PICUM

PLATFORM FOR INTERNATIONAL COOPERATION ON
UNDOCUMENTED MIGRANTS

PICUM Input

"Promotion and Protection of the Human Rights and Fundamental Freedoms of Africans and of People of African Descent against Excessive Use of Force and Other Human Rights Violations by Law Enforcement Officers"

April 2022

> PICUM is a network of organisations that seeks to advance social justice and human rights for undocumented migrants. Grounded in principles of social justice, anti-racism and equality, and with two decades of evidence, experience and expertise on undocumented migrants, PICUM promotes recognition of their human rights and provides an essential link between local realities and the debates taking place at policy level. Founded in 2001 as an initiative of frontline organisations, today PICUM leads a diverse network of over 160 civil society organisations in more than 30 countries.

SYSTEMIC VIOLENCE AGAINST MIGRANTS IN THE EUROPEAN UNION

The European Union (EU)'s common asylum and migration policy, which has been in place for 23 years has led to violations of migrants' human rights both at the external border of the EU as well as within the EU. Human rights groups, NGOs and civil society have extensively documented violence and ill-treatment against migrants at borders, and through internal practices such as detention, deportation and stop-and-search police procedures, among others. The European Network Against Racism (ENAR) argued in its 2021 report on police brutality:

> Migrants across Europe experience violence and at times torture due to police and law enforcement misconduct, during forced return operations and in detention as well as illegal collective expulsions. Current EU policy that is designed to curb migration can result in the dehumanisation and criminalisation of irregular migrants. Recent EU plans to increase the number of expulsions from the EU will cost hundreds of millions of euros, create giant, opaque and unaccountable agencies and further undermine claims that the EU occupies the moral high ground in its treatment of migrants. The migration enforcement system especially targets racialized groups.

UNHCR stated in February 2022 that violence at the borders of the European Union is increasing and that "what is happening at European borders is legally and morally unacceptable and must stop."

Violence, ill-treatment and pushbacks[1] of migrants and asylum seekers at EU land and sea borders is prevalent in the EU.

The narrative that irregular migration is a threat to the European Union and thus should be combated with more policing has been reinforced by a new proposal on EU internal borders control. The proposal, codified as a reform of the Schengen Borders Code and presented in December 2021 by the European Commission, intends to further increase surveillance and control over non-EU citizens crossing internal and external borders. The proposed amended Code would increase the use of technology[2] and would legitimise ethnic and racial profiling. This could lead to people, including children, being transferred between member states without safeguards[3].

In addition to violence experienced by migrants at borders, stop-and-search procedures by the police are a regular occurrence across Europe. A recent report by the EU Fundamental Rights Agency shows that Black people, Asians and Roma are more likely to be stopped by the police. It can be accompanied by excessive use of force, racist language and violence. The risk of racial abuse, violence, imprisonment, family separation or deportation causes intense fear, results in low levels of trust in the police and leads to a reluctance to cooperate with law enforcement. It stigmatises undocumented migrants, and, as the EU's Agency for Fundamental Rights has noted, legitimises and reinforces racism and false stereotyping against people from Africa or of African descent in wider society and among law enforcement officials. The criminalisation of irregular migration status undermines their safety and wellbeing, drives inequality and marginalisation, and perpetuates systemic discrimination against them.

Police violence against migrants requires understanding and acknowledging these structural dimensions of discrimination and violence. With this contribution, we present a non-exhaustive list of incidents of police violence against migrants, including Africans and people of African descent - building on previous PICUM's contribution from 2020, focusing on cases published in 2021 and 2022. While the cases presented in this statement highlight violence against Africans and people of African descent, it is important to note that for some of the examples, the violence being described is also directed against people from South Asia and the Middle East. When possible, the nationality or origin of the people affected is included.

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[1] The European Union Agency for Fundamental Rights (FRA) defines pushbacks as "when a person is apprehended after an irregular border crossing and summarily returned to a neighbouring country without assessing their individual circumstances on a case-by-case basis." Pushbacks are an increasing phenomenon at Europe's borders and entails the violation of "the right to seek asylum and the protection against *refoulement*, which are at the core of international refugee and human rights law".

[2] For more information on how data and surveillance affect migrants lives at EU borders and beyond, see: PICUM, 2022, *Digital Technology, Policing and Migration – What does it mean for undocumented migrants? Briefing Paper*

[3] PICUM has analysed in-depth the new proposal, both in a previous submission to the UN Special Rapporteur on the Human Rights of Migrants as well as in our website.

EXAMPLES OF DOCUMENTED INCIDENTS OF VIOLENCE AGAINST MIGRANTS, INCLUDING AFRICANS AND PEOPLE OF AFRICAN DESCENT

Ukraine and the EU's Eastern borders

Non-Ukrainians fleeing war face detention in the EU's Eastern countries and Ukraine

Since Russia initiated a military invasion of Ukraine on 24 February 2022, more than 5.2 million people have fled Ukraine (as of 24 April) according to UNHCR, and another 7.1 million have been internally displaced (as of 5 April) as reported by IOM. The European Union activated its 2001 Temporary Protection Directive on 4 March 2022, a move welcomed by PICUM and other civil society organisations[4], which also regretted its limited scope.

Non-Ukrainians and stateless people fleeing the conflict are encountering challenges in accessing protection in the EU. African students who were in Ukraine before the conflict have reported receiving different treatment than white Ukrainians, including violence when trying to leave the country. The UNHCR chief, Filippo Grandi, has denounced this as discrimination and racism.

Regarding racist incidents against non-Ukrainians, Lighthouse Reports has shared on its Twitter account a thread of 94 tweets (between 28 February and 22 April) with updated information on the situation of African people in Ukraine. In the thread they shared the video of an African student who was pushed out of a train when trying to flee Lviv; collected testimonies of other African students who claimed being ignored and left last to cross the border regardless being queuing before; and videos of police officers at the Polish border threatening black people.

African students who fled Ukraine are further experiencing discrimination on EU territory. Lighthouse Reports, in partnership with other media outlets, reported on 23 March 2022 that at least 52 third-country nationals who had fled Ukraine were held in detention facilities in Poland, and a Nigerian student is believed to be in detention in Estonia and threatened with deportation. According to the Nigerians in Diaspora Commission (NiDCOM), on 20 April 2022, many Nigerians who were held in detention centres in Poland have been released. Lighthouse Reports informed on 22 April that two Ethiopians asylum seekers who had been released from a immigration centre in Ukraine were detained in Poland.

According to a press release from Human Rights Watch (HRW) in April 2022, migrants and asylum seekers are being detained in centres in Ukraine, in active war zones, and are not allowed to seek refuge. HRW interviewed migrants in detention who shared that there had been people from Afghanistan, Algeria, Bangladesh, Cameroon, Ethiopia, Gambia, Ghana, India, Nigeria, and Pakistan in the centre. Lighthouse Reports shows that some of the detainees were able to leave, but at least 45 still remained as of March 22.

> **Testimony**
> One of the HRW interviewees detained in Ukraine stated that when he and other detainees tried to peacefully protest being held in the facilities, they were violently stopped: "We want to go. We are

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[4] For a more detailed analysis about the limitations of the Temporary Protection Directive, please see: PICUM, March 2022, *Europe's solidarity must extend to all and prevent more people from becoming undocumented* and *EU welcome for Ukraine refugees — a new gold standard?* by Michele Levoy, PICUM's director

terrified…. We tried to walk towards the gate … and after we were marching towards the gate…. They beat us. It was terrible. Some of my friends were injured."

The Balkans

Thousands of cases of internal and external EU pushbacks of refugees and migrants, including Africans and people of African descent, have been [documented](#) by NGOs, [journalists](#) and monitoring bodies in the Balkan region in the past years.

Romania: police brutality against migrants at the border with Serbia

In Romania, the Border Violence Monitoring Network ([BVMN](#)), in a [written input](#) to the UN Committee on Economic, Social and Cultural Rights ([CESCR](#)) in October 2021, highlighted the "continued use of torture and inhuman treatment by Romania authorities as documented across 95% of pushbacks". The Network, through 15 recorded testimonies in 2020 and 10 in 2021, registered abuses by the Romanian police against 209 people in 2020 and against 153 people between January and July 2021, including children. They define inhumane treatment and torture during the pushbacks as (but is not limited to) "the use of excessive and disproportionate force, the punitive use of electric discharge weapons and the prolonged forced exposure to extreme weather conditions". The BVMN has also stated that the Romanian authorities refused to grant access to healthcare to migrants and refugees who needed medical treatment.

Similarly, in a previous report by the European Council of Refugees and Exiles ([ECRE](#)) in its Asylum Information Database ([AIDA](#)) [country report for Romania](#), the Jesuit Refugee Service in Romania ([JRS](#)) collected testimonies in various parts of the country that informed of "ill treatment" against migrants and refugees by border authorities between 2018 and 2020. JSR noted that the majority of the survivors of police violence did not report the abuses as they feared the encounters with the police.

In its April 2021 [report](#), the Protecting Rights at Borders initiative ([PRAB](#))[5] revealed that pushbacks from Romania appeared to be the most violent pushbacks of the countries surveyed[6] where a large number of the people interviewed claimed physical abuse as well as theft and destruction of their belongings.

Testimony

A 36-year-old man from Mali [shared](#) his experience when he was violently mistreated by the Romanian police at the border with Serbia on 13 January 2021. The man, who had attempted to cross the Serbian border and reach Hungary and Romania on many occasions in the past, recalled how the Romanian police hit him and two other friends with truncheons, burnt their clothes, took their money and phones, forced them to do push-ups in freezing weather and threatened to kill them if they ever tried to cross the border again.

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[5] The PRAB initiative includes organizations operating across a range of different countries: Italy (Associazione per gli Studi Giuridici sull'Immigrazione (ASGI), Diaconia Valdese (DV) and Danish Refugee Council (DRC) Italia); Hungary (Hungarian Helsinki Committee); Bosnia and Herzegovina (DRC BiH); Serbia (Humanitarian Center for Integration and Tolerance (HCIT)); North Macedonia (Macedonian Young Lawyers Association (MYLA)); Greece (Greek Council for Refugees (GCR) and DRC Greece); and Brussels (DRC Brussels).
[6] Other countries included in the report were: Italy, Hungary, Bosnia and Herzegovina, Greece, Serbia and North Macedonia.

The Belarusian and EU Eastern borders

Pushbacks and freezing temperatures at the Polish – Belarusian border

In 2021, according to the European border agency, Frontex, approximately 8,000 irregular crossings were detected at the Eastern EU borders with Belarus. Since the summer of 2021, migrants and asylum seekers – including a minority from African countries – have remained stranded in the border area between Poland and Belarus. They have experienced violence by border authorities as they faced hunger, thirst and life-threatening cold temperatures. At least 17 people from Syria, Iraq and Yemen were reported dead as of December 2021, and four others (21 in total) were reported dead in February 2022.

A Human Rights Watch report from November 2021 showed how human rights violations were being committed on each side of the border, where people were stranded in freezing temperatures in forests, having to cross rivers and swamps. In interviews with people from Syria, Afghanistan, Lebanon and Sudan, Amnesty International revealed in December 2021 that the Belarusian forces had perpetrated "serious torture or other ill treatment", including beatings, confiscations of belongings and denied people access to food, water and medical treatment.

Amnesty International published a press note in April 2022 that after an interruption during winter, there was an increase in the number of people trying to cross the Poland-Belarusian border. Most of the migrants they interviewed reported excessive use of force by the Polish police, as well as the arbitrary detention of thousands of migrants and asylum seekers. Amnesty argued that people detained were brought to detention centres that were "overcrowded and filthy".

Testimony

A Syrian man told Amnesty International: "There were about ten [Belarusian] soldiers and they had four dogs with them. They said they would let the dogs loose so if we didn't run fast, we would get bitten. The soldiers ran after us beating anyone who didn't run fast enough with batons".

Greece

Police violence in Greek detention centres

In November 2021, the Greek Council for Refugees and Oxfam published a briefing paper denouncing how detention of migrants and asylum seekers for administrative purposes has become a common practice in EU-funded centres in Greece. The country changed its legislation recently[7] to expand the grounds on which migrants and asylum seekers can be detained, often ignoring alternatives to detention and violating the right to freedom of movement, health and family life. The Border Violence Monitoring Network (BVMN) published a report in February 2022 revealing police brutality, structural and racist violence that target migrants in Greece, including detention centres. The COVID-19 lockdown measures reportedly intensified these patterns of violence.

One of the centres investigated by the BVMN, the state-run centre of Paranesti, exhibits the ill treatment of migrants. People detained there were allowed access to health care only in case of emergencies, were violently punished for instigating hunger strikes – which had been started in

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[7] ECRE, 2021, *Asylum in Greece: A situation Beyond Judicial Control?* (p. 28-30)

response to a lack of adequate food - and were actively humiliated and dehumanized by staff and security at the centre.

> **Testimony**
> In February 2021, an Algerian child reported being attacked by 15 people also detained in the Paranesti centre. The police officers who witnessed the aggression laughed while watching, and later took the child to a confinement cell. There, he was forced to undress, and was "handcuffed, [had] a helmet placed over his head, and 10 litres of water emptied out onto him by police officers. He then reports being beaten with plastic batons and kicked by officers".

France

Violent evictions of migrants in Northern France

Since the dismantling of the Calais camp in 2016, human rights groups have denounced the continuous evictions of migrants in Northern France, highlighting the excessive force used by the French police during the forced removals, and warning about the normalisation of this violence.

Human Rights Watch published a report in October 2021 on the inhumane treatment of migrants during continued evictions, documented to be at least 1,226 cases in 2021, according to the watchdog Human Rights Observers (HRO). HRO also recorded inhumane treatment by the police in its monthly newsletter, including the use of knives to lacerate tents when people were still inside, migrants being violently brought to the ground, humiliating practices like the police playing "football" with the belongings of the evicted, or officers laughing while video-recording evicted migrants who were forced to cross a ditch.

The French organisation Utopia 56 claims that after a migrant who had tried to cross from Calais to the UK on 1 June 2021 was intercepted and physically beaten by the police, this violence increased. That same month, June 2021, Utopia 56 collected more testimonies of migrants in Calais – mainly from Eritrea – who had suffered abusive treatment by the police, involving "tents being gassed, people being beaten, a police officer urinating on a man, people left barefoot on a highway ramp after their shoes were taken, and a man burned on the legs with a lighter". More recently, in January 2022, the same organisation reported forced evictions from Calais between December 2021 and January 2022, where the police used excessive force, tear gas and "*lanceurs de balles de défense* (LBD)", a kind of rubber bullet weapon, against migrants.

> **Testimony**
> A migrant, whose experience was included in a collection of testimonies compiled by HRO in June 2021, recalled how he had been beaten by the police after the car he was travelling in Northern France was stopped: "I opened the door and as I got out of the car one of the officers hit me. I didn't have time to talk to him. He did not say anything to me. He immediately hit me with his pistol in my right ear. I fell to the ground and my ear started to bleed".

Spanish – Moroccan borders

Ceuta and Melilla, the two small Spanish enclaves bordering Morocco, are the only European Union (land) borders on the African continent. The Spanish government has attempted to seal off the territories to dissuade irregular entry by building and rebuilding wired fences since the 1990s, and by investing in high-tech securitisation for migration control. In the past decades, the press and civil society have reported on numerous cases of inhumane treatment against African migrants in Ceuta and Melilla by border authorities during reported pushbacks (many of them of children). In 2021 and 2022, these patterns of violence were reproduced in the largest crossings ever recorded in the Spanish cities.

Melilla: Police violence in the Spanish enclave of Melilla

Between the end of February and the first week of March 2022, thousands of people attempted to reach EU territory by crossing the Moroccan-Melilla border. The largest crossing ever recorded in the Spanish city took place on 2 March 2022, when more than 2,500 people tried to climb the fence, with 450 people succeeding. The following day, on 3 March, 1,200 other people tried to reach the enclave, and 380 people were able to do so. Those who crossed the fence came from Benin, Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Gambia, Guinea, Mali, Senegal and South Sudan. The Spanish news shared in social media (*trigger warning*) footage of black migrants being pepper-sprayed by the Guardia Civil, and another man was brutally beaten with truncheons before reaching land. The incidents – which the Minister of Interior considered 'proportionate'– will be investigated by the Spanish Ombudsman. On the Moroccan side, in the province of Nador, the Association Solidarity Wheels reported witnessing brutality by the Moroccan police against a group of at least 100 people from Sub-Saharan African who tried to climb the fence. Videos from the Moroccan media further illustrate the dehumanising treatment migrants received.

Ceuta: violent responses by Spanish authorities to largest crossing ever recorded

On 17 and 18 May 2021, more than 8,500 people arrived in Ceuta from Morocco by swimming or by climbing the fence. Two people drowned as they tried to reach Ceuta by sea and another man (allegedly) killed himself by jumping from a 10 metre wall. It is the largest number of people ever recorded irregularly crossing into Spanish territory in such a short period of time. As dozens of men from Sub-Saharan Africa waited on the top of the fence, the Spanish police assembled on the ground to prevent migrants from climbing down. A report by multiple NGOs[8] collected testimonies of different African migrants who had experienced or witnessed pushbacks and violence from the Spanish and Moroccan authorities. They recalled the Spanish police throwing plastic bullets aimed at the neck and hands of those attempting to climb the fence, as well as using tear gas against the crowds in the bordering Moroccan province of Fnideq.

Thousands were sheltered in warehouses in deplorable conditions, and pushbacks of children were reported. The Guardia Civil and the local police patrolled through the streets of Ceuta as hundreds remained hidden (many of them children) to avoid being deported. Some of the interviewees and the neighbours assisting them reported excessive use of force by the police.

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[8] Border Violence Monitoring Network, No Name Kitchen, Solidarity Wheels and Disinfaux Collective

> **Testimony:**
> Mohamed, a 28-year-old from Morocco, told a journalist: "I had gone last night to look for food, because there are people who tell us to knock on the door and they would give us some dinner, but on the way the police turned up ….[The policeman] hit me with a truncheon on the lip, he broke it, but I managed to escape…. [A friend] was beaten up and was left lying there".

RECOMMENDATIONS

Addressing violence against migrants by law enforcement authorities requires addressing the structural factors that drive it. In the European context, steps in this direction would include:

- **Greater accountability by the EU for police violence against migrants in EU member states, using the legal, political and economic levers at its disposal, and taking a clear position against it.** The foreseen revision of the EU's Racial Equality Directive provides an occasion to strengthen standards for preventing and creating greater accountability for incidents of discriminatory policing and of violence by authorities against migrants, including those with insecure or irregular status.

- **Non-governmental organisations play a key role as watchdogs of fundamental rights and should therefore be granted access to border areas**. This is even more critical at times in which human rights defenders and NGOs face increasing criminalisation and intimidation for their work denouncing pushbacks. To prevent further instances of criminalisation, it is key to set a clear right for NGOs to access border areas, monitor and report on fundamental rights violations at the EU external borders and provide information to migrants.

- **To address the increasing instances of pushbacks, it is essential to put in place a strong and independent mechanism that monitors human rights violations at the borders**. The new European Pact on Migration and Asylum, published in 2020, includes in one of its legislative proposals a screening regulation which stipulates that Member States shall have independent mechanisms to monitor fundamental rights (recital 23 and article 7). This mechanism should cover all border management operations and should be able to act on information received from people who are now outside the European Union. Allegations of pushbacks should be adequately and promptly investigated and clear accountability mechanisms should be in place.

- **The EU should lead by example by scaling back the machinery of immigration enforcement that is increasingly built on a model of surveillance and policing, due to the unjustified conflation of migration and security agendas**. This should be replaced with sustainable, forward-looking policies based on evidence and human rights.

- **Improved implementation of the EU's Victims' Directive that prioritises safety over status**. The EU Victims' Directive requires that any person who has been victimised within the EU can access - without discrimination on any ground including residence status - support, services and justice for the crime they have suffered. Full implementation of the Directive in a way that benefits undocumented migrants requires ensuring they have full and unconditional access to services and protection when they are victimised, and are protected from deportation when they come forward to report or to receive help by "firewalls" that restrict the enforcement of immigration rules against them.

- **Prioritising a shift to community-based alternatives to detention**, by ensuring that children and people with vulnerabilities are not put in immigration detention, and recognising that people in detention are at risk of violence procedural safeguards which are more difficult to enforce in these settings. This strategy would be in line with the commitments that signatories (including 18 EU member states) of the UN Global Compact on Safe, Orderly and Regular Migration have made to work towards ending the immigration detention of children and to prioritize non-custodial alternatives to detention, which have been evaluated favourably within the European context.

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