

Where the law loses its function: the contested politics of visibility surrounding pushbacks at the EU border in Greece

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1. Introduction

The death of Maria, a 5-year-old girl from Syria, illustrates the violence of pushbacks from European Union (EU) territory in its most extreme form. The Syrian child lost her life to the political game played between the Greek and Turkish authorities. Maria and her family were part of a group of around 40 Syrian refugees¹ who had been stranded on an islet in the Evros/Meriç² river in August 2022 after having allegedly been pushed back and forth repeatedly by Greek and Turkish border guards over several weeks.³ Although evidence including the location data of the group was shared with human rights organizations and journalists and received a lot of public attention, the Greek government claimed they had not found them until the group had reached the shore themselves.⁴ This chain of events does not only demonstrate the denial by state authorities of the plight of people in danger of losing their lives at the EU border, but it also speaks to the specifics of the Evros border area that separates Greece and Turkey, two countries with tense political relations grounded in ongoing disputes over issues such as energy extraction⁵ and maritime boundaries connected to the historical conflict over Cyprus.⁶

The recent political pushback game reminds us of the situation at the Evros border in March 2020 when Turkish president Recep Tayyip Erdoğan 'opened the borders' and guided large numbers of people on the move to the border zone which was followed by a mass proliferation of human rights abuses against migrants resulting in the loss of life of at least two men due to fatal shootings by Greek border guards.⁷ The escalations at the Greek-Turkish land border need to be regarded in conjunction

- 1 The term 'refugee' is used in this article when referring to people fleeing war or persons with legal refugee status. The terms 'migrants', 'border crossers', and 'people on the move' are used interchangeably when referring to people who are in the process of migrating from a third country to the EU. I refrain from any normative judgment using these expressions.
- 2 As my analysis of pushback practices at the Greek-Turkish land border focuses on the Greek context, in the following, the Evros/Meriç river is referred to as Evros, using the Greek term.
- 3 www.borderviolence.eu/wp-content/uploads/URGENT_UPDATE_Evros.pdf (accessed 31 August 2022).
- 4 www.spiegel.de/ausland/griechenland-wie-der-tod-der-fuenfjaehrigen-maria-die-fluechtlingsdebatte-veraendert-a-27a753b0-3d8e-42fe-a835-7a763467200c (accessed 31 August 2022).
- 5 www.globalriskinsights.com/2020/09/greece-and-turkey-energy-security-tensions-in-the-eastern-mediterranean (accessed 31 August 2022).
- 6 J. Ker-Lindsay (2008), 'Europe's Eastern Outpost: The Republic of Cyprus and the Middle East', *The Round Table*, 97(397), 535-545.
- 7 www.forensic-architecture.org/investigation/the-killing-of-muhammad-al-arab; www.forensic-architecture.org/investigation/the-killing-of-muhammad-gulzar (accessed 31 August 2022).

with the EU-Turkey Statement issued in 2016 that entails the provision of financial support and commitments related to Turkey's political interests such as visa liberalization in exchange for the introduction of tighter border controls to prevent migrants from entering the EU and the acceptance of returns from the Aegean islands.⁸ The bargaining logic that is at the core of the EU-Turkey Statement has set the scene for the instrumentalization of migrants by integrating migration issues into the realm of 'high politics'.⁹ Thus, the Statement can be seen as one root cause of the intensification of pushbacks across the Evros border that resulted from the Turkish president's weaponization of migrants to provoke high numbers of border crossings into the EU via Greece. What is more, the framing of the use of migrants by the Turkish president as a 'hybrid threat' has provided Greece, along with other EU member states, with an incentive to call for more drastic measures to curb the number of arrivals.

Two years after the Evros border clashes, people on the move are still instrumentalized and weaponized in a dehumanizing way for geopolitical purposes at the EU border. The journalist who had been in close contact with the group of Syrian refugees stranded on the island in the Evros river, Giorgos Christides, has become the target of legal threats following his reporting on the situation and the lack of action by the Greek authorities.¹⁰ This case adds to the many other instances of criminalization of civil society organizations (CSOs), journalists, and individuals for their engagement for migrant rights in Greece.¹¹ While civil society members are often penalized under the guise of anti-smuggling law for their efforts to prevent migrants from being pushed back, this article argues that the practice of forcibly returning border crossers to Turkey in itself constitutes a violent and dehumanizing form of migrant criminalization.

One central feature that is inherent to pushback operations is the invisibility that surrounds these practices. While migrants are rendered hyper-visible as racialized 'Others'¹² within the threat frame in the EU's public and political discourses on migration as well as in the Greek national discourse, the reality they encounter at the EU borders mostly remains hidden. Legal professionals and journalists cannot enter the military zone that is the Evros border area, hence pushbacks take place when no one is watching. Nevertheless, images and videos of the violent pushback practices employed in Northern Greece, as well as in the Aegean Sea, circulate in the media. Most of the material is captured by border crossers themselves. Legal organizations, activists, and journalists also strategically employ visibility to raise awareness of rights violations like pushbacks and engage in efforts to monitor the

8 European Council Press Release, EU-Turkey statement, 18 March 2016, www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement (accessed 10 October 2022).

9 R. Cortinovis (2021), 'Pushbacks and lack of accountability at the Greek-Turkish borders', *CEPS Policy Contribution*, 12 February 2021, p. 4.

10 www.twitter.com/g_christides/status (accessed 31 August 2022).

11 www.ecre.org/greece-crack-down-on-ngos-and-criminalisation-of-solidarity-continues-government-announces-blocking-thousands-of-arrivals-in-evros-amid-new-pushback-reports (accessed 31 August 2022).

12 N. De Genova (2018), 'The "migrant crisis" as racial crisis: Do Black Lives Matter in Europe?', *Ethnic and Racial Studies*, 41(10), 1765-1782.

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border for human rights violations as no official oversight mechanism is in place in Greece.

This contribution is based on online ethnographic fieldwork carried out between December 2020 and July 2021 within the frame of my master's thesis. My analysis of pushbacks and their contestation in Greece draws on in-depth interviews and conversations with various respondents including migrants, legal practitioners, members of Greek and international CSOs, activists, academics, and journalists with expertise in the Greek context and particularly the Evros region. Interviews were conducted via video chat and were often followed up by informal conversations through messengers or phone calls. Complementing the interview findings, the article also draws on the analysis of reports and policy documents as well as textual and audio-visual analysis of social media posts by migrants, civil society organizations, and state authorities.

The aim of this contribution is twofold. First, it seeks to characterize the practice of pushing back migrants via the Evros border as a strategy that can be situated in the crimmigration rationale in Greece which is supported by the EU's deterrence-oriented migration policies. Next to that, the article depicts how migration solidarity is criminalized in the context of pushbacks in Greece. A wide range of people, from human rights defenders to 'ordinary' civil society members who happen to have witnessed a pushback, are targeted by the Greek authorities for acting in solidarity with migrants. The political tensions between Turkey and Greece, and the EU, are discussed as a driver of the normalization of pushbacks and new levels of violence and repression in Greece that have become increasingly close to authoritarianism. Second, the article seeks to contribute to a better understanding of how the concept of visibility intersects with pushback practices as a means to sustain the EU's border regime in Greece and how visibility is appropriated in the resistance to these practices by migrants and their allies. Based on Andrea Brighenti's¹³ typology of visibility, two visibility regimes that are relevant to the Greek context are introduced to analyse the complex dynamics of the EU border regime in Greece: the surveillance regime and the media regime.

2. Pushbacks at the EU border in Greece: an illegal strategy of crimmigration

During a pushback, or illegal refoulement in judicial terms, migrants are arbitrarily arrested and removed from a state's territory without any assessment of the legality of their presence.¹⁴ The clandestine deportations of migrants to a third country represent a violation of a range of fundamental rights. Migrants are deprived of the human right to seek asylum,¹⁵ as well as the right to appeal or effective remedy.¹⁶ Moreover, pushbacks violate the *non-refoulement principle*, the key norm of refugee law. The principle of *non-refoulement* is crucial because the

13 A. Brighenti (2007), 'Visibility: A category for the social sciences', *Current Sociology*, 55(3), 323-342.

14 D. Koros (2021), 'The Normalization of Pushbacks in Greece: Biopolitics and Racist State Crime', *State Crime Journal*, 10(2), 238-256.

15 United Nations General Assembly (1948), *Universal Declaration of Human Rights*, United Nations.

16 www.borderviolence.eu/category/special-reports (accessed 31 August 2022).

protection against refoulement is the right on which access to all other rights under the 1951 Geneva Convention depends.¹⁷

Illegal refoulements have been reported in Greece for decades.¹⁸ After the border clashes in March 2020, which coincided with the outbreak of the global Covid-19 pandemic, civil society organizations have recorded a significant increase in the numbers of complaints about pushbacks via the Evros river. The perpetrators of pushback actions are often referred to as ‘masked men’ by the survivors, as was described by my respondents. Based on collected evidence, all border control actors employed at the Greek-Turkish border are thought to be involved in pushbacks, namely the Greek police, the border guards, the Hellenic Coast Guard, the military, and even civilian militias.¹⁹ Next to that, the European Border and Coast Guard Agency (Frontex) has come under scrutiny by the European Parliament among other institutions for its complicity and involvement in pushbacks.²⁰ Despite heightened attention towards the rights violations at the EU’s external borders from the European Commission, pushback practices have not ceased to exist, as demonstrated by a report of the Protecting Rights at Borders (PRAB) initiative that indicates that the numbers of pushback incidents reported during the beginning of 2022 mirror those of the year before.²¹ Between January and March 2022, pushbacks from EU territory have affected 1,911 persons.²² Migrants of different genders and age groups, including children, have become victims of illegal refoulement practices at the EU borders as is reflected in the testimony database set up by the Border Violence Monitoring Network (BVMN) that is regularly updated by different CSOs collecting testimonies of pushbacks.²³ Next to the national and international CSOs that are members of the BVMN, an independent network of non-governmental organizations and associations, several Greek human rights organizations challenge the prevailing pushbacks in Northern Greece. Next to that, activist networks engage in monitoring the border for rights violations and act as focal points for migrants in distress to turn to. Amidst the ongoing war in Ukraine, some of the CSOs caution that the scale of rights violations at the EU’s external borders risks being overshadowed.²⁴

In Northern Greece, migrants are increasingly being apprehended in the hinterlands, far away from the actual border zone to then be brought to the Evros

17 T. Gammeltoft-Hansen (2011), *Access to Asylum: International Refugee Law and the Globalisation of Migration Control*, Cambridge University Press.

18 L. Karamanidou & B. Kasperek (2022), ‘From Exception to Extra-Legal Normality: Pushbacks and Racist State Violence against People Crossing the Greek-Turkish Land Border’, *State Crime Journal*, 11(1), 12-32.

19 www.gcr.gr/media/k2/attachments/ReportZ08032018.pdf (accessed 31 August 2022).

20 Report on the fact-finding investigation on Frontex concerning alleged fundamental rights violations, Working Document, Committee on Civil Liberties, Justice and Home Affairs, European Parliament, July 2021.

21 www.pro.drc.ngo/media/aifcps1m/prab-report-january-to-march-2022_final.pdf (accessed 31 August 2022).

22 Ibid.

23 www.borderviolence.eu/violence-reports (accessed 10 October 2022).

24 Ibid.

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area, to warehouses, detention centres, or border police stations.²⁵ In many cases, all their belongings are taken from them, including their mobile phones, to destroy any recordings that may serve as evidence. While they are held in formal and informal²⁶ detention centres in Northern Greece, migrants are deprived of access to water, food, and basic hygiene.²⁷ The people subjected to illegal refoulements in Greece suffer insults, threats and violence that amount to torture.²⁸ In 2020, 89 per cent of the pushback testimonies collected by the Border Violence Monitoring Network included at least one act of physical torture or psychological abuse, such as prolonged beatings, forced undressing, the use of electric discharge weapons, and threats with firearms.²⁹ What is more, testimonies describing the removal of migrants from reception and identification centres to illegally deport them via the Evros border are mounting.³⁰ This is a particularly worrying development that demonstrates that even people with legal refugee status in Greece can become subject to violent refoulement practices.³¹

Matching the case of Maria, the BVMN has documented another new trend regarding the pushback practices in Northern Greece following which migrant groups have been pushed back halfway across the Evros river and abandoned on small islets on three occasions between May and June 2022.³² Despite a Rule 39 decision by the European Court of Human Rights that legally obliged Greece to grant these people temporary access to the country, all three groups have been pushed back to Turkey. This new element of abandoning migrants on small uninhabitable islands in the river signals that those responsible for the pushbacks are willingly risking human lives.³³ The dismissal of the court ruling by the Greek authorities further illustrates how international law is ignored and pushbacks continue to be carried out with impunity. Another circumstance rendering pushbacks to Turkey particularly dangerous for the migrants is the risk of becoming victim to a chain refoulement to the country they have fled from as pointed out by several human rights defenders and CSO members I have interviewed. Mass deportations from Turkey to Afghanistan have been reported in July 2021, shortly before the Taliban seized power.³⁴ In 2022, the number of deportations from Turkey to Syria increased significantly amidst signals by the ruling party AKP of

25 www.gcr.gr/media/k2/attachments/ReportZ08032018.pdf (accessed 31 August 2022).

26 For an assessment of the Poros centre, a former military facility that is thought to be used for informal detention of asylum seekers in Northern Greece, see: www.respondmigration.com/blog-1/border-regime-poros-detention-facility-evros-greece?rq=karamanidou (accessed 9 October 2022).

27 Ibid.

28 www.borderviolence.eu/submission-to-the-un-special-rapporteur-on-torture-regarding-greece/#more-18584 (accessed 31 August 2022).

29 www.borderviolence.eu/wp-content/uploads/Greece-Torture-Report-2020.pdf (accessed 6 October 2022).

30 www.borderviolence.eu/wp-content/uploads/Press-Release_Greek-Pushbacks.pdf (accessed 31 August 2022).

31 www.theguardian.com/global-development/2020/nov/17/greece-faces-legal-action-over-alleged-expulsion-of-syrian-to-turkey (accessed 31 August 2022).

32 www.borderviolence.eu/category/special-reports (accessed 31 August 2022).

33 Ibid.

34 www.borderviolence.eu/july/#more-20775 (accessed 9 October 2022).

working to normalize relations with the Assad regime.³⁵ As highlighted by my informant Jamal,³⁶ a refugee photographer from Iraq, chain refoulements constitute a threat to migrants' lives:

'So, imagine you escape from your country, Syria or Iraq, and you are trying to get to Europe and then they catch you in the sea and they send you back! To your country. If you don't die in the pushback, you will die in your country. So, it's a death plan.' (Jamal, 05/03/21)

Based on factors such as the detail of planning that is required to carry out a pushback operation, the multiplicity of actors involved, and the secrecy of the practice that keeps it out of public sight, Dimitris Koros points to the systemic nature of pushbacks in Greece and suggests a framing of the violent practice in terms of state crime.³⁷ In line with that, according to Tazreena Sajjad, the EU's bordering practices constitute organized violence on migrant bodies.³⁸ Considering that pushbacks are not merely aimed at the removal of persons from the Greek state territory, but also at the deterrence of potential asylum seekers by spreading fear, a conceptualization of pushbacks as state terrorism can be sensible.³⁹ The element of terror becomes particularly salient with the expansion of pushback operations to target people who are residing legally in Greece already.⁴⁰ Pushbacks comply with the wider crimmigration rationale that underpins EU migration policies aimed at exclusion.⁴¹ Coined by Juliet Stumpf in 2006, crimmigration originally referred to the merger of immigration law and criminal law.⁴² Since the emergence of the concept, crimmigration literature has expanded to integrate perspectives that account for the socio-legal, discursive, and criminological dimensions of the phenomenon next to strictly legal aspects.⁴³ Yet, the literature that investigates pushbacks in the realm of crimmigration remains limited. Emina Bužinkic and Maddalena Avon provide an analysis of pushbacks as a 'technology of crimmigration' by drawing on their fieldwork at the Croatian border with Serbia.⁴⁴ The paradox of pushbacks as a strategy that criminalizes migrants yet relies on illegal conduct can be grasped by reframing the illegality of pushbacks as part of the EU's securitization doctrine in terms of a practice that is

35 www.newlinesinstitute.org/turkey/for-turkey-and-syria-signs-of-rapprochement-are-likely-misleading (accessed 9 October 2022).

36 All respondents' names mentioned in this contribution are pseudonyms to protect their identity.

37 D. Koros (2021), 'The Normalization of Pushbacks in Greece: Biopolitics and Racist State Crime', *State Crime Journal*, 10(2), 238-256.

38 T. Sajjad (2022), 'Strategic Cruelty: Legitimizing Violence in the European Union's Border Regime', *Global Studies Quarterly*, 2(2), 1-14.

39 Ibid.

40 Ibid.

41 Ibid.

42 J. Stumpf (2006), 'The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power', *American University Law Review*, 56, 367.

43 Ibid.

44 E. Bužinkić & M. Avon (2020), 'Pushback as a technology of crimmigration', in: *Causes and consequences of migrant criminalization* (pp. 157-170). Springer, Cham.

becoming legalized.⁴⁵ As suggested by Bužinkic and Avon, illegal refoulements are legalized through the Schengen Borders Code which serves as a justification for the acts of the Croatian border police.⁴⁶ While this applies to the Greek context as well, based on interview data with Greek legal practitioners and activists, I argue that in Greece another doctrine dominates the government's attempts at legalizing the illegal pushback practices: the fear of Turkey as an external enemy that threatens the country's security by sending off spies through the borders. This argument will be taken up in more detail in Part 3 of this article. The perceived threat arising from the Turkish state and security apparatus that overlaps with a more general threat framing of migrants in Greek as well as EU discourses is in line with David Garland's concept of a cultural obsession with security and the fear of potentially dangerous 'Others' as leading to the criminalization of migrants.⁴⁷

While the Greek Minister of Migration and Asylum, Notis Mitarachi, is consistently denying responsibility for pushbacks from Greek territory,⁴⁸ in October 2021, Greece co-signed an open letter to the European Commission in which 12 EU member states called for a 'maximum level of security' and 'further preventive measures' that go beyond border surveillance to protect all external borders in face of 'hybrid threats like the instrumentalization of migration'.⁴⁹ The letter can be interpreted as effectively promoting the legalization of pushbacks.

Connected to pushbacks, the scale of the criminalization of civil society organizations, human rights defenders, and journalists in Greece becomes obvious. The phenomenon of criminalizing CSOs or citizens, often under the guise of anti-smuggling law, has been discussed in the criminological literature under the terminology of 'crimes of solidarity'.⁵⁰ As pointed out by Richard Staring and Ruben Timmerman, the criminalization of migration solidarity underlines crimmigration trends, while the acts of solidarity with migrants at the same time demonstrate that civil society responds to the humanitarian need generated by the criminalizing practices of European states, thereby constituting a form of resistance.⁵¹ The complex dynamics around the criminalization of migrants in Greece are at the core of the subsequent parts of this article that analyse pushback practices by focusing on visibility as a concept that brings to the fore the complexity of the power relations between the different actors involved in the criminalization of migration in Greece and the contestation of crimmigration practices.

45 Ibid.

46 Ibid.

47 D. Garland (2001), *The Culture of Control: Crime and Social Order in Contemporary Society*, University of Chicago Press.

48 www.euobserver.com/migration/155356 (accessed 9 October 2022).

49 www.statewatch.org/media/2859/eu-12-ms-joint-letter-hybrid-attacks-pushbacks-eu-law-7-10-21.pdf (accessed 9 October 2022).

50 R.H.J.M. Staring & R.I. Timmerman (2021), 'The Crimmigration Trend in the Netherlands. Some Critical reflections', *Crimmigrație & Recht*, 5(1), 60-73.

51 Ibid.

3. The visibility regimes surrounding pushbacks in Greece

In the following, the different visibility regimes in which pushbacks operate in Greece are analysed. First, a characterization of the Evros border zone is given that shows how the surveillance regime⁵² that has been constructed around the border allows for pushbacks to be perpetrated with impunity. Further, the underlying threat rationale according to which everyone coming from Turkey is a potential spy and external enemy to Greece is portrayed as a driver for the legalization of pushback practices. Second, the media regime⁵³ around migration that is constructed on the Greek and European levels is portrayed. More specifically, the racism that underpins EU discourses around migrants and complies with the biopolitical nature of the EU border regime is explained in this context. The role of national media in upholding the intersecting fears of people entering from Turkey and of migrants more generally is depicted. Furthermore, the use of migrants for political purposes by Greece and Turkey which plays a significant role at the Evros border is examined.

Several authors have employed the concept of (in)visibility to look at migration governance practices and the contestation of these practices (see Caraus,⁵⁴ De Vries,⁵⁵ Mountz,⁵⁶ Pellander & Horsti,⁵⁷ and Schreiber⁵⁸). Yet, the academic literature on (in)visibility and migration governance is fragmented, and the concept is understood and used in diverse ways by different authors. To bring heightened analytical rigour to discussions of visibility in the domain of migration governance and border control, Martina Tazzioli and William Walters⁵⁹ suggest a focus on Andrea Brighenti's analysis of visibility as a sociological category.⁶⁰ Two types of visibility proposed by Brighenti, a media type of visibility and a control type of visibility,⁶¹ that are specifically relevant for understanding the systemic and normalized nature of pushback practices at the Evros border are employed in this article.

As suggested by Brighenti, in the surveillance regime, visibility is transformed into a strategic resource for regulation, such as panoptical surveillance.⁶² The Evros

52 Brighenti 2007.

53 Ibid.

54 T. Caraus (2018), 'Cosmopolitan "hidden transcripts"? Becoming in/visible as a strategy of migrant resistance', in *Migration, Protest Movements and the Politics of Resistance* (pp. 73-94). Routledge.

55 L.A. de Vries (2016), 'Politics of (in) visibility: Governance-resistance and the constitution of refugee subjectivities in Malaysia', *Review of International Studies*, 42(5), 876-894.

56 A. Mountz (2015), 'In/visibility and the securitization of migration: Shaping publics through border enforcement on islands', *Cultural Politics*, 11(2), 184-200.

57 S. Pellander & K. Horsti (2018), 'Visibility in mediated borderscapes: The hunger strike of asylum seekers as an embodiment of border violence', *Political Geography*, 66, 161-170.

58 R.M. Schreiber (2018), *The undocumented everyday: migrant lives and the politics of visibility*. University of Minnesota Press.

59 M. Tazzioli & W. Walters (2016), 'The Sight of Migration: Governmentality, Visibility and Europe's Contested Borders', *Global Society*, 30(3), 445-464.

60 A. Brighenti (2007), 'Visibility: A category for the social sciences', *Current sociology*, 55(3), 323-342.

61 Ibid.

62 Ibid.

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area, named after the river that demarcates large parts of the land border between Greece and Turkey, is a military zone. Apart from using sophisticated aerial and ground surveillance technologies to control the movement of people across the border,⁶³ Greece seeks to extend the border fence that currently spans 40 kilometres to the whole length of the river⁶⁴ and train additional personnel to be employed as border guards in Evros.⁶⁵ Access to the Evros region is prohibited under Greek law. Hence, lawyers, human rights organizations, and journalists cannot enter the border zone. This makes it extremely difficult for migrants who have arrived via the Evros border to seek aid and legal support. The hyper-militarization of the Evros border can be seen as a result of crimmigration processes.⁶⁶ Legal professionals engaged in rights monitoring at the border perceive the Evros region as a zone where the law loses its function, a *state of exception*⁶⁷ where rights violations can be committed with impunity:

‘Everything is invisible there. The life is bare in Agamben’s terms, so everybody can do whatever they want, it’s a fact.’ (Nikos, 14/05/21)

As reflected in the quote by my informant, a lawyer and academic who had travelled to the region after the events around the Evros border, the securitization and militarization of the area have intensified even more since 2020. The lack of an official border monitoring mechanism, combined with access restrictions for CSOs, lawyers, and journalists, creates conditions that allow perpetrators of border violence to remain largely invisible. The enforced invisibility contributes to deteriorating the human rights situation for people on the move at the Evros border.

The high prevalence of legal charges and threats by the government as well as by members of the local population against those in solidarity with migrants in Evros has created a tense atmosphere among the legal professionals, CSOs, and activists who are in contact with migrants who crossed the border and collect testimonies about pushbacks happening in the area. The tensions reached an upsurge after the ‘opening’ of the borders by the Turkish president in 2020. In the aftermath of the clashes around the Evros border, human rights advocates found themselves being accused of ‘bringing the migrants to Greece’ by other lawyers and locals. The threat of criminalization seriously hampers the work of human rights organizations as Sofia, a human rights lawyer working for a Greek CSO, stressed in our interview:

‘In some cases, [the migrants] send us messages at the border: “We are here.” But you cannot answer as a lawyer. They are going to say: “What is your

63 <https://lefteast.org/surveillance-evros-greece-europe> (accessed 31 August 2022).

64 www.reuters.com/world/europe/greece-plans-extend-fence-land-border-with-turkey-2022-09-06/ (accessed 20 November 2022).

65 www.keeptalkinggreece.com/2022/05/02/greece-to-hire-another-250-border-guards-for-evros-region/ (accessed 2 September 2022).

66 N. Kogovšek Šalamon, B. Frett & E.S. Ketchum (2020), ‘Global Crimmigration Trends’, in: *Causes and Consequences of Migrant Criminalization* (pp. 3-25). Springer, Cham.

67 G. Agamben (2005), *State of Exception*. University of Chicago Press.

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connection with the smuggler, why do you know this person...Are you a spy?" Don't forget that they are coming from Turkey, which is a country that we have differences with forever in Greece.' (Sofia, 18/03/21)

The above statement not only illustrates the scale of the criminalization of legal professionals but also refers to a trauma that is deeply ingrained in the consciousness of Greek society: the fear of threats coming in from Turkey. The ongoing securitization, as well as the locals' worries and anger connected to migration, are based on the historically tense geopolitical relation with Turkey and the Greek public discourse situating the country as a righteous victim that must defend its historical rights grounded in the uniqueness of the Hellenic civilization.⁶⁸ Fears of a military escalation between Greece and Turkey and the infiltration of spies into Greek society via migratory flows are propagated through the main Greek TV channels every night, according to one of my Greek respondents, thereby contributing to xenophobic attitudes in the country.

The discourse around Turkey as an external enemy also is one central tenet of the media regime that has been constructed in Greece. According to Brighenti, the media regime works according to 'a flash-halo mechanism, whereby subjects are isolated from their original context and projected into a different one endowed with its own logic and rules'.⁶⁹ Critical journalistic voices are targeted in Greece. By pressing legal charges and publicly discrediting them, the authorities aim to determine the thresholds of visibility in the media regime. The censorship and repression of critical voices in the realms of the surveillance regime and the media regime in Greece have reached levels that come worryingly close to authoritarian tendencies according to the legal professionals, academics, and activists who shared their experiences with me.⁷⁰

The Greek government instrumentalizes migrants to expand its surveillance regime by sending them to cross the Aegean Sea from Turkey to Greece and report back to the authorities about the CSOs engaged in search and rescue actions to ultimately be able to press charges against these organizations. In the same vein, Turkey weaponizes migrants to create visualized evidence of the violence migrants suffer at the hands of the Greek authorities, with the most salient example being the announcement of open borders in March 2020 that resulted in violent clashes between Greek border guards and migrants. Further, the Turkish authorities have shared videos via social media, such as the Twitter account of Interior Minister Süleyman Soyulu,⁷¹ that allegedly show pushbacks from Greece to portray the dismissal of human rights standards by the Greek authorities. Similarly, Greece has released video footage allegedly showing how the Turkish coastguard pushes

68 C.A. Frangonikolopoulos (2019), 'Turkey in the Greek media: The need for a shift from confrontation-to peace-oriented journalism', in: *Greece and Turkey in Conflict and Cooperation* (pp. 224-237). Routledge.

69 Brighenti 2007, p. 339.

70 www.spiegel.de/ausland/griechenlands-weg-in-die-autokratie-angriffe-auf-rechtsstaat-und-pressefreiheit-kommentar-a-8f496a40-3d56-4cb7-9e6b-f0ab19c955c1 (accessed 3 September 2022).

71 www.nos.nl/artikel/2373281-turkije-griekse-kustwacht-jaagt-migranten-de-zee-in-drie-doden (accessed 1 September 2022).

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migrants on dinghies into Greek waters.⁷² The use of video recordings of pushbacks for political purposes by both Turkey and Greece serves as a strategy to accuse each other of violating human rights norms and not abiding by the EU-Turkey Statement.⁷³ The dissemination of visual material of pushback operations by the Greek and Turkish authorities can be situated at the intersection of the surveillance regime and the media regime as it signals the capacity to watch the other and record evidence of their alleged wrongdoings and to shape public perceptions of the other.

Pushbacks are not merely a Greek issue, but a European one. The surveillance apparatus of the Greek border is funded by the EU to a large degree.⁷⁴ Even the detention centres that are used to arrest migrants during pushback operations are funded by the EU, as was emphasized by one of my activist respondents. The statement of the European Commission president Ursula von der Leyen praising Greece for being the 'shield' of Europe⁷⁵ during the escalations around the Evros border illustrated the position of the EU clearly. Funds to secure the EU's external border in Greece have been increased following the events of March 2020.⁷⁶ Regarding the EU's direct involvement in rights violations at the Greek border, responsibility gaps have evolved as in the case of the EU agency Frontex which is employed under a Greek mandate. However, recent developments like the investigations into Frontex and the resignation of the head of the organization,⁷⁷ which have resulted from mounting pressure by civil society groups, point to more future scrutiny against the EU agency.

Next to providing the material conditions that enable pushbacks in Greece, the EU's political and public discourse drives forward the normative acceptance of pushbacks. In the EU border regime, not all bodies are treated equally. The racialized bodies of the *crimmigrants*⁷⁸ are illegalized and banned from entering the EU based on a threat discourse that is underscored by racist logic.⁷⁹

The humanitarian borderlands of the EU are marked by a duality of suffering and human need on the one hand, and the use of extensive force on the other.⁸⁰ According to Tazreena Sajjad, the criminalizing EU discourse on migrants serves to absolve the EU of guilt and resolve the cognitive dissonance between the professed identity of the EU as supremely humanitarian on the one hand and acts of violence perpetrated in its member states on the other hand.⁸¹

72 www.dw.com/en/greece-accuses-turkey-of-pushing-migrants-into-its-waters/a-59772770 (accessed 11 October 2022).

73 Ibid.

74 https://home-affairs.ec.europa.eu/pages/page/financial-support-eu_en (accessed 2 September 2022).

75 www.theguardian.com/world/2020/mar/03/migration-eu-praises-greece-as-shield-after-turkey-opens-border (accessed 2 September 2022).

76 www.pubaffairsbruxelles.eu/eu-institution-news/border-management-commission-approves-extra-funding-to-greece-and-bulgaria (accessed 2 September 2022).

77 www.theguardian.com/world/2022/apr/29/head-of-eu-border-agency-frontex-resigns-amid-criticisms-fabrice-leggeri (accessed 2 September 2022).

78 K. Franko (2019), *The Crimmigrant Other: Migration and Penal Power*, Taylor & Francis Group.

79 De Genova 2018.

80 Franko 2019.

81 Sajjad 2022.

Most of the migrants arriving at the Greek border are from West Asian and North African (WANA)⁸² countries. In this context, the existing Islamophobic tendencies of declaring Muslims enemies of European civilisations, which proliferated after the Paris attacks in 2015, one in a long line of incidents, have to be taken into account.⁸³ Although the attackers in Paris were all European citizens belonging to ethnic minority groups, the 2015 attacks served as a catalyst for racism against Muslim migrants in Europe.⁸⁴ The Paris attacks fuelled the discourse of the Muslim as 'Europe's premier Other', expanding it to the notion of the Muslim migrant.⁸⁵ This racist logic does not only underly European discourses on migration. The surveillance regime created at the external borders is based on racist biopolitical logic as well. The control of the movement of human bodies is inherent to EU migration governance practices. Based on that, it is argued here that the EU border regime constitutes a biopolitical system. According to Michel Foucault, racism intervenes in a biopolitical system as a 'break between what must live and what must die'.⁸⁶ Racism turns the war-like relationship of 'In order to live, you must destroy your enemies'⁸⁷ into a biological relationship. Functioning on a biological level, racism thereby renders acceptable the imperative to kill, including indirect murder by exposing someone to death, for instance through neglect.⁸⁸ Abandoning migrants on islets in the Evros river or dumping them at sea constitute such forms of neglect that expose people to death. The securitization by means of surveillance technologies and personnel as well as the silencing of anyone who issues a critique against the Greek government nurture the complex surveillance and media regimes in which pushbacks operate at the Greek-Turkish border. The (in)visibilities created by the Greek authorities with the full support of the EU point to an increasingly authoritarian atmosphere in Greece. Migrants are rendered hyper-visible as racialized 'Others' within the threat frame in EU and Greek discourses on migration and invisible on the other hand in terms of their detention and deportation that remain hidden.

4. Visibility as a complex field: documentation & monitoring strategies contesting pushbacks in Greece

This article conceives of visibility not merely in terms of a disciplinary gaze that emanates from places of authority, but as a multiple regime that is shaped by the complex relations between different state and non-state actors.⁸⁹ The strategies

82 The acronym WANA is an alternative for the commonly used MENA, for Middle East and North Africa, that is geographically ambiguous and Eurocentric, see e.g. www.wanainstitute.org/en/why-wana (accessed 5 October 2022).

83 De Genova 2018.

84 L. Fekete (2004), 'Anti-Muslim Racism and the European Security State', *Race & Class*, 46(1), 3-29.

85 De Genova 2018.

86 M. Foucault (2003), *Society Must Be Defended: Lectures at the Collège de France, 1975-1976*; M. Bertani & A. Fontana (eds), D. Macey (trans), New York: Picador. (p. 254).

87 Foucault 2003, p. 255.

88 Ibid.

89 Tazzioli & Walters 2016.

employed by migrants and civil society actors to document and publish rights violations disrupt the violent bordering practices at the EU's external border in Greece. The recording of rights violations by migrants as well as the monitoring of the border and the strategic choices made by activists and legal organizations when publishing data on a pushback operation relate to both the surveillance and media regime in Greece.

According to Brighenti, 'secrecy lies not only at the core of power but also at the core of the possibility of escaping and opposing it'.⁹⁰ Based on their knowledge about the risk of becoming victims of a pushback upon arrival in Greece and the alleged involvement of the Greek police in illegal refoulements, migrants seek to remain undetected by walking in the dark and through forests and avoiding turning on the GPS signals on their phones. Through remaining invisible, in some cases, they manage to traverse the surveillance apparatus of the border. To prevent being apprehended by the Greek police, migrant groups who have arrived in the Evros area reach out to human rights and activist organizations. However, as direct aid would place civil society members at risk to be accused of the facilitation of illegal immigration and access to the border zone is prohibited for them, they can only share information at that point.

The removal of electronic devices during pushbacks makes calling for help and documenting the practices difficult for migrants, yet some people on the move manage to hide their mobile phones, enabling them to share their location data with activists, journalists, and lawyers and document the pushback by using audio-visual recordings. The data on pushbacks generated by migrants serves as crucial evidence based on which detailed analysis of pushback operations have been carried out,⁹¹ decisively shaping our knowledge of these practices that were sought to be hidden from the public.

If migrants who have been apprehended by the police and are in the process of being pushed back manage to reach out to CSOs and activist networks, they use media visibility in a strategic way to raise public awareness of the human rights violations taking place in real time. Increasing the public visibility of pushbacks while they are carried out serves to pressure the authorities to take action. Nevertheless, the organizations and activists have to make careful considerations of what to make visible and to whom, in order not to put the migrants at even greater risk. Pertaining to the surveillance regime in Greece, visibility is used as a selective strategy by members of CSOs and activists.

Despite obstacles such as the intensified criminalization of migration solidarity in Greece, legal and activist organizations are determined to advance the monitoring of the border to tackle rights violations like pushbacks. They advocate for the creation of an official monitoring mechanism at the Evros border. Further, legal and activist organizations reach out to the relevant stakeholders with their claims and investigations. They do so by publishing reports to document rights violations,

90 Brighenti 2007, p. 338.

91 E.g. www.forensic-architecture.org/investigation/pushbacks-across-the-evros-meric-river-the-case-of-parvin (accessed 4 September 2022).

bringing cases in front of the European Court of Human Rights, and lobbying the European Parliament.

Conclusively, not only the border control strategies aimed at containing migrant movement but also the attempts of migrants to escape control entail a struggle over visibility, pointing to the contested nature of the politics of visibility that surround pushbacks in Greece. In response to the invisibility that enables illegal refoulements to be carried out with impunity, migrants and their supporters engage in documentation and monitoring strategies at the Greek border, despite great risks of further physical violence or legal charges. The strategic use of (in)visibility by migrants and their allies in Greece supports Brighenti's conceptualization of visibility as neither inherently liberating nor oppressive.⁹² By demonstrating the strategic use of (in)visibility by migrants and their supporters in the contestation of violent bordering practices, I hope to contribute to a more nuanced understanding of the power dynamics at play in the EU border regime in Greece.

5. Discussion & conclusion

This article has analysed pushbacks as a particularly violent strategy of crimmigration that is legally paradoxical as it is based on illegal conduct by border control actors. The paradox can be better grasped by rethinking pushbacks as a phenomenon that has become normatively accepted in Greece based on the national discourse on security threats arriving from Turkey, which has historically been perceived as an external enemy. The normalization of illegal refoulements was driven further in reaction to the instrumentalization of migrants by the Turkish state in 2020 which prompted Greece to effectively call for the legalization of pushbacks. Connected to their investigations into the pushback practices carried out in Greece, activists, lawyers, legal organizations, and journalists are targeted by the authorities. The attempts of silencing critical voices and suppressing civil society activism in Greece signal an increasingly authoritarian spirit in the country. However, responsibility for pushbacks does not only rest with Greece. Based on the funding of the material conditions for pushbacks, the vast inaction regarding these now publicly known practices, and the creation of racist and criminalizing discourses that serve as a legitimization for the EU's deterrence-oriented migration policies, responsibility for pushbacks needs to be searched on the European level as well.

By analysing the surveillance regime in which pushbacks operate in the Greek Evros region, the hyper-militarization and the prohibition of access to the border zone have been portrayed as contributing to maintaining a *state of exception* where the law seems to lose its function. In this context, pushbacks are carried out with impunity. To challenge the impunity of perpetrators of rights violations at the Evros border, it is of utmost importance to take into account the claims for an official border monitoring mechanism made by human rights organizations.

92 Brighenti 2007.

The evidence collected by activists, human rights advocates, and researchers based on audio-visual data recorded by migrants during pushback operations has made the detailed analysis of pushbacks possible. Contesting the hidden nature of illegal refoulements, the generation of knowledge about these practices is a crucial starting point for any investigation of the issue and for initiating legal action.

By focusing on the control type and media type of visibility relating to pushback practices in Greece, this article has aimed to contribute to a more nuanced understanding of the complexity of power relations in the EU border regime. Through looking at the complex relations and interactions between the different state and non-state actors who shape the politics of visibility surrounding pushbacks in Greece, we can distance ourselves from the dehumanizing discourses that portray migrants either as passive victims of geopolitical strategies or dangerous racialized 'Others'.

Although the efforts to monitor the violation of human rights at the EU border and the strategic use of visibility to raise awareness of past or ongoing pushbacks may only be a starting point, the courage and resourcefulness of migrants and their allies in Greece are demonstrated through their actions. Even though the prevalence of clandestine deportations via the Greek border has not diminished and the violence and danger to human life posed by pushbacks even have increased, as illustrated by the new practice of abandoning migrants on uninhabitable islands, heightened visibility and a more empathetic understanding of the consequences of the illegal actions are important outcomes of counter-political action against the racist movement restrictions put in place by the EU. One silver lining regarding the current public debate on migration management in Greece is the outrage about pushbacks that followed reports about the death of the 5-year-old Maria in consequence of a pushback operation.⁹³ This moment might pass, however, the struggles by migrants and their allies aimed at visualizing violence at the EU borders continue. As expressed by Iasonas Apostolopoulos, a Greek search and rescue activist who has become another target of criminalization by the authorities: 'Pushbacks are designed to stay invisible. I think the only way to stop this crime is to give visibility to it.'⁹⁴

93 www.spiegel.de/ausland/griechenlands-weg-in-die-autokratie-angriffe-auf-rechtsstaat-und-pressefreiheit-kommentar-a-8f496a40-3d56-4cb7-9e6b-f0ab19c955c1 (accessed 4 September 2022).

94 www.theguardian.com/global-development/2022/sep/01/speak-out-against-pushbacks-youre-an-enemy-of-greece-says-refugee-hero?CMP=Share_iOSApp_Other (accessed 2 September 2022).