

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 the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on trafficking in persons, especially women and children

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(Please use this reference in your reply)

23 July 2024

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 the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 52/20, 51/8, 54/14, 49/13, 51/21 and 53/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of pushbacks of at least 52 asylum-seekers by the Republic of Cyprus to the buffer zone, in violation of the principle of non-refoulement, and causing a serious negative impact on their physical and mental health by remaining stranded in the buffer zone.**

Concerns regarding pushbacks of migrants including those seeking asylum and protection by the Republic of Cyprus were raised in a communication addressed to your Government on 12 July 2021 (CYP 2/2021). We are grateful for the response received from your Excellency's Government on 8 September 2021. In the reply, it was stated that, despite the challenges, the Republic of Cyprus continued to fulfil its international human rights obligations and is working towards the implementation of the Global Compact on Migration and on Refugees. We welcome the commitment of your Excellency's Government to continue to advance policies to protect migrants and refugees in all sectors, including integration of migrants and refugees into Cypriot society.

According to the information received:

Between 15 and 27 May 2024, authorities of the Republic of Cyprus intercepted eight women, four men, and two children, who were attempting to cross the buffer zone on foot from the northern part of Cyprus to the southern part of Cyprus, near Akaki and Aglandjia. Intercepted asylum-seeking individuals were not allowed to enter the the southern part of Cyprus and were pushed back to the buffer zone by personnel of the Republic of Cyprus. Pushed back persons are living in a temporary camp in the buffer zone, without access to asylum procedures or clarity on alternatives or pathways to resolve their situation, remaining stranded. Stranded individuals are from Afghanistan, Cameroon, Iran, and Sudan. All have expressed the wish to seek asylum, while one is identified as a potential victim of trafficking in persons by UNHCR. At least one asylum-seeking individual who, after being stranded

in the buffer zone for several days tried to escape by running towards the southern part of Cyprus, was reportedly intercepted by the Republic of Cyprus police and was pushed again back into the buffer zone.

From 2 to 12 June 2024, a second group of two women, eight men and seven children of Syrian origin, was also intercepted and prevented from entering the Republic of Cyprus while attempting to cross the buffer zone on foot. They remain stranded in the buffer zone ever since. All 17 persons have expressed the wish to seek asylum in the Republic of Cyprus.

On 7 June 2024, five of the 17 asylum-seekers in the second group, including one unaccompanied child, escaped the buffer zone and managed to reach the Pournara first reception centre near the Kokkinotrimithia village of the Republic of Cyprus, where they underwent pre-registration interviews and received identification papers for registration purposes. Later that same day, the five asylum seekers were identified by Republic of Cyprus police officers and were taken to an isolated area of the centre, where they were searched and subsequently pushed back to the buffer zone. On 9 June, two days after being returned to the buffer zone, four of the asylum seekers, including the unaccompanied child, escaped from the buffer zone again. The whereabouts of two of them, including the unaccompanied child, remain unknown. On 11 June, the remaining two asylum seekers approached the Pournara first reception centre again. After identifying themselves as persons already registered but returned to the buffer zone, they were kept in isolation, and they were subsequently pushed back to buffer zone for a third time. On 13 June, in the morning hours, a different group of three asylum seekers disappeared from the buffer zone, their whereabouts remain unknown.

Between 30 June and 15 July 2024, nine men, six women and three children of Afghan origin were intercepted and prevented from entering southern part of Cyprus by the republic of Cyprus police, while attempting to cross the buffer zone on foot. All 18 persons have expressed the wish to seek asylum in the Republic of Cyprus.

As of 19 July 2024, at least 41 asylum-seekers remained stranded in the buffer zone, without access to asylum procedures in Republic of Cyprus, despite having repeatedly communicated their intention to apply for asylum in the country.

Moreover, the stranded asylum-seekers in the buffer zone are living in tents exposed to harsh environmental conditions, such as extreme heat with temperatures rising above 42 degrees Celsius. They are also exposed to dangerous insects and other animals. In addition, reports suggest that these asylum-seekers have limited access to water and food, and no access to showers. Some of them require specialized medical care and have limited access to medicine and healthcare. Current living conditions have a significant negative impact on their physical and mental health. Calls on the Republic of Cyprus to support efforts to guarantee the human rights of asylum-seekers who remain stranded in the buffer zone have gone unanswered.

Physical and mental health, and right to life of asylum-seekers:

According to reports, at least 14 asylum-seekers pushed back to the buffer zone have some kind of physical health condition, with at least five having been referred to nearby hospitals due to severe health problems, including kidney issues, pneumonia or conditions related to cancer. On 4 June 2024, an 11-year-old child was stung by a bee. Despite the swelling on his arm and the request of the UNFICYP doctor to move the boy to a hospital, the request was denied, and the child had to remain in the temporary camp at the buffer zone. In addition, a 9-year-old child was hospitalized due to a high fever and a severe toothache. The child remained in the hospital from 9 to 13 June 2024, when she was discharged and returned to the buffer zone despite continuing to present a high fever and without having received specialized dental care.

Additionally, all asylum-seekers have suffered a severe impact on their mental health since being stranded, including from acute stress and anxiety. Moreover, at least two of them, including one child, are at risk of self-harm, with the child being referred by UNFICYP doctors to the Makarios specialized hospital in Nicosia. After staying in the hospital for two weeks, the child and his mother were returned to the buffer zone. On 27 May, two days after his return to the buffer zone, the child was again referred to the hospital after harming himself. Due to the lack of access to welfare officers who could initiate proceedings for his access to the necessary specialized care the child was sent to a police cell, where he spent the night, before receiving professional attention the next day. The child continues to live in the provisional camp in the buffer zone.

The health conditions of these asylum-seekers have been worsened by the intense heat and dust that they endure in the temporary camp, amounting, in some cases, to a serious threat to their lives.

Without prejudging the accuracy of the information received, we are gravely concerned about alleged pushbacks of asylum-seekers to the buffer zone without any individualised assessment of their protection needs and despite repeatedly expressed intention to seek asylum in the Republic of Cyprus by some of them. We note with concern that a group of five persons had reached Pournara first reception centre before being pushed back to the buffer zone. We are concerned about the risk of deportation of the individuals stranded in the buffer zone to non-safe third countries and the risk of them being subjected to chain refoulement. We wish to stress that in the absence of an individualized assessment for each migrant concerned and other procedural safeguards, pushbacks are a violation of the prohibition of collective expulsion and refoulement and heighten the risk of further human rights violations.

In that connection, we wish to refer to the principle of non-refoulement, an essential protection under international human rights, refugee, humanitarian and customary law. The principle of non-refoulement is explicitly codified in the 1951 Refugee Convention, to which the Republic of Cyprus has been party since 16 May 1963. The prohibition of return to a place where individuals are at risk of torture and other ill-treatment is also enshrined in article 3 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by the Republic of Cyprus on 18 July 1991, which provides that no State shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds

to believe that they would be in danger of being subjected to torture.

As per the allegations of pushbacks of asylum-seeking children, heightened consideration must also be given to children in the context of non-refoulement, whereby actions of the State must be taken in accordance with the best interests of the child. We wish to draw the attention of your Excellency's Government to the general comment No. 6 of the Committee on the Rights of the Child (CRC), in which the Committee has considered that, in fulfilling obligations under the Convention, States shall not return a child to a country where there are substantial grounds for believing that there is a risk of irreparable harm to the child, either in the country to which removal is to be effected or in any country to which the child may subsequently be removed. The Committee has further established that States should conduct an assessment of the risk of such serious violations in an age and gender-sensitive manner (CRC/GC/2005/6, par. 27). Furthermore, the Committee has stated that, in the context of best interest assessments and within best interest determination procedures, "children should be granted the right to access the territory, regardless of the documentation they have or lack, and to be referred to authorities in charge of evaluating their needs in terms of protection of their rights, ensuring their procedural safeguards".¹

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.

In addition, we wish to highlight that, while the temporary camp where asylum-seekers, including unaccompanied children and families, are living in provides some basic needs, this situation is not sustainable and requires the full attention of the Republic of Cyprus. In particular, we are concerned that the high temperatures, the presence of dangerous animals and the lack of attention to specific needs of some of the asylum-seekers, including the denial of access to adequate medical care, including hospitals, are having a serious impact on their rights to physical and mental health, and could constitute a risk to their lives. Furthermore, we are concerned about the lack of information regarding at least five asylum-seeking migrants whose whereabouts are unknown.

We would like to recall your Excellency's Government's obligations under articles 11 and 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR), which the Republic of Cyprus ratified on 2 April 1969.

Article 11 of ICESCR protects the right of everyone to an adequate standard of living for themselves and their family, including adequate food and housing. We wish to refer your Excellency's Government to general comment No. 20 of the Committee on Economic, Social and Cultural Rights (CESCR), which states that "The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation" (para. 30).

¹ Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return (CMW/C/GC/4-CRC/C/GC/23, par. 17).

Article 12 of ICESCR protects the right of everyone to the enjoyment of the highest standard of physical and mental health. We would like to refer your Excellency's Government to general comment 14 of the Committee on Economic, Social and Cultural Rights, which indicates that States are under the obligation to respect the right to health by, including by refraining from denying or limiting equal access for all persons, including detainees, minorities, and asylum seekers *inter alia*, to preventive, curative and palliative health services, abstaining from enforcing discriminatory practices as a State policy, and abstaining from imposing discriminatory practices relating to women's health status and needs (CESCR general comment 14, para. 34). General Comment fourteen also indicates that the obligation to protect the right to health includes the duties of States to take measures to protect all vulnerable or marginalized groups of society, in particular women, children, and adolescents. (Para. 35).

Article 24.1 of the Convention on the Rights of the Child (CRC), ratified by the Republic of Cyprus on 7 February 1991, recognizes that children and adolescents have the right to the enjoyment of the highest standard of health and access to facilities for the treatment of illness. We would also like to refer your Excellency's Government to the report of the former Special Rapporteur on the right of everyone to the highest attainable standard to physical and mental health (A/73/216), regarding people on the move, where he called for States to ensure that detained or confined migrants are held in conditions that satisfy health standards and have access to essential health-care services, including mental health care and support services.

In that connection, we would like to refer your Excellency's Government 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 articles 6(1), 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Republic of Cyprus on 2 April 1969, which guarantees the inherent right to life of every individual, the prohibition of torture, as well as the right to liberty and security of the person. In this regard, we would like to highlight that the enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but "must also be available to all individuals, regardless of their nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party" (ICCPR/C/21/Rev.1/Add.13 (2004), para. 10). We would also like to recall that no State shall expel, return (refouler) or extradite a person to another country where there are substantial grounds to believe that he would be in danger of enforced disappearance, as stated in article 8 of the Declaration on the Protection of all Persons from Enforced Disappearance.

We would also like to refer to report of the Working Group on Enforced or Involuntary Disappearances on its country visit Cyprus (A/HRC/51/31/Add.1). The Working Group noted, *inter alia*, the reported instances of refoulement from the northern part of the island, and the impossibility for the asylum seekers at risk of refoulement to seek protection in the southern part of Cyprus following the suspension of the Green Line for their crossing (para. 63). In this regard, the Working Group made several recommendations to the Republic of Cyprus concerning preventive measures in the context of non-refoulement. These included: ensuring strict adherence to the applicable procedures of extradition, return and expulsion; evaluation of returns on a case-by-case basis; express prohibition, in law and practice, the pushing back or collective expulsion of migrants, which is contrary to the

international obligation of non-refoulement and may lead to enforced disappearances; and raising awareness building capacity for State officials, including asylum officers, on the concept of enforced disappearance and on the return of individuals in this context potentially constituting a violation of the principle of non-refoulement (para. 76.(h)-(k)).

Furthermore, article 22(1) of the CRC establishes that “States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties”.

We also wish to highlight the absolute and non-derogable prohibition of torture and ill-treatment as codified in articles 2 and 16 of the CAT. States must respect and ensure the right to be free from torture and ill-treatment without any discrimination. Any intentional infliction of severe pain or suffering “for any reason based on discrimination of any kind”, including based on migration status by definition amounts to torture, regardless of whether it is inflicted by or at the instigation or state officials themselves, or merely with their consent or acquiescence (A/HRC/37/50, para. 13).

We also wish to highlight obligations in relation to the identification and protection of victims of trafficking as enshrined in article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), ratified by your Excellency’s Government on 6 August 2003. In particular, we recall article 6, which sets out provisions for “Assistance to and protection of victims of trafficking in persons,” and article 7, which calls upon States to “consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases” (article 7(1), and, “to give appropriate consideration to humanitarian and compassionate factors” (article 7(2)). Similarly, we wish to refer to the Council of Europe Convention on Action against Trafficking in Human Beings ratified by your Excellency’s Government on 24 October 2007, in particular articles 10 and 12.

In this context, we highlight the obligation on States to ensure that victims of trafficking are given an effective opportunity to seek and enjoy asylum and other forms of international protection and that they are not penalised for their mode of entry into the State. General recommendation No. 38 of the Committee on the Elimination of Discrimination against Women, on trafficking of women and girls in the context of international migration, reiterates the importance of the non-punishment principle and the obligation of States to ensure its application to all victims “without exception” (CEDAW/C/GC/38, para. 98).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 any comment you may have on the above-mentioned allegations.
2. Please specify the measures that are being taken, or will be taken, to ensure that migrants seeking asylum in the Republic of Cyprus have access to asylum procedures and adequate reception centres and are not forcibly removed and pushed back to the buffer zone or other locations, were they may face risks to their lives or they would be in danger of being subjected to gross human rights violations, including enforced disappearance.
3. Please indicate which measures have been taken by your Excellency's Government to ensure that border management procedures are in accordance with the principle of non-refoulement and the prohibition of arbitrary and collective expulsions.
4. Please explain how your Excellency's Government has endeavored to ensure that the conditions in the buffer zone do not threaten the lives, do not amount to cruel and inhuman treatment, and to a violation of the right to an adequate standard of living for migrants and asylum-seekers stranded there, especially considering the extreme temperatures, lack of adequate shelter, limited access to food, water and sanitation.
5. Please explain how the Government is ensuring access to continuous and adequate medical care, including psychological care, for the asylum-seekers in the buffer zone, particularly those in urgent need of specialized care.
6. Please provide information on any measures that are put in place to ensure the human rights of children, including unaccompanied children, in the buffer zone. Please explain how your Excellency's Government is collaborating with international organizations to safeguard the rights of asylum-seeking children.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and personal integrity of the persons concerned, 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.

Further, we would like to inform that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit a case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The

present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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.

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