

## Human Rights Watch submission to the Special Rapporteur's report on pushback practices and their impact on the human rights of migrants

January 2021

With reference to the upcoming report to the 47<sup>th</sup> session of the Human Rights Council, issued by the Special Rapporteur on the human rights of migrants, Human Rights Watch welcomes the opportunity to provide input on the human rights dimensions of pushback practices at international borders.

Human Rights Watch is an independent international organization dedicated to investigating, documenting, and exposing human rights violations worldwide. While recognizing that other countries are also perpetrating collective expulsions, we have chosen in this submission to focus on current practices and trends of pushbacks at international borders that we have documented in the following states: **Croatia, Cyprus, France, Greece, Malaysia, Malta**, and the **United States**, as well as the **European Union/Frontex**. Because of limitations on length of submissions, our focus has been on pushbacks at land and maritime borders and seas, but we have also documented and received reports of collective expulsions from the interiors of territories, including from [Algeria](#), [Saudi Arabia](#) (from the [interior](#) and at the [border](#)), [Tanzania](#), [Trinidad and Tobago](#), [Turkey](#), and [Yemen](#).

### **Croatia**

In [December 2018](#), Human Rights Watch documented that Croatian police were pushing migrants and asylum seekers back to Bosnia and Herzegovina, in some cases violently, and without giving them the possibility to seek asylum. Croatian police deported them to Bosnia and Herzegovina without due process after detaining them deep inside Croatian territory.

In October 2020, [credible reports](#) alleged that Croatian border patrol police had carried out brutal pushbacks involving dozens of asylum seekers between October 12-16, including some alleged instances of sexual abuse, beatings, and robbery. The Croatian government [dismissed](#) the allegations of violence but said it would launch an investigation with the goal of removing any doubt about police conduct and punishing any possible misdemeanors.

The EU Commission should put Croatia on notice for breaching EU law and condition border management funding on human rights compliance.

### **For more information:**

- November 2019: "EU: Address Croatia Border Pushbacks"  
<https://www.hrw.org/news/2019/11/08/eu-address-croatia-border-pushbacks>
- July 2019: "Croatia: President Admits Unlawful Migrant Pushbacks"  
<https://www.hrw.org/news/2019/07/15/croatia-president-admits-unlawful-migrant-pushbacks>
- December 2018: "Croatia: Migrants Pushed Back to Bosnia and Herzegovina"  
<https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>
- January 2017: Croatia: Asylum Seekers Forced Back to Serbia  
<https://www.hrw.org/news/2017/01/20/croatia-asylum-seekers-forced-back-serbia>

### **Cyprus**

In September 2020, we published a [report](#) documenting how Cypriot coast guard forces summarily

pushed back, abandoned, expelled, or returned more than 200 migrants, refugees, and asylum seekers coming from Lebanon during the first week of September, without giving them the opportunity to lodge asylum claims. The boats contained Syrian refugees as well as Lebanese nationals fleeing their country's worsening economic and political crisis.

We interviewed 15 Lebanese and Syrian nationals who entered or attempted to enter Cyprus or its territorial waters by boat between August 29 and September 7. Every migrant we interviewed who had encounters with Cypriot authorities said they pleaded not to be returned to Lebanon – and some explicitly requested asylum – but in no case were any allowed to lodge asylum claims. People reported being threatened by Greek and Turkish Cypriot coast guards and said that Greek Cypriot coast guard vessels circled them at high speeds, swamping their boats, and in at least one case abandoned them at sea without fuel or food. In a case on September 3, a metal coast guard vessel rammed into a wooden boat full of people, injuring children and a woman. In some cases, Cypriot coast guard forces transferred people onto civilian passenger vessels guarded by marine police and took them directly back to Lebanon. Some interviewees reported that marine police handcuffed and beat people who resisted return. One Lebanese man said, “They handcuffed me, and hit me with sticks.”

Cypriot authorities should order their security forces to stop endangering lives through dangerous maneuvers at sea and end the brutal treatment of people on the vessels. Judicial authorities should investigate allegations that coast guard personnel are involved in acts that put the lives and safety of migrants at risk. Any officer engaged in illegal acts, as well as their commanding officers, should be subject to disciplinary sanctions and, if applicable, criminal prosecution.

**For further information:**

- September 2020, “Cyprus: Asylum Seekers Summarily Returned,” <https://www.hrw.org/news/2020/09/29/cyprus-asylum-seekers-summarily-returned>

***European Union / Frontex***

In October 2020, a group of media outlets published a [detailed investigative report](#) alleging the European Union Border and Coast Guard Agency (Frontex) involvement in pushback operations at the Greek-Turkish maritime border, in the Aegean Sea. The reports said that asylum seekers and migrants were prevented from reaching EU soil or were forced out of EU waters.

Frontex's mandate obliges officers and the officers of member states deployed to [respect fundamental rights](#), but the agency has been [under heavy criticism](#) for the shortcomings of its internal monitoring and accountability mechanisms. On October 27, [Frontex announced](#) an internal inquiry into the incidents reported by the media.

Since Frontex deployed officers along the full length of the Turkey-Greece land border in March, Human Rights Watch has documented that Greek law enforcement officers [routinely summarily returned asylum seekers](#) and migrants through the land and sea border with Turkey.

On June 19, 2020, Frontex wrote to Human Rights Watch, saying it does not have the authority to investigate allegations of abuse by EU member states' police or border guards deployed in Greece. It said such investigations are conducted by the competent national authorities.

Frontex mandate should exercise its mandate by withdrawing financing or by suspending or terminating its activities if there are serious violations of fundamental rights related to its activities.

**For more information:**

- November 2020: “EU: Probe Frontex Complicity in Border Abuses”  
<https://www.hrw.org/news/2020/11/09/eu-probe-frontex-complicity-border-abuses>
- July 2020: “Greece: Investigate Pushbacks, Collective Expulsions”  
<https://www.hrw.org/news/2020/07/16/greece-investigate-pushbacks-collective-expulsions>

**France**

We [reported](#) in May 2019 that French border police in Hautes-Alpes department were summarily returning unaccompanied migrant children who attempted to cross the border between Italy and France, instead of referring them to protection services. French law provides for an expedited “[entry refusal](#)” process for children and adults apprehended within 10 kilometers of the border. In such cases, police provide a written notice of the reasons for refusing entry and of the rights to seek asylum and to appeal. Children should be appointed a guardian. Police did not appear to respect these limited procedural protections in the nine cases described to Human Rights Watch. One 17-year-old child, from Benin, said: “I showed my papers that said that I was a minor, but the police didn’t want to hear it.” In October 2020, rights groups [reported](#) that children have also been sent back without due process from Menton (France) to Vintimiglia (Italy), sometimes after being detained for several hours at the French border police station.

France should afford unaccompanied children who arrive at its borders special safeguards that protect their human rights, as set out in international and EU law.

**For more information:**

- May 2019, “Subject to Whim: The Treatment of Unaccompanied Migrant Children in the French Hautes-Alpes,”  
<https://www.hrw.org/report/2019/09/05/subject-whim/treatment-unaccompanied-migrant-children-french-hautes-alpes>

**Greece**

Human Rights Watch has repeatedly documented unlawful returns of migrants and asylum seekers to Turkey, including through violent pushbacks and collective expulsions, by Greek law enforcement officers and others.

In a March 2020 [report](#), Human Rights Watch documented that Greek security forces and unidentified armed men at the Greece-Turkey land border had detained, assaulted, sexually assaulted, robbed, and stripped asylum seekers and migrants, then forced them back to Turkey, in February and early March. Human Rights Watch interviewed 21 asylum seekers and migrants in Turkey about their attempts to enter Greece over the land border. All said that armed men wearing law enforcement uniforms or in civilian clothes intercepted and detained them and stole their belongings before summarily pushing them back to Turkey. Seventeen described how the men assaulted them and others, including women and children, through electric shocks, beating with wooden or metal rods, prolonged beating of the soles of feet, punching, kicking, and stomping. Two said that Greek security forces used live fire to push people back, which resulted in injuries. Since then, law enforcement officers [have summarily returned](#) thousands of people to Turkey, including people picked up by police hundreds of kilometers inside Greece.

In [July](#) 2020, we reported that law enforcement officers had summarily returned asylum seekers and migrants at the land and sea borders with Turkey in March and April 2020. Some officers used violence and confiscated and destroyed migrants' belongings. We interviewed 13 victims and witnesses who described incidents in which the Greek police, the Greek Coast Guard, and unidentified men who appeared to be working in close coordination with uniformed authorities, violently pushed migrants back to Turkey. Six interviewees said Greek officers rounded up people in the Diavata camp for asylum seekers in Thessaloniki, inside Greek territory; six others said Greek security personnel and armed masked men carried out summary returns to Turkey from the Greek islands of Rhodes, Samos, and Symi, casting them adrift on inflatable rescue rafts with no motor near Turkish territorial waters. One asylum seeker said the Greek Coast Guard and unidentified men used dangerous maneuvers to force a boat full of migrants back to Turkey.

Greek judicial authorities should investigate these allegations, and any officer engaged in illegal acts, as well as their commanding officers, should be subject to disciplinary sanctions and, if applicable, criminal prosecution.

**For more information:**

- October 2020: Letter to Members of the Hellenic Parliament calling for an investigation into border abuses  
<https://www.hrw.org/news/2020/10/06/open-letter-members-hellenic-parliament-calling-investigation-border-abuses>
- July 2020: "Greece: Investigate Pushbacks, Collective Expulsions"  
<https://www.hrw.org/news/2020/07/16/greece-investigate-pushbacks-collective-expulsions>
- March 2020: "Greece: Violence Against Asylum Seekers at Border"  
<https://www.hrw.org/news/2020/03/17/greece-violence-against-asylum-seekers-border>

**Malaysia**

In 2020, numerous boats, each with hundreds of Rohingya refugees, left the overcrowded, flood-prone camps in Cox's Bazar, Bangladesh, for Malaysia. Malaysian authorities repeatedly turned away boats of asylum seekers attempting to land, leaving hundreds of Rohingya in [life-threatening conditions at sea](#), contrary to international search and rescue obligations. Several boats returned to Bangladesh, with some refugees sent to quarantine in the camps while over 300 were [confined in dangerous conditions](#) on the remote silt island of Bhasan Char.

On June 8, Defense Minister Ismail Sabri said that Malaysian authorities [had blocked the arrival](#) of 22 boats since May 1. That same day Malaysian officials reportedly [intercepted a boat](#) carrying Rohingya with the intention of returning it to international waters, but a damaged engine prevented the pushback. Approximately 50 refugees jumped off the boat and swam to shore, where they were detained, while the boat with the remaining passengers was towed to Langkawi. The Malaysian Maritime Enforcement Agency arrested them on arrival and detained them at the Nation Building Camp center. The director-general of the maritime agency said [only 70 percent](#) of the detained Rohingya were able to walk when they arrived due to the harsh boat conditions and lack of adequate food and water.

A second vessel carrying about 300 people that left Cox's Bazar at the same time was allegedly [pushed back](#) by Malaysian authorities after "many attempts to enter Malaysian waters," and was left stranded in waters off of Thailand's Koh Adang, after Malaysian authorities provided it with food and fuel. "Bangladesh is neither obligated nor in a position to take any more Rohingya," said [Foreign Minister AK Abdul Momen](#) on June 9.

Malaysia should rescue Rohingya refugees stranded at sea and provide them with assistance and access to asylum.

**For more information:**

- June 2020: “Malaysia/Thailand: Allow Rohingya Refugees Ashore, End Pushbacks, Grant Access to Aid and Asylum.” <https://www.hrw.org/news/2020/06/12/malaysia/thailand-allow-rohingya-refugees-ashore>

**Malta**

During 2020, Malta participated in illegal pushbacks at sea and delayed rescue operations of boats in distress carrying migrants and asylum seekers. Nongovernmental groups like Alarm Phone documented at least seven cases between March and August in which Italian and Maltese authorities appear to have delayed sea rescue operations. Failure by the Maltese and EU authorities to respond to repeated distress alerts [may have contributed](#) to the deaths of at least five people and the disappearance of seven others.

Credible sources also reported serious pushback incidents taking place in April. A joint investigation by the Italian newspaper [Avvenire](#) and the UK newspaper [the Guardian](#), based also on [evidence collected by Alarm Phone](#), alleged that the Armed Forces of Malta intercepted a boat carrying 101 people in April 2020 and told them at gunpoint to continue toward Italy. On April 15, the privately-owned *Dar al Salam 1*, allegedly acting on orders from Malta, intercepted a boat carrying 40 men, 8 women, and 3 children, and returned them to Libya, where they were [detained in the Tarik al Sikka detention center in Tripoli](#). On April 30, [a former Maltese official told prosecutors](#) investigating the allegations that he coordinated the pushback under instructions from the prime minister’s office as part of [a long-standing role as liaison with Libyan authorities](#). Despite this human toll, Malta proceeded in May to sign a cooperation agreement with Libya to counter irregular migration.

Malta should abide by its obligations in its search-and-rescue region by coordinating and performing rescues ending in timely disembarkation in a place of safety, including Malta, and base any cooperation with Libya on concrete measures to fully respect migrants’ safety and rights.

**For more information:**

- August 2020, “Migrants Face Trial after Resisting Return to Libya as Children,” <https://www.hrw.org/news/2020/08/12/migrants-face-trial-after-resisting-return-libya-children>
- May 2020: Malta: Disembark Rescued People <https://www.hrw.org/news/2020/05/22/malta-disembark-rescued-people>

**United States**

The United States has used the Covid-19 pandemic as a pretext to expel migrants and asylum seekers at the US-Mexico border without giving them an opportunity to state or pursue asylum claims. On March 20, 2020, the Centers for Disease Control and Prevention (CDC) issued an order under a rarely used provision of a 1944 law, Title 42 of the United States Code, to authorize US immigration authorities to summarily expel most people they apprehend at land borders. Reportedly acting at Vice-President Mike Pence’s [direction](#), the CDC director [overruled](#) CDC officials who had refused to issue the order after concluding that it had no valid public health basis.

US border agents have put some of those whom they summarily expelled on planes and returned them to their home countries and flown others to Mexico City. Most have been taken to the nearest border crossing and told to walk into Mexico.

US Customs and Border Protection (CBP) carried out [more than 183,000](#) Title 42 summary expulsions from March 20 through January 7, 2021. These expulsions included thousands of unaccompanied children: By early September, CBP had expelled at least 8,800 unaccompanied children under the CDC order, the government disclosed in [court filings](#).

At this writing, the administration of President Joe Biden has not committed to a repeal of the border public health order authorizing these expulsions.

The United States should fully reverse the Title 42 CDC Order, while taking rational, evidence-based, non-discriminatory measures to ensure public health without violating the principle of nonrefoulement and the right to seek asylum.

**For further information:**

October 2020: “CDC Director Doubles Down on Endangering Asylum Seekers,”

<https://www.hrw.org/news/2020/10/15/cdc-director-doubles-down-endangering-asylum-seekers>

May 2020: “Trump Administration Uses Pandemic as Excuse to Expel Migrants: Summary Expulsion Power Extended Indefinitely,” <https://www.hrw.org/news/2020/05/20/trump-administration-uses-pandemic-excuse-expel-migrants>

April 2020: “Human Rights Watch Comment on CDC Interim Final Rule Suspending Entry of Persons into the US,” <https://www.hrw.org/news/2020/04/23/human-rights-watch-comment-cdc-interim-final-rule-suspending-entry-persons-us>

