

Input for the preparation of the OHCHR Secretary General's
Report on the Human Rights of Migrants

Submitted by: Border Violence Monitoring Network

I. Reporting Organisation

1. The Border Violence Monitoring Network ¹ (BVMN) is a coalition of organisations working to document illegal pushbacks, collective expulsions and police violence along the EU's external borders in the Western Balkans, Greece and Turkey since the formal closure of the route in 2017. The collection of data on illegal pushbacks and police violence is done by a consortium of independent field experts who are part of or cooperate with humanitarian support groups united through the Border Violence Monitoring Network.

II. Key challenges: human rights at borders and in transit

2. The Resolution adopted by the General Assembly on 16 December 2021 (A/RES/76/172) ² calls on States to recognise the particular vulnerability of migrants in transit situations and to adopt concrete measures to prevent the violation of human rights of migrants while in transit, including by regularly training public officials to treat migrants respectfully and in accordance with their obligations under international law.

3. BVMN asserts that the systemic and well-documented practice of pushbacks in transit zones within EU member states presents a key challenge to the fulfilment of states' obligations to protect and promote human rights of migrants at borders and in transit, including those identified in the General Assembly Resolution.

4. Based on the documentation and human rights monitoring work carried out by BVMNs field-based member organisations across EU Member States, we assert that pushbacks present key challenges to securing human rights at borders and in transit zones:

4.1. The routine and systematic nature of pushback operations demonstrates that States are continuing to carry out widespread violations against migrants in transit. Since its formulation in 2017, BVMN field-based partners have collected 1,680 testimonies documenting the illegal pushback and ill-treatment of over 28,800 people within EU States and Turkey. Demonstrating the systemic and widespread nature of pushbacks occurring across several states, BVMN partners have documented an average of 280 testimonies per year since 2017, ³ reflecting pushbacks occurring within 14 different EU States and Turkey.

¹ Border Violence Monitoring Network (BVMN). n.d. *About Us*. Available from: <https://www.borderviolence.eu/about/>

² (e) [...] adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, and to regularly train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with their obligations under international law;

(i) [...] [Recognise] the particular vulnerability of migrants in transit situations, including through national borders, and the need to ensure full respect for their human rights also in these circumstances [...].

Available at:

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F76%2F172&Language=E&DeviceType=Desktop&LangRequeste d=False>

³ In 2017, BVMN's partner organisations have documented 116 testimonies of illegal pushbacks and ill treatment affecting 1248 people. In 2018, there were 219 testimonies documented that recorded 2058 people affected. In 2019, there were 315 testimonies that recorded 3236 people affected. In 2020, 297 testimonies were documented that recorded 6213 people affected. In 2021, 420 testimonies were documented that amounted to 11,001 people affected. In 2022, 293 testimonies were collected that amounted to 5137 people were affected by pushbacks and inhuman treatment.

4.2. Furthermore, investigations carried out by BVMN into the systematic use of violence finds that in some locations, **up to 89% of pushbacks contain one or more forms of violence that we affirm would amount to torture or inhuman treatment.** ⁴ Testimonies collected by BVMNs field-based member organisations have shown the continued and habitual use of excessive and disproportionate force, including violent attacks by groups of officers using improvised weapons such as metal poles or tree branches; the use of forced undressing including forcing men, women, children across international borders in a state of complete nudity, or the punitive use of electric discharge weapons.

4.3. **States are routinely carrying out pushbacks which violate international law**, including the principle of non-refoulement, which has found expression in a number of UN treaties. ⁵

4.4. **Pushbacks demonstrate that States are failing to train public officials to understand their obligations under international law**, including the obligation to protect migrants from human rights violations and to carry out individual assessments of asylum claims. BVMN partners have documented extensive testimony demonstrating that border officials routinely carry out pushbacks and associated human rights violations against people who have explicitly requested access to the asylum procedure. ⁶

4.5. From the testimonies collected, BVMN finds there has been a **consistent use of violence and detention inflicted by officials as responses to migrants' requests for asylum**, and treatment amounting to torture. Forms of violence perpetrated by officials include beating with batons or hands, kicking, threats with guns, and forced undressing.

III. Key challenges: human rights of migrants in vulnerable situations

5. The Resolution adopted by the General Assembly on 16 December 2021 (A/RES/76/172) calls on States to take steps to protect the rights of migrants in vulnerable situations, including through cooperating internationally to save lives and prevent migrant deaths through research and rescue operations, and through adopting measures to better protect women and girls and unaccompanied minors from abuse during migration. ⁷

6. Based on our documentation of pushbacks and associated human rights violations across EU Member States, we assert that:

6.1. **Pushbacks are a systemic practice through which States are avoiding their responsibility to save lives, prevent deaths and injuries**, and carry out effective search and rescue operations. BVMN member organisations have documented testimonies of instances

⁴ BVMN. 2020. "Annual Torture Report 2020." Available at: <https://borderviolence.eu/reports/annual-torture-report-2020/>

⁵ Including: Art. 33 of the 1951 Geneva Convention; Art. 7 of the International Covenant on Civil and Political Rights (ICCPR); Art. 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

⁶ 44% of respondents reported that they expressed wanting to claim asylum during a pushback.

⁷ See 6(b), (j) and (k) of A/RES/76/172. Available at:

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F76%2F172&Language=E&DeviceType=Desktop&LangRequestd=False>

where it has been reported persons with disabilities, injuries or severe medical conditions were denied access to medical care during a pushback.⁸

6.2. Pushbacks are carried out indiscriminately without the identification or certification of migrants in vulnerable situations, including but not limited to potential victims of torture and trafficking, and unaccompanied minors. Since 2019, 46% of respondents have reported that minors were present during their pushback. BVMN notes that identification or registration of migrants by state authorities is rare prior to carrying out pushbacks. In addition to those whose attempts at claiming asylum were refused by state authorities, respondents reported that they were fearful to claim asylum due to a threat of violence.⁹

6.3. Pushbacks frequently create new vulnerabilities or exacerbate existing challenges faced by migrants in irregular or vulnerable situations, including through detaining them in unregistered detention sites in conditions which may amount to incommunicado detention, or by inflicting violence leading to trauma, physical injury, and fear or presenting to authorities. BVMN member organisations have further documented that migrants, including women and unaccompanied minors, are subject to sexual violence at the hands of the state authorities.¹⁰ Additionally, state authorities routinely take and often destroy the property of migrants, including phones, money, passports and medication, increasing their difficulties in accessing emergency services.¹¹

III. Key recommendations relating to human rights of irregular migrants and migrants in vulnerable situations at borders and in transit

We call on the Secretary General to include the following recommendations in their upcoming report on the human rights of migrants:

- **States should act in accordance with international law and human rights standards by immediately ending pushback practices and related human rights violations.**
- **States in which pushbacks have been widely documented should conduct, in line with recognised principles of international law, an effective investigation into the perpetrators of pushbacks.**
- **Survivors of pushbacks, in line with international public law standards, must be granted adequate reparation.**
- **States should establish independent and impartial border monitoring mechanisms at their external border with a broad mandate to investigate violations at the border.**

⁸ BVMN [collected by Josoor]. 2021. ‘We took our clothes off and then they ordered us to take off our boxers. He looked at me and asked me, ‘are you Muslim?’ I said yes, and suddenly he tried to hit me in my sensitive place and slap my face’ <https://borderviolence.eu/testimonies/march-6-2021-0000-nei-psathades-serem/> [Accessed 10/5/23]

BVMN [collected by Crowbar Crew]. 2020. ‘The Croatian police gives you nothing. We weren’t even allowed to go to the toilet’ <https://borderviolence.eu/testimonies/february-23-2020-1200-near-highway-d32-croatia/> [Accessed 10/5/23]

⁹ BVMN [collected by Josoor]. 2021. ‘You are Muslim and we are Christian why come to us go to a Muslim country’ <https://borderviolence.eu/testimonies/september-3-2021-1100-dilofos-3-4km-from-venikadin/> [Accessed 10/5/23]

¹⁰ BVMN [collected by No Name Kitchen]. 2021. ‘Police said to me open all your clothes and said to other boys look at him’ <https://borderviolence.eu/testimonies/august-29-2021-0600-road-1-croatia/> [Accessed 10/5/23]

¹¹ 67% of respondents reported theft of personal belongings and 36% of respondents reported destruction of personal belongings. <https://borderviolence.eu/testimonies/august-29-2021-0600-road-1-croatia/>