

Questionnaire of the Special Rapporteur on the human rights of migrants: pushback practices and their impact on the human rights of migrants

Pursuant to Human Rights Council Resolution 43/6, the Special Rapporteur on the Human Rights of Migrants is mandated “To examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants, recognizing the particular vulnerability of women, children and those undocumented or in an irregular situation” (paragraph 1 (a), [A/HRC/RES/43/6](#)). In carrying out his mandate, the Special Rapporteur has decided to dedicate his forthcoming report to the 47th session of the Human Rights Council to explore ways and means to address the human rights impact of pushbacks of migrants on land and at sea.

In the absence of an internationally agreed upon definition of “pushbacks” in the context of global migration and for the purpose of the present research, the Special Rapporteur describes “pushbacks” as **“various measures taken by States which result in migrants, including asylum seekers, being summarily forced back to the country from where they attempted to cross or have crossed an international border without access to international protection or asylum procedures or denied of any individual assessment on their protection needs which may lead to a violation of the principle of *non-refoulement*.”** Pushback practices demonstrate a denial of State’s international obligation to protect the human rights of migrants at international borders. Pushbacks result in human rights violations such as forced returns without individual assessment and often collective expulsions with high risk of *refoulement*, including chain *refoulement*.

Through examining current practices and trends, the Special Rapporteur wishes to provide recommendations to States on how to better protect the human rights of migrants at international borders, in line with existing international human rights standards. He is also interested in learning from States any challenges or obstacles they face in ensuring access for migrants to international protection at international borders, as a means to prevent pushbacks; as well as views on how States’ efforts can be better supported by other stakeholders to ensure that their operationalisation respects and protects the human rights of migrants.

Questions

The Special Rapporteur is particularly interested in receiving inputs on any or all of the following issues, including case studies and specific examples of current practices and challenges:

1. Please provide information on any relevant legislation or policy in relation to the right to asylum to seek and enjoy in your country, which guarantees that migrants including asylum seekers’ protection needs are examined individually, and they are not pushed back at the international border without access to this assessment



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and other relevant procedures. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.

2. Please provide information on any existing good practices or measures taken (such as screening and referral mechanisms at borders) in your country to ensure that persons crossing international borders in mixed movements are protected according to international human rights law. Please indicate any specific measures aimed at reducing vulnerabilities of migrants, including by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach.
3. Please provide information on existing restrictions or limitations in law and in practice in relation to the right to claim and seek asylum at international borders in your country (e.g., border controls, restricted access to territory) and elaborate the impact of these restrictions on the protection of the rights of migrants crossing international borders.
4. Please provide information on any concrete instances of pushbacks, including an analysis on the circumstances of the event.
5. Please indicate any specific challenges that your Government has encountered, in the context of the COVID-19 pandemic, on ensuring the human rights of migrants crossing international borders, either by land or by sea.
6. Please indicate any challenges and/or obstacles faced by Governmental institutions or civil society organizations and individuals in protecting the human rights of migrants at international borders, including those in distress at sea and in situations where pushbacks or pullbacks are likely to take place.