaint Mechanism was launched in September 2023, offering multiple submission channels (online form, email, post). Between September 2023 and December

⁷⁵ Solomon. 2022. The National Transparency Authority is investigating 200 new illegal returns of refugees — 32 cases are being tried at the European Court of Justice

⁷⁶ Ministry of Migration and Asylum, 2022. *The Fundamental Rights Officer at the Ministry of Migration and Asylum Has Been Appointed*. Migration.gov.gr, 2 December. Available at: migration.gov.gr/oristike-o-ypeythynos-prostasias-themeliodon-dikaiomaton-sto-ypoyrgeio-metanasteysis-asyloy/

⁷⁷ ibid.

⁷⁸ Greece, 2022. *Law 4960/2022: National Guardianship System and Accommodation Framework for Unaccompanied Minors and Other Provisions within the Competence of the Ministry of Migration and Asylum*. Government Gazette 145/A/22-07-2022. Athens: Hellenic Republic. Available at:

e-nomothesia.gr/kat-allodapoi/nomos-4960-2022-phek-145a-22-7-2022.html

⁷⁹ ibid.

2024, 119 complaints were filed, of which only ten were deemed admissible and referred for further examination.⁸⁰

The Special Commission serves as an advisory body within the Ministry, reviewing cases of alleged violations and issuing recommendations. It consists of legal experts, academics, and ministry representatives.⁸¹ The FRO also participates in the Commission, which is mandated to oversee compliance with national, EU, and international human rights law in the context of border management and asylum procedures.

Criticism and Limitations

Despite their formal role, both bodies face persistent criticism. Since the FRO and the Commission operate under the direct authority of the Ministry, concerns have been raised by international and domestic observers regarding their independence and impartiality. In particular, questions remain about their ability to effectively investigate sensitive issues such as alleged pushbacks or violations in detention and reception facilities. Critics warn that these structures risk operating as internal self-monitoring mechanisms, serving more as a response to EU political pressure than as tools for genuine accountability.⁸²

Relation to EU Monitoring Requirements

The establishment of the Fundamental Rights Officer (FRO) and the Special Commission on Fundamental Rights Compliance coincided with EU calls for an Independent Monitoring Mechanism under the Screening Regulation. However, their integration within the Ministry raises doubts about whether they can meet the Regulation's independence requirements. While Greece presents these initiatives as evidence of compliance with EU standards, their actual capacity to function as credible accountability mechanisms remains contested. Notably, the Ministry of Migration and Asylum has outlined the operational framework for these bodies, detailing the complaint mechanism and the roles of the FRO and the Special Commission in monitoring compliance with national, EU, and international human rights law in the context of border management and asylum procedures.⁸³

Overall, despite the establishment and designation of new mechanisms, there have been no convictions as a result of seemingly hundreds of investigations. Several authorities have reported the various mechanisms' lacking evidence of efficacy, based on their inability to investigate, remedy (and therefore prevent by deterrence) fundamental rights violations. These mechanisms have been criticised across the board for their deficient transparency, independence, and clarity on their role.⁸⁴

⁸⁰Ministry of Migration and Asylum, 2025. *Fundamental Rights Protection Form*. Athens, January. Available at: migration.gov.gr/wp-content/uploads/2025/01/C24.1324_ENTYPO-THEMELIODH-DIKAIOMATA_F1.pdf

⁸¹ibid.

⁸²National Commission for Human Rights, 2023. *Decision 423/2023: Observations on the mandates of the Fundamental Rights Officer and the Special Commission on Fundamental Rights Compliance*. Athens: NCHR, 11 April. Available at: nchr.gr/images/pdf/apofaseis/prosuges_melanastes/2023/_423.pdf

⁸³Ministry of Migration and Asylum, 2024. *Response to Parliamentary Inquiry*, Ref. No. 22089. Available at: dimitriskairidis.gr/wp-content/uploads/2024/02/eay%C2%BD%C2%BFaa-Cosn%C2%BDP%C2%ACP-28.11.pdf

⁸⁴Greece in Institutional Decline Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report. January 2024. Available at: rsaegean.org/wp-content/uploads/2024/01/RoL2024_JointSubmission_CSO_Greece.pdf

Meanwhile, pushbacks and ill-treatment have been persistent, as documented by the Council of Europe Commissioner on Human Rights⁸⁵ and the EU's Fundamental Rights Agency, who stated in 2025 that "FRA has not observed any structural changes aimed at improving the effectiveness of national investigations of ill-treatment allegations at borders".⁸⁶ Such systemic incompetence and negligence of obligations can be detrimental to the implementation of fundamental rights, as the existence of these mechanisms can be, and has been by the Greek Government, used to deflect reasonable critique of a state's systematic use of pushbacks and ill-treatment to 'manage their borders'.

4. Critiques of New Pact/Monitoring Mechanism

Since the announcement of the New Pact, critiques and recommendations have been raised by NGOs, civil society actors, and national human rights institutions as to how effective independent monitoring mechanisms will be established practically speaking.⁸⁷ Further critiques and practical notes can also be taken from past monitoring initiatives, such as the ones in the aforementioned Greek context.

Scope

The first and perhaps most foundational critique against the New Pact's formulation of the IMM is one of scope. As argued by ECRE and seven other organisations:

"The vast majority of unlawful practices take place outside of official border crossings, official police facilities, or formal procedures – in situations in which border management or law enforcement authorities assume they act outside functioning oversight mechanisms. Thus, any geographical (e.g. only at certain centres; border crossings) or procedural (e.g. only in relation to certain processes such as the screening phase) limitations to the scope of the mechanism would create blind spots and enable violations to continue".⁸⁸

BVMN agrees that the proposed mechanism must monitor border guards during deployment to ensure they abide by the established guidelines, reiterated by the Council of Europe's Committee for the Prevention of Torture.⁸⁹ The methods included in such a mechanism are integral to its ability to monitor and defend human rights. As recommended by the UNHCR, monitors must be able to perform periodic and unannounced visits to all facilities, including police stations, reception and detention

⁸⁵ Council of Europe Commissioner of Human Rights. April 2025. Memorandum on migration and border control, following the Commissioner's visit to Greece from 3 to 7 February 2024. Available at: ecoi.net/en/file/local/2127448/CommHR%282025%2916_Memorandum+on+migration+and+border+control+following+the+Commissioner%27s+visit+to+Greece_EN.pdf

⁸⁶ European Union Agency for Fundamental Rights. July 2025. Investigating alleged ill-treatment at the European Union's external borders – 2025 update. Available at: fra.europa.eu/en/publication/2025/investigating-alleged-ill-treatment-borders-update

⁸⁷ ENNHRI. 2020. Opinion on Independent Human Rights Monitoring Mechanisms at Borders under the EU Pact on Migration and Asylum. Available at: ennhri.org/our-work/topics/asylum-and-migration/opinion-on-independent-human-rights-monitoring-mechanisms-at-borders-under-the-eu-pact-on-migration-and-asylum/ ; ECRE. 2020. Turning rhetoric into reality: New monitoring mechanism at European borders should ensure fundamental rights and accountability. Available at: ecre.org/turning-rhetoric-into-reality-new-monitoring-mechanism-at-european-borders-should-ensure-fundamental-rights-and-accountability/

⁸⁸ ECRE. 2020. Turning rhetoric into reality: New monitoring mechanism at European borders should ensure fundamental rights and accountability. Available at: ecre.org/turning-rhetoric-into-reality-new-monitoring-mechanism-at-european-borders-should-ensure-fundamental-rights-and-accountability/

⁸⁹ BVMN. 2021. Joint Statement on Croatia's Independent Border Monitoring Mechanism. Available at: borderviolence.eu/reports/joint-statement-on-croatia-s-independent-border-monitoring-mechanism

facilities, and parts of the MS territory.⁹⁰ ECRE emphasises that return border procedures should also be covered by the mechanism⁹¹ and BVMN argues it must also include the so-called green and blue borders, where pushbacks have been reported.

The UNHCR recommends that the mechanism have the powers and rights "to access without limitation all documents and records, including relevant electronic records, of relevance to its mission".⁹² BVMN argues that this includes police files, CCTV footage, thermal camera footage, Frontex plane recordings of border areas, and records of communications between both state and EU agencies, as well as other material relevant for the investigation.

The UNHCR also recommends that the mechanism have the power "to hear witnesses and alleged victims, in full respect of confidentiality".⁹³ BVMN argues that this must include detained people, and that monitors are able to conduct interviews without state agents present, with an interpreter that is independent of the state, and with the ability to take measures to protect those who disclose human rights abuses. The mechanism also must have a mandate for cross-border investigation in collaboration with civil society and competent human rights mechanisms in neighbouring countries, as most victims of pushbacks are not present in the territory of the monitored Member States.

The UNHCR recommends that the mechanism have the power "to receive, consider, and where appropriate, follow-up on credible information" but leaves how the mechanism would receive such information open.⁹⁴ BVMN recommends that an alarm mechanism would be an essential procedure, to allow people to directly report on human rights violations and to potentially prevent pushbacks from happening. This alarm mechanism must be open 24 hours a day, accessible through direct calls and messenger services used by people-on-the-move such as Viber and WhatsApp, and be capable of receiving GPS locations to facilitate connection with relevant services.

Ensuring that the IMM has access to the whole operational area (green and blue borders as well as screening centres, police stations, etc.), has an unlimited number of both announced and unannounced visits (without impeding the operation of the screening centres), has access to all relevant materials and persons, and the ability to set up an alarm system is crucial to the development of a comprehensive and effective monitoring mechanism.

Independence

The New Pact suggests that "adequate safeguards" will be put in place to ensure the independence of the mechanism, but it does not clarify what these are. When considering which institutions may be involved in the mechanism, it is important to consider their relationship, both politically and financially, to the state and government ministries tasked with implementing the

⁹⁰ ENNHRI and UNHCR. 2021. Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece. Available at:

unhcr.org/gr/en/news/ten-points-guide-establishment-independent-and-effective-national-border

⁹¹ ECRE. 2025. COMMENTS ON THE REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL INTRODUCING THE SCREENING OF THIRD-COUNTRY NATIONALS AT THE EXTERNAL BORDERS AND AMENDING REGULATIONS (EC) NO 767/2008, (EU) 2017/2226, (EU) 2018/1240 AND (EU) 2019/817. Available at: ecre.org/wp-content/uploads/2025/02/ECRE_Comments_Screening-Regulation.pdf

⁹² *ibid.*

⁹³ ENNHRI and UNHCR. 2021. Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece. Available at:

unhcr.org/gr/en/news/ten-points-guide-establishment-independent-and-effective-national-border

⁹⁴ *ibid.*

pre-screening system and border. National Human Rights Institutions and National Preventive Mechanisms such as National Ombudspersons, which are regularly assessed on their independence or are subject to international standards guaranteeing independence, as well as non-governmental organisations and international bodies, could be tasked with managing or contributing to the mechanism. Sufficient financial resources should be made available under the Integrated Border Management Fund and other non-national sources, and should be provided directly to monitors to help to insulate the monitor from financial and or political pressure from national authorities.

Funding should not be given to national authorities to distribute to national human rights organisations and their preferred NGOs. It should be made explicit that the mechanism can follow up and act on relevant information from international organisations, non-governmental organisations, journalists, activists, solidarity initiatives, EU agencies, and institutions, even if they are not part of the mechanism.

Finally, the implementing institutions should be peer reviewed in order to ensure their independence and, in the long run, strengthen their capacities. Moreover, it is fundamental that the IMM provides cross-sectoral expertise. The implementers of the monitoring mechanism must not only have demonstrable experience and expertise in monitoring fundamental rights, but they also must have seriously engaged with the topic of pushbacks and fundamental rights violations at borders.

Accountability

The IMM, as currently outlined in the New Pact, mentions that violations should be “dealt with effectively and without undue delay”, but does not specify how this will happen, and to what extent monitors will have the possibility to push for structural investigations and reforms [in cooperation with other authorities]. **There need to be outlined steps for follow-up on human rights violations identified by the IMM, and defined possible consequences for perpetrators foreseen in the mechanism.** Furthermore, there should be an external review process for the mechanism itself, to ensure accountability and transparency. In a recent Joint Statement on the subject, ECRE along with seven other signatories propose:

“The litmus test for the mechanism is the extent to which it will trigger concrete action should it identify a risk of or receive allegations of rights violations. The proposal needs to specify the follow-up process so that authorities do not dismiss the need to act, a common practice in several Member States. Accountability to potentially affected individuals should entail guarantees to provide information about the monitoring mechanism, legal advice and effective access to justice. In addition, the obligation to prepare periodic, public reports on findings and conclusions, including on steps taken to hold those responsible for violations of fundamental rights to account and whether or how previous recommendations have been followed up, should be included”.⁹⁵

Aside from suggesting that the European Union Fundamental Rights Agency could help (if requested to do so) in drafting “safeguards for the independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes,” nothing further is mentioned about accountability in the New Pact.⁹⁶ With regards to the necessity of the mechanism triggering concrete actions, there also needs to be a discussion on consequences for human rights violations identified by the mechanism, or

⁹⁵ ECRE. 2020. Turning rhetoric into reality: New monitoring mechanism at European borders should ensure fundamental rights and accountability. Available at:

ecre.org/turning-rhetoric-into-reality-new-monitoring-mechanism-at-european-borders-should-ensure-fundamental-rights-and-accountability/

⁹⁶ Article 10.2 PE/20/2024/REV/1

the obstruction of the mechanism's work - yearly recommendations are insufficient. As ECRE stated, given the persistent non-compliance under the asylum *acquis*, as well as the "limited response to violations from the European Commission - it is difficult to envision the mechanism significantly advancing adherence to fundamental rights principles or reducing violations at the borders".⁹⁷ The Regulation contains no specification of expected responses of Member States when concerns are raised or of tangible consequences when violations are found.

While the Regulation now links the mechanism to the Commission's monitoring of the effective application and implementation of the EU Charter of Fundamental Rights, with a positive outcome becoming a precondition for Member States to receive EU funding in the next EU budget,⁹⁸ These reviews are not frequent enough to offer tangible, direct consequences for State human rights violations and failure to comply, or provide remedies for those affected. It will hence fail at its proposed aim to act as a preventative measure of such acts and, namely, of pushbacks, as former Commissioner Johansson originally declared.⁹⁹ Conversely, the mere existence of the mechanism could be used as a means of denying such violations or pushbacks, which have the potential to rise exponentially with the New Pact in the event that Member States aim to avoid its increased obligations for asylum seekers¹⁰⁰.

5. Conclusions and Summary of Recommendations for an Independent Monitoring Mechanism

Following, we propose 13 Recommendation for an Independent Monitoring Mechanism:

1. The Independent Monitoring Mechanism must have an explicit mandate to monitor fundamental rights and have powers to direct judicial and/or other authorities to enforce measures to ensure States' respect of fundamental human rights.
2. It must encompass all actions of border management authorities and their activities, including at blue and green borders, police stations, black sites, camps, and screening centres.
3. It must have frameworks in place to hold States and Institutions accountable to abiding by the agreed mechanism, while ensuring transparency and access to justice. The mechanism must have the power to trigger investigations into misconduct at its own initiative, and have access to documentation, places of detention, and other relevant sites to conduct such investigation.
4. The Independent Monitoring Mechanism must be reviewed every six months to ensure proper monitoring and evaluation. This could be done through a system of peer-review, facilitated by the ENNHRI or another external advisory body.
5. The information and findings of the Independent Monitoring Mechanisms must be publicly accessible and transparent, while granting anonymity of testimonies.
6. Clear penalties, either financial or judicial, should be laid out for States that do not comply with the Independent Monitoring Mechanism or obstruct the workings of the mechanism.

⁹⁷ ECRE. 2025. COMMENTS ON THE REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL INTRODUCING THE SCREENING OF THIRD-COUNTRY NATIONALS AT THE EXTERNAL BORDERS AND AMENDING REGULATIONS (EC) NO 767/2008, (EU) 2017/2226, (EU) 2018/1240 AND (EU) 2019/817. Available at: ecre.org/wp-content/uploads/2025/02/ECRE_Comments_Screening-Regulation.pdf

⁹⁸ *ibid.*

⁹⁹ European Commission, 2020. Speech by Commissioner Johansson on the New Pact on Migration and Asylum. Available at: ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1733

¹⁰⁰ ECRE. 2025. COMMENTS ON THE REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL INTRODUCING THE SCREENING OF THIRD-COUNTRY NATIONALS AT THE EXTERNAL BORDERS AND AMENDING REGULATIONS (EC) NO 767/2008, (EU) 2017/2226, (EU) 2018/1240 AND (EU) 2019/817. Available at: ecre.org/wp-content/uploads/2025/02/ECRE_Comments_Screening-Regulation.pdf

7. The Independent Monitoring Mechanism should include input and expertise from non-governmental organisations, civil society organisations and institutions, and should be implemented through these actors to ensure full independence from states.
8. Civil Society Organisations must be able to participate in the mechanism in the form of alerting the mechanism of potential violations, providing evidence and reports, referring victims to the mechanism, and representing or filing complaints on their behalf, as well as being more regularly consulted on the scope of investigations and the work of the mechanism.
9. The Independent Monitoring Mechanism must include a cross-border collaboration of NRIs and other relevant actors, as most victims remain outside of the territory of the monitored Member States.
10. The Independent Monitoring Mechanism must include an 24/7 alarm mechanism that can be triggered in order to prevent further rights abuses (for example, by people in danger of being subjected to a pushback).
11. The mechanism must include a complaint mechanism in place for victims of pushbacks or other fundamental rights violations at borders to file complaints directly, complementary to the alarm mechanism.
12. The implementers of the Independent Monitoring Mechanism must be chosen in a transparent and accountable manner through a public tender.
13. To promote its independence the Independent Monitoring Mechanism must be financed and staffed sufficiently and funded independently from the Member State in which it is operating. The grants for its implementation cannot be funnelled through governmental agencies or ministries, and especially not through the Ministry of Interior.

An independent monitoring mechanism can only 'make sure that there are no pushbacks at the borders'¹⁰¹ and other State violence if it is truly independent, holistically monitors border management activities, is able to hold human rights perpetrators accountable for violation of fundamental rights and non-compliance with the IMM, and ensure remedies for those subjected to border violence. Without this, the mechanism will most likely fail to produce any meaningful change in addressing violations at the borders.

While a truly independent monitoring mechanism with the ability to protect fundamental rights and hold perpetrators of violations accountable is welcomed, BVMN is concerned that a mechanism that lacks methodological scope, capacity, independence, and institutional accountability will not only be incapable of monitoring and defending fundamental rights, but may also be used as an instrument of symbolic politics to discredit claims of human rights violations, as well as as a white-washing tool for the EU Member States and border management authorities perpetrating abuses.

Moreover, BVMN's concern is that if the mechanism is not sufficiently rigorous in independence, accountability, and methodological scope, including the use of a 24 hour alarm mechanism, it can be used by the very actors it is investigating to whitewash or even obfuscate rights violations happening at the EU's borders, while perpetuating the current situation in which states are committing serious and systemic breaches of national and EU laws, asylum, and fundamental rights. **In other words, it is not only easy to foresee that an institutionally insufficient mechanism will be incapable of effectively monitoring, and therefore preventing, pushbacks, but, moreover, that it will be used to deny their existence, while states continue to practise them with impunity.** This is not hard to predict when currently perpetrators of pushbacks continue to deny, despite longstanding evidence to the contrary, that pushbacks occur. In this way, an incompetent mechanism may be used to obscure the real and systematic violence and violations of fundamental rights occurring at Europe's borders.

¹⁰¹ European Commission, 2020. Speech by Commissioner Johansson on the New Pact on Migration and Asylum. Available at: ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1733

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