

Mandates of the Special Rapporteur on the human rights of migrants; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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(Please use this reference in your reply)

25 February 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/6, 42/22, 45/3, 44/5 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the ongoing practice of pushbacks of migrants by the Coast Guard of Trinidad and Tobago, including a recent incident of interception of a boat with 39 Venezuelan migrants and asylum seekers on board, including 10 children, and the alleged use of firearms during this operation, which reportedly resulted in the death of a one-year-old child and the injury of his mother.**

Concerns regarding interceptions and pushbacks at sea of Venezuelan migrants and asylum-seekers carried out by the Trinidadian Coast Guard were included in previous communication AL TTO 1/2022, transmitted by Special Procedures' mandate holders on 19 January 2022. Similarly, concerns regarding the disappearance of 58 Venezuelan migrants travelling from Venezuela to Trinidad and Tobago between April and June 2019 were subject to previous communication AL TTO 1/2020, transmitted by Special Procedures' mandate holders on 14 September 2020. We regret that, to date, no reply has been received to these communications.

According to the information received:

On 6 February 2022, a boat that had allegedly departed from Tucutipa in the Bolivarian Republic of Venezuela, entered the territorial waters of Trinidad and Tobago. On board, there were 39 Venezuelan nationals, including 10 children. Reportedly, the Coast Guard of Trinidad and Tobago attempted to intercept the boat near the southeast of the island, before it could reach the shore. As first attempts to stop the vessel reportedly failed, officers allegedly fired warning shots. Then, as the boat continued to advance, the Coast Guard reportedly opened fire and shot at the vessel's engine.

According to the reports, a woman and her one-year-old baby were injured during this operation. The woman, who was reportedly bleeding as a result of gunshot wounds, was taken to a medical facility on the island of Trinidad.

However, the baby did not survive. The cause of his death has not been disclosed by Trinidadian authorities.

The National Security Minister announced that the incident was being investigated by both the Coast Guard and the police of Trinidad and Tobago. It has also been reported that Trinidadian authorities have stated on several occasions that the Coast Guard acted in accordance with the Government's policy and the laws of Trinidad and Tobago, in which has been described as an "act of self-defense".

It appears that the remaining individuals found on board of the vessel intercepted on 6 February 2022 were detained by the Coast Guard. All of them, including 9 children, were taken to the Chaguaramas Heliport in Trinidad and Tobago, where they allegedly remained in detention for five days. On 11 February 2022, the Ministry of National Security of Trinidad and Tobago issued a statement announcing that 35 of the 39 Venezuelan nationals intercepted at sea on 6 February 2022 had been "repatriated" to Venezuela with the assistance of the Venezuelan counterparts, after it was determined that they were not victims of human trafficking. Reportedly, the investigation concerning the interception operation of 6 February 2022 was still ongoing when these migrant persons were deported. In this respect, it has been reported that the deportations were carried out despite a request to the Minister of National Security to allow these persons to remain in Trinidad and Tobago until the investigation was completed. Trinidadian authorities allegedly did not collect their statements as witnesses of the events under investigation before their deportation. On the other hand, it has been reported that some of those detained and subsequently deported had relatives living on the island of Trinidad and Tobago.

Furthermore, Trinidadian authorities reportedly stated that the intercepted vessel was travelling along a common route used by Venezuelan migrants to reach Trinidad and Tobago irregularly. This maritime route, as mentioned in previous communications AL TTO 1/2022 and AL TTO 1/2020, remains very dangerous: shipwrecks, deaths and disappearances of Venezuelan migrants and asylum-seekers continue to be reported along this route.

In this regard, since 2018, there have been ongoing reports of interceptions of boats with Venezuelan migrants and asylum-seekers on board along this route. Boats are reportedly intercepted by the Coast Guard before they can reach the island, preventing them from disembarking. Reports received also refer to Trinidadian authorities conducting pushbacks at sea after intercepting boats, and forcibly and collectively returning individuals on board to Venezuela, without conducting an individual assessment of their circumstances and international protection needs. In other instances, it has been reported that Venezuelan migrants and asylum seekers on board, including children, are apprehended by the Coast Guard and subsequently held in detention in the island of Trinidad. In addition, it has been alleged that the Coast Guard of Trinidad and Tobago has made excessive use of force against Venezuelan migrants and asylum seekers on several occasions.

Without prejudging the accuracy of the information received, we are deeply concerned about the alleged involvement of Trinidadian Coast Guard officers in acts that seem to have endangered the safety and lives of migrants and asylum seekers. Particularly, we express our serious concern regarding the alleged use of firearms by Coast Guard officers during the interception of a boat with migrants and asylum-seekers on board, including children, posing a serious threat to the lives and physical integrity of individuals on board. We especially emphasize our deepest serious concern over the death of a one-year-old child and the injury of his mother, allegedly as a result of the Coast Guard intervention. We also note allegations of repetition and continuity of similar interception operations conducted by the Trinidad and Tobago Coast Guard of boats carrying Venezuelan migrants and asylum seekers, including children, aimed at preventing them from disembarking in Trinidad and Tobago and returning them to Venezuela. Therefore, we remain concerned about potential similar interventions in the future that continue to endanger the safety and lives of migrants and asylum seekers, already put at risk by the conditions of the maritime route itself.

In this regard, we would like to bring your Government's attention to article 3 of the Universal Declaration of Human Rights which states that "Everyone has the right to life, liberty and security of person", and to articles 6 (the right to life), 7 (freedom from torture) and 9 (right to liberty and security) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Trinidad and Tobago on 21 December 1978. In this respect, we wish to highlight that under international human rights law, the absolute right to life entails both a positive obligation on the State to protect the right to life and security of the person and a negative obligation not to engage in acts that would jeopardise the enjoyment of that right.

We also wish to express our deep concern over allegations of the excessive use of force employed by Coast Guard officers in some interception operations, and especially the use of arms during the interception of the boat on 6 February 2022. The use of force, including of lethal force, is strictly regulated under international human rights law. We would like to refer to General provision 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which requires that law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.

Furthermore, we wish to express our concern regarding the alleged detention and subsequent deportation of 35 of the 39 Venezuelan persons, including 9 children, found on board of the boat intercepted on 6 February 2022, only 5 days after their apprehension by the Trinidadian Coast Guard and while the investigation was reportedly ongoing. In this regard, we wish to stress that States should ensure that all border governance measures taken at international borders, including those aimed at addressing irregular migration, are in accordance with the principle of non-*refoulement* and the prohibition of arbitrary or collective expulsions.

The principle of non-*refoulement* is codified in the 1951 Refugee Convention, to which your Government is party since 10 November 2000, and prohibits all forms of removal and transfer of any individual, regardless of their status, when there are substantial grounds for believing that the individual would be at risk of irreparable

harm, such as death, torture or cruel, inhuman or degrading treatment or punishment, persecution, enforced disappearance or other serious human rights violations, in the place to which they are to be transferred or removed.

In this respect, we also draw your Excellency's Government attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, which establishes the absolute and non-derogable prohibition against enforced disappearances (articles 2 and 7). The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Heightened consideration must also be given to children in the context of return. The best interests of the child should be the paramount consideration in decisions. Where return is deemed not to be in the child's best interests, families should be kept together in the country of residence. In the case of families with children, the government authorities responsible for processing returns should ensure that children are not separated from immediate family members in the return process (A/HRC/38/41, para. 44). We wish to stress that families should never be separated unless the separation is necessary to ensure the best interests of the child.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details, and where available the results, of the investigation on the above-mentioned allegations, including the use of force and ill-treatment of migrants and asylum-seekers by Coast Guard personnel of Trinidad and Tobago. In addition, please indicate if any judicial or other inquiry has been undertaken in relation to the above-mentioned incident. Have any penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
3. Please provide information on measures taken to ensure that the use of force and the use and possession of firearms by authorities and personnel in direct contact with the migrant population are strictly regulated in accordance with international human rights standards and that any misuse or excessive use of firearms is duly sanctioned.
4. Please provide detailed information on any guidelines and/or protocols adopted by your Excellency's Government for the interception of boats with migrants on board in the territorial waters of Trinidad and Tobago, and how these instruments are in compliance with international obligations.

5. Please explain the factual and legal grounds for the deprivation of liberty of the Venezuelan migrants found on board the vessel intercepted on 6 February 2022, , and how this is compatible with the international human rights obligations of Trinidad and Tobago. Please provide information regarding alternative and less restrictive measures to deprivation of liberty that can be provided to migrants and asylum seekers, including persons who entered the territory of Trinidad and Tobago irregularly. Please also provide information on measures taken or to be taken by your Government towards ending immigration detention of children, as well as efforts made to provide effective protection, adequate care and non-custodial reception for migrant children.
6. Please provide detailed information on the 35 Venezuelan migrants, including 9 children, who were reportedly deported on 11 February 2022. Please indicate how their individual circumstances and protection needs were considered prior to their deportation. Please also indicate whether their statements as witnesses on the incident of 6 February 2022 were taken by Trinidadian authorities prior to their deportation.
7. Please indicate what measures have been taken by your Excellency's Government to protect the human rights of migrants and asylum-seekers at international borders, regardless of their migration status. In particular, please indicate measures taken or to be taken by your Government to ensure border management measures are in accordance with the principle of non-*refoulement* and the prohibition of arbitrary and collective expulsions.
8. Please provide information on the measures taken by your Excellency's Government to protect the human rights of migrant children, in particular measures allowing family reunification in Trinidad and Tobago. Please also indicate whether your Excellency's Government has adopted or is considering adopting measures such as special protocols for the identification and protection of migrant children at the border.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Felipe González Morales
Special Rapporteur on the human rights of migrants

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

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