

**Mandates of the Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the Human Rights of Migrants; Special Rapporteur on the right to food**

27 September 2024

**Submission by the United Nations Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on human rights of migrants and Special Rapporteur on the right to food, in the case *C.O.C.G. and Others v. Lithuania* (Application no. 17764/22) before the European Court of Human Rights**

## Introduction

1. The Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on the human rights of migrants and Special Rapporteur on the right to food, established pursuant to Human Rights Council resolutions 54/14, 51/8, 53/9, 52/20, and 43/1, have the honour to submit this third-party intervention in the case of *C.O.C.G. and Others v. Lithuania* for the consideration of the European Court of Human Rights (ECtHR), as granted by the ECtHR on 13 September 2024.
2. The UN Special Rapporteurs and UN Working Groups involved intervene in order to present their position, and illustrate the UN core human rights treaties and how they have been interpreted by the UN treaty bodies, with a view to assisting the Court and to further the interests of the proper administration of justice. The mandates of the five Special Procedures intervening jointly in this case are all relevant for the case in question. The Special Procedures' mandate holders, both individually and jointly, have considerable experience in interventions before various courts and have made a number of public statements in connection with the issues raised in the Application.
3. The UN Special Rapporteurs and members of the above-mentioned UN Working Groups are an expert in human rights who has been appointed by the UN Human Rights Council "with mandates to report and advise on human rights from a thematic or country-specific perspective."<sup>1</sup> Special Rapporteurs and members of the Working Groups are part of "[t]he system of Special Procedures" that "is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social."<sup>2</sup> As mandate-holders, Special Rapporteurs and members of the Working Groups, are independent human rights experts selected for their "(a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity."<sup>3</sup> Special Rapporteurs and members of the Working Groups "undertake to uphold independence, efficiency,

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<sup>1</sup> Office of the High Commissioner for Human Rights ("OHCHR"), "Special Procedures of the Human Rights Council" (see [www.ohchr.org/en/hrbodies/sp/pages/introduction.aspx](http://www.ohchr.org/en/hrbodies/sp/pages/introduction.aspx))

<sup>2</sup> Ibid.

<sup>3</sup> [A/HRC/RES/5/1](https://www.ohchr.org/en/hrbodies/sp/pages/A/HRC/RES/5/1).

competence and integrity through probity, impartiality, honesty and good faith” and “do not receive financial remuneration.”<sup>4</sup>

4. In the performance of their mandates, the Special Rapporteurs and the members of the above-mentioned Working Groups are considered as an expert on mission for the United Nations, within the meaning of Articles VI and VII of the Convention on the Privileges and Immunities of the United Nations, adopted by the United Nations General Assembly on 13 February 1946. In accordance with Article VI, Section 22, as experts on mission for the United Nations, Special Procedures mandate holders enjoy such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including, in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind.

5. With respect to this brief, the Special Rapporteurs and members of the Working Groups clarifies that the views expressed herein are their own opinions as a Special Rapporteurs and members of the Working Groups and that authorization for the positions and views expressed by them, in full accordance with their independence, was neither sought nor given by the United Nations, the Human Rights Council, the Office of the High Commissioner for Human Rights, or any of the officials associated with those bodies.

6. This brief is submitted voluntarily without prejudice to, and should not be considered as a waiver, express or implied, of the privileges and immunities of the United Nations, its officials and experts on mission, pursuant to the 1946 Convention on the Privileges and Immunities of the United Nations.

## **Definition of Pushbacks**

7. Pushbacks, defined by the Special Rapporteur on the human rights of migrants, consist of:

various measures taken by States, sometimes involving third countries or non-State actors, which result in migrants, including asylum seekers, being summarily forced back, without an individual assessment of their human rights protection needs, to the country or territory, or to sea, whether it be territorial waters or international waters, from where they attempted to cross or crossed an international border.<sup>5</sup>

## **Pushbacks and the Prohibition of Collective Expulsion and Non-Refoulement**

8. Special Procedures’ mandate holders have repeatedly addressed States – including Council of Europe Member States<sup>6</sup> - carrying out pushbacks, pointing out that pushbacks are not compatible with commitments to non-refoulement and prohibition of collective expulsion.<sup>7</sup> They have also in their studies explicitly specified that in the absence of an individualized assessment for each migrant’s protection needs and other procedural safeguards, pushbacks or collective expulsions do not comply with the international obligation of non-refoulement.<sup>8</sup>

9. Collective expulsions are prohibited in all circumstances as a principle of general international law.<sup>9</sup> The International Convention on the Protection of the Rights of All

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<sup>4</sup> OHCHR, “Special Procedures of the Human Rights Council” (see footnote 1).

<sup>5</sup> [A/HRC/47/30](#), para. 34.

<sup>6</sup> See [ESP 9/2023](#); [GRC 2/2023](#); [ESP 7/2022](#).

<sup>7</sup> See [BGD 5/2024](#); [CYP 2/2021](#); [MLT 2/2020](#); [CRO 1/2020](#).

<sup>8</sup> [A/HRC/36/39/Add.2](#), para. 83.

<sup>9</sup> [A/HRC/47/30](#) para. 40; [A/HRC/37/50](#), para. 52; Protocol No. 4 to the European Convention in Human Rights, art. 4.

Migrant Workers and Members of their Families contains a prohibition of collective expulsions (Article 22(1)), as do regional conventions.<sup>10</sup> Several UN treaty bodies have found that collective expulsions violate the provisions of the respective UN core human rights treaties, notably the Human Rights Committee stressed this in the context of Article 13 of the International Covenant on Civil and Political Rights (ICCPR),<sup>11</sup> and the Committee on Enforced Disappearances in the context of Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).<sup>12</sup> Also, the Committee on the Elimination of Racial Discrimination has recommended States to ensure that collective expulsions do not take place.<sup>13</sup>

10. The principle of non-refoulement is a fundamental principle of international human rights and refugee law.<sup>14</sup> Several human rights treaties include provisions explicitly prohibiting refoulement, notably Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>15</sup> and Article 16 of the ICPPED.<sup>16</sup> It is also included in the Declaration on the Protection of all Persons from Enforced Disappearances (Article 8). The principle of non-refoulement under international human rights law is characterized by its absolute nature without any exception, applying to all persons, including all migrants, at all times, irrespective of their citizenship, nationality, statelessness, migration status, gender, sexual orientation and gender identity.<sup>17</sup> While the European Convention on Human Rights does not contain a specific provision on asylum or non-refoulement, Article 3 has been interpreted by the ECtHR as implicitly prohibiting the return of anyone to a place where they would face a “real and substantiated” risk of ill-treatment in breach of the prohibition of torture or inhuman or degrading treatment or punishment, including when the death penalty may be involved.<sup>18</sup>

11. The non-refoulement principle in the CAT and the ICPPED, as well as in the Declaration on the Protection of all Persons from Enforced Disappearances, contains an explanation on how this assessment should be conducted:

For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.<sup>19</sup>

12. Thus, when evaluating whether a person can be returned to another State, States should assess the human rights situation in the country. In this context it is worth highlighting the seriousness of the human rights situation in Belarus, which is one of

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<sup>10</sup> American Convention on Human Rights, art. 22.9; Arab Charter on Human Rights, art. 26.2; African Charter on Human and Peoples’ Rights, art. 12.5, prohibits mass expulsions aimed at national, racial, ethnic or religious groups.

<sup>11</sup> Human Rights Committee, general comment No. 15 (1986), para.10.

<sup>12</sup> Committee on enforced disappearances, general comment No. 1 (2023), para. 35.

<sup>13</sup> Committee on the Elimination of Racial Discrimination, general recommendation No. 30 (2004), para. 26.

<sup>14</sup> Geneva Convention Relating to the Status of Refugees, art. 33.1; Human Rights Committee, general comment No. 20 (2009), para. 9, general comment No. 31 (2004), para. 12; Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (2007), para. 22.

<sup>15</sup> See Committee against Torture, general comment No. 4 (2017), para 4, which explicitly states that “deportation” includes also pushbacks measures.

<sup>16</sup> Declaration on the Protection of all Persons from Enforced Disappearance, art. 8; [A/HRC/36/39/Add.2](#), para 12.

<sup>17</sup> [A/HRC/47/30](#), para.41.

<sup>18</sup> European Court of Human Rights, *Soering v. the United Kingdom*, Application No. 14038/88, Judgment, 7 July 1989, paras. 86 and 90-91.

<sup>19</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3.2; International Convention for the Protection of All Persons from Enforced Disappearance, art. 16.2; Declaration on the Protection of all Persons from Enforced Disappearance, art. 8.1; Committee on Enforced Disappearances, *E.L.A. v France*, Communication No. 43835/11, adopted 25 September 2020, para. 7.2.

14 countries where the circumstances have been deemed grave enough by the Human Rights Council to establish a dedicated Special Rapporteur. The mandate was established in 2012<sup>20</sup> and has been since prolonged annually.<sup>21</sup> Its reports are regularly highlighting the human rights situation, including pointing out the existence of torture and enforced disappearances.

## Human Rights Violations Caused by Pushbacks

13. The Special Rapporteur on the human rights of migrants pointed out that “pushbacks deny migrants their fundamental rights depriving them of access to protection defined in international and national law, as well as procedural safeguards”.<sup>22</sup> Pushbacks can lead to a broad range of human rights violations, depending on the circumstances in which they are carried out. Among others, they may amount to violations of the right to life (Article 2 of the ECHR), the prohibition of torture and ill-treatment (Article 3 of the ECHR), the prohibition of enforced disappearances (which, according to ECtHR case law, amounts to a violation of multiple ECHR provisions), put migrants outside the protection of the law and pose a serious risk of trafficking. They also may violate the right to an adequate standard of living, including the right to food.

14. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment found that the manner in which pushbacks blatantly neglect human dignity is “inherently degrading”.<sup>23</sup> Furthermore, the infliction of severe pain or suffering based on migration status, “by definition amounts to torture, regardless of whether it is inflicted by, or at the instigation of, State officials themselves, or merely with their consent, support or acquiescence”.<sup>24</sup>

15. The use of force by border authorities may also be the ground for a human rights violation. During pushback operations, force is often used with no other purpose than to deter or prevent persons from entering a State’s territory. According to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, such forms of use of force “generally cannot be regarded as lawful, necessary or proportionate, and may therefore well amount to ill-treatment or even torture”.<sup>25</sup> Furthermore, not taking all precautions practically possible when planning, preparing and conducting law enforcement operations in order to avoid the unnecessary, excessive or otherwise unlawful use of force violates the State’s positive obligation to prevent acts of cruel, inhuman or degrading treatment or punishment within its jurisdiction.<sup>26</sup> According to the Special Rapporteur on extrajudicial, summary or arbitrary executions, pushback measures themselves may amount to excessive use of force, when they result in placing refugees or migrants intentionally and knowingly in circumstances where they may be killed or their lives endangered because of the environment.<sup>27</sup>

16. According to the Special Rapporteur on the human rights of migrants, several practices, which often occur during pushback operations, may amount to torture or ill-treatment and violation of the right to life, notably when:

- States neglect leads to deprivation of access to medical assistance, water, food and basic means of survival for migrants,<sup>28</sup>

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<sup>20</sup> [A/HRC/RES/20/13](#).

<sup>21</sup> [A/HRC/RES/53/19](#).

<sup>22</sup> [A/HRC/47/30](#), para. 36.

<sup>23</sup> [A/HRC/37/50](#), para. 52.

<sup>24</sup> Ibid, para. 13.

<sup>25</sup> Ibid, para. 53.

<sup>26</sup> [A/72/178](#), para. 62 (c).

<sup>27</sup> [A/72/335](#).

<sup>28</sup> [A/HRC/47/30](#), para. 44.

- there are delays in searching for and rescuing migrants in distress,<sup>29</sup>
- the pushbacks are carried out violently, or effectively resulting in dire conditions for migrants.<sup>30</sup>

17. When pushbacks involve a deprivation of liberty, followed by the denial that such deprivation of liberty took place or by the concealment of the fate or whereabouts of the persons deprived of their liberty, they amount to enforced disappearances as defined in Article 2 of the ICPPED. They also constitute violations of the prohibition of secret detention under Article 17 of the ICPPED and guarantee of the right to access to information about persons deprived of liberty under Article 18 of the ICPPED, as well as other provisions, depending on the circumstances.<sup>31</sup> The Committee on Enforced Disappearances stated that pushbacks constitute a flagrant violation of the ICPPED.<sup>32</sup>

18. Both the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances have furthermore found that pushbacks are contributing to the risk of enforced disappearances.<sup>33</sup> A specific practice that may contribute to the risk of enforced disappearances is the seizure and destruction of personal belongings, identity documents and mobile phones, as it leaves the migrants without means to communicate their whereabouts to relatives or prove their identity, a practice which often occurs within pushbacks.<sup>34</sup>

19. Not assessing the individual protection needs of persons at borders also heightens the risk of exploitation<sup>35</sup> and trafficking. The Special Rapporteur on trafficking in persons, especially women and children has highlighted the obligations on states to identify victims and persons at risk of trafficking, who are seeking asylum, and to provide specialized assistance to victims of trafficking.<sup>36</sup> Further, the Special Rapporteur has emphasised that the obligation of non-refoulement applies to risks of trafficking or re-trafficking,<sup>37</sup>

## Pushbacks in Domestic Law

20. As pushbacks violate the prohibition of collective expulsion and are incompatible with the non-refoulement principle (see paragraphs 8-12), laws that allow for the commission of pushbacks are inherently incompatible with those two principles. The Human Rights Committee has stated already in 1986 that laws or decisions providing for collective or mass expulsions would not be in line with the ICCPR.<sup>38</sup> When addressing contexts in which pushbacks have been grounded in domestic law, Special

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<sup>29</sup> Ibid; see also [ESP 7/2022](#) on how the lack of identification of human remains of migrants constituted a violation of the right to life, and [GRC 3/2023](#) on the legal consequences of the failure to assist and engage in coordinated emergency assistance for people in distress at sea.

<sup>30</sup> Ibid.

<sup>31</sup> Committee on enforced disappearances, general comment No. 1 (2023), para. 35.

<sup>32</sup> Ibid.

<sup>33</sup> [A/HRC/36/39/Add.2](#), para. 60 and para. 83; Committee on Enforced Disappearances, general comment No. 1 (2023), para. 6.

<sup>34</sup> Committee on Enforced Disappearances, general comment No. 1 (2023), para. 35. See also [A/HRC/54/22/Add.5](#), paras. 23-24.

<sup>35</sup> [A/HRC/37/50](#), para. 7.

<sup>36</sup> [A/HRC/53/28](#), paras.1-3, 9, 16, 20, 26-27; Council of Europe Convention on Action against Trafficking in Human Beings, art. 14.5; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000); the Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002); Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked (2006).

<sup>37</sup> [A/HRC/53/28](#), paras.33-39.

<sup>38</sup> Human Rights Committee, general comment No. 15 (1986), para. 10.

Procedures' mandate holders have reiterated the States' obligation under international human rights law and refugee law to always individually assess the circumstances and protection needs of each person.<sup>39</sup>

## Detention of Migrants

21. According to international human rights standards, detention for immigration purposes should be a measure of last resort, and be permissible only for the shortest period of time and when no less restrictive measure is available. Asylum seekers may not be detained as punishment for entering a country irregularly.<sup>40</sup> Detention that is not justified as reasonable, necessary and proportional, may lead to arbitrary detention, which is prohibited by Article 9.1 of the ICCPR.<sup>41</sup>

22. In its Revised Deliberation No. 5 on Deprivation of liberty of migrants, the Working Group on Arbitrary Detention recalled that the "right to personal liberty is fundamental and extends to all persons at all times and circumstances, including migrants and asylum seekers, irrespective of their citizenship, nationality or migratory status".<sup>42</sup> It cautioned that "[a]ny form of administrative detention or custody in the context of migration must be applied as an exceptional measure of last resort, for the shortest period and only if justified by a legitimate purpose, such as documenting entry and recording their claims or initial verification of identity if in doubt". It also noted that any form of detention in this context should be ordered and approved by a judicial authority, based on an individualized assessment and not merely based on a formal assessment of the migrant's current migration status. On this basis, automatic detention in the context of migration is arbitrary.

23. The Working Group on Arbitrary Detention has a long track-record of addressing deprivation of liberty in the context of asylum claims. It has addressed a number of cases involving Governments attempting to prevent persons from accessing effective legal proceedings to determine their asylum claims.<sup>43</sup> The Working Group on Arbitrary Detention has a designated category, number IV, for asylum seekers, immigrants or refugees who are subjected to prolonged administrative custody, without the possibility of administrative or judicial review or remedy. The Working Group on Arbitrary Detention has set out constructive guidance, noting that alternatives to detention should be sought, such as reporting at regular intervals to the authorities, community-based solutions, release on bail or other securities, or stay in open centres or at a designated place.<sup>44</sup> The Special Rapporteur on trafficking in persons, especially women and children, has stressed the obligation of non-punishment of victims of trafficking, which applies to detention or other forms of deprivation of liberty.<sup>45</sup>

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<sup>39</sup> [LTU 1/2021](#); [A/HRC/53/28](#) paras.33-39.

<sup>40</sup> See Convention Relating to the Status of Refugees art. 31(1); Committee on Migrant Workers, see concluding observations on Mexico, [CMW/C/MEX/CO/1](#), para. 15; [A/HRC/17/33](#), paras. 10-25; [A/HRC/11/7/Add.2](#), para. 83.

<sup>41</sup> International Covenant on Civil and Political Rights, art. 9; Convention on the Rights of Children, art. 37(b); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 16.1 and 16.4; Convention on the Rights of Persons with Disabilities, art. 14; International Convention for the Protection of All Persons from Enforced Disappearance, art. 17; Convention against Torture, art. 11; Universal Declaration on Human Rights, arts. 3 and 9. For At the regional level: African Charter on Human and Peoples' Rights, art. 6; American Convention on Human Rights, arts. 7(2), (3); European Convention on Human Rights, art. 5(1); Arab Charter on Human Rights, arts. 14 and 16.

<sup>42</sup> Human Rights Committee, general comment No. 35 (2014), para. 3.

<sup>43</sup> See, for example, opinions [A/HRC/WGAD/2023/61](#); [A/HRC/WGAD/2023/44](#); [A/HRC/WGAD/2023/14](#); [A/HRC/WGAD/2023/15](#); [A/HRC/WGAD/2022/69](#); [A/HRC/WGAD/2022/42](#).

<sup>44</sup> [A/HRC/39/45](#), para. 17.

<sup>45</sup> [A/HRC/47/34](#), para.41.



24. International and regional human rights bodies have repeatedly stated that the detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child.<sup>46</sup> The Working Group on Arbitrary Detention has held that "deprivation of liberty of an asylum-seeking, refugee, stateless or migrant child, including unaccompanied or separated children, is prohibited".<sup>47</sup>

25. Finally, it bears repeating that the prohibition of arbitrary detention is absolute, meaning that it is a non-derogable norm of customary international law, or *jus cogens*.<sup>48</sup> In relation to asylum claims, the Universal Declaration of Human Rights proclaims that no one shall be subjected to arbitrary arrest, detention or exile and that it is the right of every person to leave any country, including their own, and to return to their country. The instrument also recognizes the right of every person to seek and enjoy asylum in other countries asylum.

## **The Human Rights Situation at the EU-Belarus Border**

26. The Special Procedures' mandate holders have raised several times their concern with regard to the worrying human rights situation of migrants on the EU-Belarus border. The concerning circumstances led to a visit of the Special Rapporteur on the human rights of migrants in July 2022 to Belarus to assess the situation at the border between Belarus and Poland.<sup>49</sup>

27. In their communications, Special Procedures' mandate holders have highlighted that, while there was an understanding of the pressure on national authorities due to the increasing arrival of migrants, including those seeking international protection, at the border with Belarus, all States need to ensure that border governance measures taken at international borders – including those aimed at addressing irregular migration – are in accordance with international law.<sup>50</sup>

28. In 2021, in a communication addressed to Lithuania, the Special Procedures' mandate holders pointed out the dire conditions without adequate shelter and food, clean water, sanitation facilities and medical care, may amount to cruel, inhuman or degrading treatment.<sup>51</sup> In the same year, the experts voiced their concern with regard to amendments to a law which allowed for the expulsion of asylum seekers and other migrants to Belarus, without an individual assessment of the circumstances of the person and without access to asylum procedures.<sup>52</sup>

29. Further, it is noted that the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) expressed deep concern "that the Belarusian authorities have not only taken grossly insufficient measures to detect victims of human trafficking in the context of border controls, but may have themselves contributed to human trafficking."<sup>53</sup> In its Evaluation Report of Lithuania, GRETA stressed that: "pushbacks impede the detection of victims of THB amongst irregular migrants and asylum seekers and raise grave concerns as regards Lithuania's compliance with certain obligations of the Convention, including the positive obligations to identify victims of trafficking and to refer them to assistance, and to

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<sup>46</sup> Committee on the Rights of the Child, [Report of the 2012 Day of General Discussion on the Rights of all Children in the Context of International Migration](#); Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights, joint general comment No. 4 (2017); [A/75/183](#).

<sup>47</sup> [A/HRC/39/45](#), para. 11.

<sup>48</sup> Human Rights Committee, general comment No. 35 (2014), para. 66.

<sup>49</sup> [A/HRC/53/26/Add.2](#).

<sup>50</sup> [LTU 1/2021](#).

<sup>51</sup> [BLR 9/2021](#).

<sup>52</sup> [LTU 1/2021](#); for a similar assessment of legal developments in Poland, see [A/HRC/53/26/Add.4](#), p. 12.

<sup>53</sup> GRETA, "Evaluation Report, Belarus", (27 October 2022), [GRETA\(2022\)10](#), para.104.

conduct a pre-removal risk assessment to ensure compliance with the obligation of non-refoulement.”<sup>54</sup>

## **Conclusions**

30. We conclude that in the absence of an individual assessment for each migrants’ protection needs and other procedural safeguards, pushbacks violate the prohibition of collective expulsion and are incompatible with the non-refoulement principle.

31. Pushbacks may amount to various human rights violations, such as torture or ill-treatment, enforced disappearance, the violation of the right to life, as well as of adequate standard of living, including the right to food. Among others, this can occur when State neglect leads to deprivation of access to medical assistance, water, food and basic means of survival for migrants, when they are carried out violently, or effectively resulting in dire conditions for migrants.

32. When pushbacks involve a deprivation of liberty, followed by the denial that such deprivation of liberty took place or by the concealment of the fate or whereabouts of the persons deprived of their liberty, such pushbacks amount to enforced disappearances.

33. Pushbacks contribute to the risk of enforced disappearance, and heighten the risk of exploitation and trafficking in persons.

34. According to international human rights standards, the detention of a child because of their or their parent’s migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child; detention of adults for immigration purposes should be a measure of last resort, and be permissible only for the shortest period of time and when no less restrictive measure is available. Detention that is not justified as reasonable, necessary and proportional, may lead to arbitrary detention.

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<sup>54</sup> GRETA, Evaluation Report, Lithuania, (28 February 2024), [GRETA\(2024\)04](#), para.165.