



**Report of an alleged case of night
deportation by Greek and Turkish
authorities in the Aegean Sea
11-12th of August 2016**

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CASE STUDY



HUMAN RIGHTS AT SEA

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LIST OF ABBREVIATIONS AND ACRONYMS

The Agreement: Agreement signed between European Union and Turkey. Implemented 20th of March 2016.

AIS: Automatic Identification System.

FGS: *Federal German Ship.*

FRONTEX: European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

HMCS: *Her Majesty's Canadian Ship.*

HMS: *Her Majesty's Ship.*

HRAS: Human Rights at Sea, Registered UK Charity 1161673.

HS: *Hellenic Ship.*

IMVHF Channel: International Marine Very High Frequency Channel.

ITA : Italian naval vessel.

NM : Nautical Mile.

ORP: *Okręt Rzeczypospolitej Polskiej* – Vessel of the Polish Republic.

NATO: North Atlantic Treaty Organization.

ProActiva: ProActiva Open Arms, non-governmental organization for migrant rescue.

SAR: Search and Rescue.

TCG: *Türkiye Cumhuriyeti Gemisi* – Vessel of the Republic of Turkey.

TTW: Territorial Waters

Introduction

Human Rights at Sea, together with ProActiva Open Arms would like to report an alleged human rights and related asylum rights violation during an incident regarding what appears

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to be the witnessing of a deportation transfer of migrants of unknown origin from Greek territory to a Turkish government vessel within Greek Territorial Waters (TTWs) at night on the 12th August 2016. This reporting is for international awareness, for specific international organisations and the relevant States.

The independent maritime human right's charity, Human Rights at Sea and ProActiva Open Arms, a Spanish civil society Search and Rescue (SAR) Non-Governmental Organisation (NGO) have investigated the facts as are presented and subsequently detailed in this report. Both organisations consider, in the absence of other supporting evidence and explanation, such actions to be a potential abuse of individual rights under the 1951 Refugee Convention, as well as the European Union-Turkey Agreement (20th March 2016) (hereafter cited as "the Agreement" primarily in relation to safeguarding the lawful and correct assessment of an individual's right to claim asylum in the EU.

Matter-in-issue

The specific incident involves an unknown Turkish Coast Guard vessel at sea, the Hellenic Coast Guard, a NATO warship and FRONTEX vessel in the vicinity of the transfer, and a migrant boat with ten persons and three babies on-board.

Following an alert by the NATO warship, it appears that the Greek and Turkish authorities have coordinated an apparent deportation of migrants resulting in them being returning to Turkish territory, despite the migrant boat being in Greek TTWs and therefore, under the control of Greek authorities.

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The incident happened during the night of 12th of August 2016 between 01:30 and 02:25 hrs local.

Incident Outline

Alleged Violation of the European Union – Turkey Agreement (20th March 2016) & Issue of Non-Refoulement

The incident in question occurred in the Aegean Sea offshore Mithimna, Lesbos, Greece, involving the application of the Agreement whereby it has been formally established between the European Union and Turkey that: *“All new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey”*.

It has been agreed between the European Union and Turkey, that *“All applications need to be treated individually and due account must be paid to the situation of vulnerable groups, in particular unaccompanied minors for whom all decisions must be in their best interests.”*.

Nonetheless, in the alleged reported incident, and on the facts supplied, the step of identifying the migrants in order to allow them to apply for asylum status appears to have been avoided without administrative due process.

As the aim of the migrants crossing the Aegean Sea that night appears to have been the application for asylum in Greece, or another European State, this incident may well constitute a violation of the Agreement, as the asylum application may not have been correctly processed by the Greek authorities before their return to Turkish authority control.

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As a consequence of the coordinated transfer between the Hellenic and Turkish Coast Guard that day; while it could be considered as operating within the framework of the Agreement, we remain very concerned that the necessary and lawful safeguards for individual assessments and the protection of individual's human rights are not clear in this instance.

One of the basis of the Agreement is that Turkey is deemed a safe country for migrants, that their individual rights are assured under the Agreement ,and that international law, including the rule of non-refoulement is upheld without exception.

The alleged facts concerning the incident has been gathered by ProActiva and can be found in the Annexes and Appendices of this case study and supporting video evidence supplied by ProActiva and published by Human Rights at Sea on the charity's website and YouTube Channel. This includes detailed coordinates, timing and partially identifies the parties concerned.

Non-refoulement

Based on ongoing profiling of human rights abuses in Turkey and in relation to this incident, an apparent lack of due process as required by the Agreement, the non-refoulement principle appears to have been violated by this apparent act of night deportation.

The reported incident could firstly qualify as being an illegal act according to European Union law (European Convention on Human Rights, Art. 5) and international law requirements for human rights protections including application of the non-refoulement

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principle, but also it could be viewed as immoral regarding a non-transparent process for asylum applications, either before or during the incident, and the uncertain State guarantees of safety back in Turkey for those otherwise seeking refuge in Greece, or another European State. The migrants in question appear not to have been given the opportunity to apply for asylum and could therefore be considered as victims in this incident, whose individual rights have been abused.

Requested outcome

Human Rights at Sea and ProActiva request formal clarification as to the due process to assure safeguarding of the individual human rights of the migrants in this reported incident.

Further, the organisations seek official reasons from the respective States, NATO and FRONTEX authorities that all necessary safeguards were put in place in line with the Agreement, and that the individuals returned to Turkish control were treated in line with established human rights Conventions.

Yours sincerely,

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HUMAN RIGHTS AT SEA

David Hammond
CEO
Human Rights at Sea



ProActiva Open Arms

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DRYAD
MARITIME



HUMAN RIGHTS AT SEA

Incident Review – Dryad Maritime

Introduction

1. This is a report into an incident reported by ProActiva, which was passed to Human Right At Sea (HRAS) for review and publishing. All facts are deemed as correct as provided to HRAS.

2. The work has been prepared by specialist maritime intelligence analysts from Dryad Maritime. Dryad draws upon the direct support of a team of ex-Royal Navy operations specialists and others who monitor global piracy and maritime crime with specific focus on the Horn of Africa High Risk Area, the Gulf of Guinea and Southeast Asia. In doing this, the operations team directly support a wide range of shipping clients, providing analytically based products on high risk areas, including planning and dynamic routing as well as 24/7 monitoring and risk mitigation advice. Dryad's analysts have extensive knowledge and experience of piracy and are expert in the field of analysis, quantifying threat, analysing trends and offering advice and recommendations. They are also in daily contact with owners, operators, ships' masters and security professionals, so Dryad's knowledge is constantly updated through practical experience. Supported by information technology and an extensive database, Dryad is well placed to assess risk and offer advice to mariners.

The Issue

3. During the morning of 12 August 2016, a Turkish Coast Guard vessel, operating in conjunction with the Hellenic Coast Guard and a NATO warship, intercepted a migrant boat crossing from mainland Turkey to the Greek island of Lesbos. The interception appears to have taken place inside Greek Territorial Waters.

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Methodology

4. The report at Annex has been produced following a review of the information passed on from ProActiva as well as an examination of available open source Automatic Identification System (AIS) information.

Executive Summary

5. The following key points should be noted:
- a. The information passed from ProActiva appears to be correct.
 - b. The incident inside of the TTW of Greece and with the compliance of the Hellenic Coast Guard.
 - c. The Turkish Coast Guard boat was a Kaan-33 class patrol boat.

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Annex A

Incident Report
Dated 30 August 2016

INCIDENT REVIEW OF THE ALLEGED NIGHT DEPORTATION IN THE AEGEAN SEA

Background

1. Human Right At Sea (HRAS) tasked Dryad Maritime with reviewing the information passed to them by ProActiva about an incident on 12 August to the north of the Greek island of Lesbos. The information included a video and a narrative of the event along with some images taken from the video. During the morning of 12 August 2016, a Turkish Coast Guard vessel, operating in conjunction with the Greek (Hellenic) Coast Guard and a NATO warship, intercepted a migrant boat crossing from mainland Turkey to the Greek island of Lesbos. The interception appears to have taken place inside Greek Territorial Waters.

Report

2. The following is an extract of the information written passed to HRAS, full copy is at Appendix 1. All time are in local. Please note that the reporting below has been translated from Spanish to English.

01:30 NATO warship informs Hellenic Coast Guard on IMVHF Ch16 about an illegal activity (refugee boat) in position 39°25.9"N 26°16.9"E moving 5 knots and with 10 persons on board.

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- 01:33 Hellenic Coast Guard passes the information to the Turkish Coast Guard on IMMVHF Channel 16.
- 01:50 ProActiva arrives at the location and sees the refugee boat, small rubber boat with 10 persons and three babies on board. The location now is 39°25'16.3"N 26°17'03.7"E. A Turkish Coast Guard vessel is also present.
- 02:00 Turkish Coast Guard vessel turns on the lights and moves to get closer to the refugee boat.
- 02:09 Turkish Coast Guard start to transfer people from the boat to the Coast Guard vessel. ProActiva asks the Hellenic Coast Guard office in Molyvos to explain the situation but the officer they speak to states that they already know [about the incident] and hangs up the phone.
- 02:11 ProActiva calls Portuguese FRONTEX patrol boat and Hellenic Coast Guard by VHF radio on channel 16 and get no answer.
- 02:25 Turkish Coast Guard finishes the transfer and takes the rubber boat on board then turns back to TURKEY.

3. Photographs taken at the time of the incident are at Appendix 2. They appear to show a Turkish Coast Guard recovering persons from a small boat alongside their ship as well as an image of the ProActiva vessel's navigation console at the time of the incident.

Analysis

4. AIS analysis inside 100NM radius around the position of the incident found 1020 vessels, but only two naval vessels, the Russian sail training vessel *Mir* and *HMS Mersey*.

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This means we were unable to use AIS to identify the vessel involved but other sources provided a few possible solutions.

- a. NATO Warship. *FGS Karlsruhe*, *TCG Bandirma*, *HS Nikoforos*, *HMS Mersey*, *ORP General Tadeusz Kosciuszko*, *HS Machitis*, and *HS Ritsos* were operating as part of the NATO group in the Aegean at the time of the incident. *HMCS Charlottetown* and *ITA Carabinieri* were operating in the Black Sea and unlikely to be involved.
- b. Turkish Coast Guard. The vessel type is probably a 'KAAN 33' class boat as seen in Image 1 below. Unfortunately, the video did not include the pennant number, painted on the bow, or the clear image of the nameplate on the superstructure; either would allow positive identification of the particular patrol boat involved.



Image 1: A KAAN-33 class patrol boats – TCSG-312 (Source: Wikimedia Commons)

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- c. FRONTEX Patrol vessel. The vessel is almost certainly the *Arade*, which was reportedly under the command of Capt. Carlos Rodrigues in mid-July.¹
5. The only NATO vessel Dryad was able to locate using AIS at the time of the incident was *HMS Mersey* operating some 60NM south of the incident between the island of Chios and the Turkish mainland. Image 2 below shows the navigation track on the 12th August.
6. The position shown by the ProActiva's navigation console indicates that the incident occurred inside Greek Territorial Waters of the island of Lesvos. We have been unable to verify this by other means.

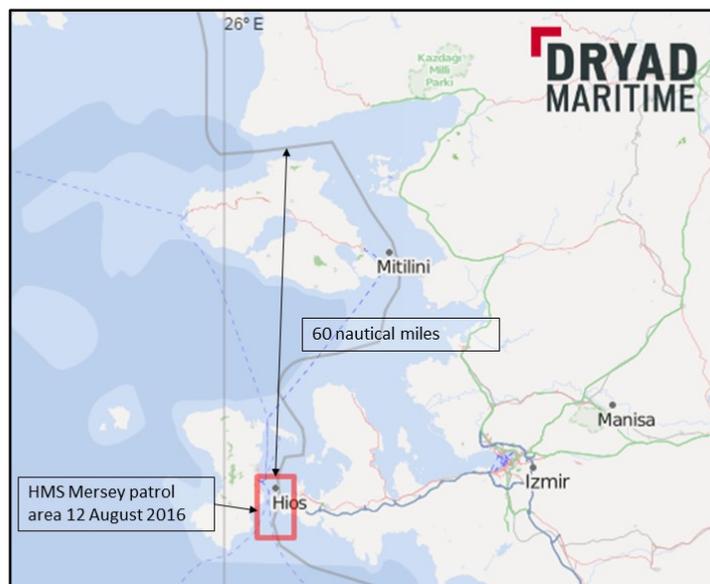


Image 2: *HMS Mersey* patrol area in relation to the incident (Source: Dryad Maritime)

¹ 'What It Took To Rescue 26 Refugees From The Center Of The Sea', Willa Frej, Huffington Post, 11 July 2016 via http://www.huffingtonpost.com/entry/greece-refugee-rescue_us_5755708ce4b0c3752dce090f accessed 1 Sep 2016

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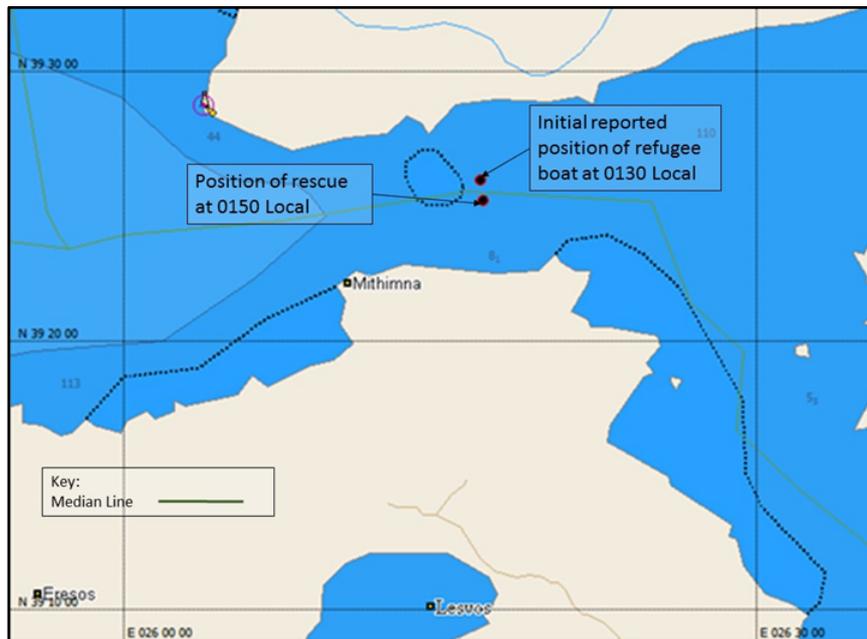


Image 3: Reported positions in relation to the Turkish/Greek median line (Source: Dryad Maritime)

Summary

7. From the information provided, it suggests that the rescue of the migrants occurred inside the Greek Territorial Waters with the knowledge and compliance of the Hellenic Coast Guard authorities in the region. The FRONTEX vessel was almost certainly the *Arede* while the Turkish vessel remains unidentified, but is probably a KAAN-33 Class boat.

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Appendix 1

to Annex A to
Incident Report
Dated 30 August 2016

Report of the incident provided by ProActiva²

01:30h NATO WAR SHIP calls HELLENIC COAST GUARD by radio on channel 16.
HELLENIC COAST GUARD ANSWERS.

NATO WAR SHIP informs HELLENIC COAST GUARD about an illegal activity (refugee boat) in the following coordinates: 39°25.9"N 26°16.9"E moving 5knts fast and with 10 pax on board. NATO WARSHIP repeats the message twice.

01:33h HELLENIC COAST GUARD calls TURKISH COAST GUARD by radio on channel 16.

TURKISH COAST GUARD answers.

HELLENIC COAST GUARD give the same information, Illegal activity at the following coordinates: 39°25.9"N 26°16.9"E. They repeat the message twice.

01:35h PROACTIVA goes out with AYRA to find the boat.

² Taken from the original SPanish Report to Human Rights at Sea. No corrections have been made to the original texte.

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TURKISH COAST GUARD ask HELLENIC COAST GUARD by radio on channel 16 to repeat the coordinates. HELLENIC COAST GUARDS repeats the coordinates twice.

01:50h PROACTIVA arrives at the location and sees the refugee boat, small rubber boat with 10 ppl and 3babies on board in Greek waters. The location now is 39°25'16.3"N 26°17'03.7"E (see AYRA's plotter picture) 0.58 miles far from the border

TURKISH COAST GUARD (big war ship) is also there with NO LIGHTS.

02.00h TURKISH COAST GUARD turns on the lights and moves to get closer to the refugee boat.

02:03h TURKISH COAST GUARDS throw ropes to the boat so it stays beside the ship and one man wearing blue shirt and light jeans jumps into the refugee boat.

02:09h TURKISH COAST GUARDS onboard ask to start with the transfer of the people. They throw a stair and people start to climb one by one to the Coast Guard vessel.

PROACTIVA OPEN ARMS calls by phone to the HELLENIC COAST GUARD office in MOLYVOS. A man answers the phone with very bad English. PROACTIVA explains the situation and remarks that the boat and ship are in Greek waters, the officer states that they already know that and hangs up the phone.

02:11h PROACTIVA (and refugee rescue) calls PORTUGUESE FRONTEx PATROLL BOAT by radio on channel 16 and get no answer. Next call is to HELLENIC COAST GUARD also on channel 16 and got no answer. (See the video, and listen the calls to

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HELLENIC CG AND P. FRONTEX)

During the transfer PROACTIVA calls again several times to HELLENIC COAST GUARD and PORTUGUESE FRONTEX PATROLL BOAT.

None of them appears on the scene, there is the TURKISH SHIP, ProActiva boat and Refugee Rescue boat.

02:25h TURKISH COAST GUARD finish with the transfer and take the rubber boat on board, turns back to TURKEY and leave into the deep.

02:30h PROACTIVA is back in skala harbour.

ENDS.

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Appendix 2

to Annex A to
Incident Report
Dated 30 August 2016

Images of the incident provided by ProActiva



Image 1: Small boat alongside Turkish Coast Guard vessel

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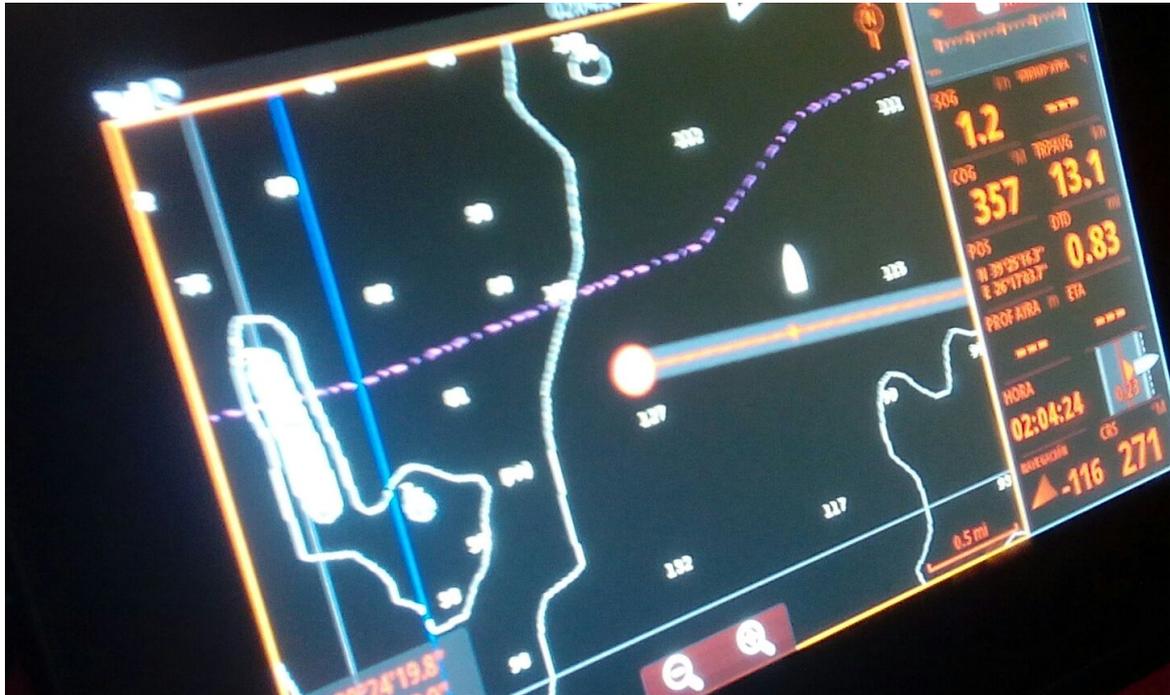


Image 2: Photograph of ProActiva's navigation console during the incident

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Image 3: Turkish Coast Guard vessel recovering persons from the small boat



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Image 4: Turkish Coast Guard vessel recovering persons from the small boat



Image 5: Turkish Coast Guard vessel recovering persons from the small boat

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Image 6: Turkish Coast Guard vessel recovering persons from the small boat