

Mandates of the Special Rapporteur on the situation of human rights in Eritrea; the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the human rights of migrants

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(Please use this reference in your reply)

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Eritrea; Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 53/2, 54/14 and 52/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged **arbitrary detention and forcible return from Türkiye of an estimated 300 Eritreans, in violation of the non-refoulement principle. We also wish to bring to your attention information we have received concerning the imminent risk of refoulement from Türkiye of an additional group of approximately 50 Eritreans, at risk of being subjected to serious human rights violations, including torture, enforced disappearance and arbitrary detention, upon their return to Eritrea.**

According to the information received:

Since June 2024, approximately 300 Eritreans have allegedly been forcibly returned to their country of origin by the Turkish Presidency of Migration Management. Deportations were reportedly carried out without conducting an adequate individual assessment of the risks that the returnees may be subjected to upon their return to Eritrea, in violation of the non-refoulement principle, and putting them at further risk of persecution or other human rights violations.

There is no official information available about the whereabouts of the Eritrean nationals deported from Türkiye after their arrival in Eritrea. In the majority of cases, their relatives have been unable to contact or access them or obtain any information about their fate or whereabouts. These individuals have been reportedly placed outside the protection of the law and, in the absence of any information on their fate and whereabouts by the authorities, they are subjected to enforced disappearance. In several cases, we have received information indicating that the persons deported have been either detained or conscripted into military service. Detention in Eritrea places individuals at a heightened risk of torture and inhuman or degrading treatment. Further, conscription into the military service has been linked to serious human rights violations, including forced labour, torture, inhuman or degrading treatment, and sexual and gender-based violence.

Furthermore, according to the allegations received, a second group of approximately 50 Eritreans are currently detained at Aydın Removal Centre. Individuals reportedly remain detained without charges and without access to legal representation or assistance by relevant national and international

organizations, including by the Human Rights and Equality Institution of Türkiye. Further, they would not have had effective access to the asylum procedure to make an asylum or protection claim. Furthermore, information suggests that detained individuals have been subjected to torture and beatings by guards at Aydın Removal Centre, following an incident in which several Eritrean nationals attempted to physically resist their forcible removal from Türkiye. We have also received information regarding inadequate conditions of detention, including detention in metal containers in very hot weather, lack of access to adequate medical care or to personal hygiene products, and the impossibility to communicate with the outside world, including with detainees' families and legal representatives.

According to the information received, the Eritrean nationals currently detained in Türkiye would be at risk of imminent deportation to Eritrea, which would place them at significant risk of being subjected to gross human rights violations, including torture and enforced disappearance.

While we do not wish to prejudge the accuracy of these allegations, we express our deep concern over the alleged collective deportation of 300 Eritreans to their country of origin in violation of the non-refoulement principle, and the continued detention and risk of refoulement of a further 50 Eritrean nationals, despite substantial grounds that they may be subjected to persecution or to other serious human rights violations, including torture and inhuman or degrading treatment and enforced disappearance upon their return to Eritrea. We express our serious concern about the information received indicating that several of the Eritreans deported by Türkiye to their country of origin have since been arbitrarily detained and / or conscripted into the military service, while dozens of those deported disappeared and their fate and whereabouts remain unknown.

The UN Commission of Inquiry on Human Rights in Eritrea and the mandate of the Special Rapporteur on the situation of human rights in Eritrea have extensively documented the treatment of persons subjected to deportation upon their arrival in Eritrea. Returnees are frequently arrested, questioned, and detained in extremely punitive conditions, in violation of fundamental rules of international law, including the right to fair trial or due process of law. The Special Rapporteur on the situation of human rights in Eritrea has extensively documented the torture and inhuman and degrading treatment, and prolonged detention under extremely punitive conditions of those detained in Eritrea, including in his latest report presented to the Human Rights Council in June 2024 (A/HRC/56/24). Numerous human rights violations have also been documented in connection to deported Eritreans, including torture during interrogation, incommunicado detention and enforced disappearance, while others were made to undertake forced labour or serve in the military for indefinite periods of time. We note that the Eritrean military service has also been consistently linked to serious human rights violations, with conscripts being subjected to arbitrary and indefinite conscription, torture, inhuman or degrading treatment, sexual harassment and sexual violence, and arbitrary detention.

We express grave concerns about violations of the human rights of the aforementioned Eritreans subjected to deportation from Türkiye, in relation to Türkiye's obligations under international human rights and refugee law, in particular as set out in the 1951 Refugee Convention, ratified by Türkiye on 30 March 1962, the International Covenant on Civil and Political Rights and the Convention against

Torture.

In this regard, we would like to draw the attention of your Excellency's Government to article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Türkiye on 2 August 1988, which provides that "[n]o State party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds to believe that he [or she] would be in danger of being subjected to torture"; and that "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights".

As an inherent element of the prohibition of torture and other forms of ill-treatment, the prohibition on refoulement under international human rights law is also more expansive than the protections afforded under refugee law insofar as it applies to any form of removal or transfer of persons, regardless of the status or grounds for seeking protection, and is characterized by its absolute nature, without any exception, even if the persons were not to qualify for refugee or asylum status under article 33 of the 1951 Refugee Convention or domestic law. Additionally, the principle of non-refoulement should be interpreted to apply to a wide range of risks of irreparable harm and should be applied to prevent the return of persons in cases of risk of serious human rights violations, such as risks to the rights to life, integrity or freedom of the person, and of torture and ill-treatment. We also draw the attention of your Excellency's Government to paragraph 16 of the Resolution A/RES65/205 of the UN General Assembly, which "...recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement."). In addition, article 8 of the Declaration on the Protection of All Persons from Enforced Disappearance establishes 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 enforced disappearance.

In light of allegations that migrants may be subject to disappearances, including enforced disappearances, in Eritrea, we underscore that the prohibition of enforced disappearance has also attained the status of jus cogens, and article 8 of the Declaration on the Protection of All Persons from Enforced Disappearance, which enshrines customary international law, establishes that no State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that this person would be in danger of enforced disappearance.

Furthermore, involuntary returns cannot be lawfully carried out without due process of law. Under international law, the decision to expel, remove or deport a non-national may only be taken after an examination of each individual's circumstances, in accordance with the law, and when procedural guarantees have been respected. In this connection, individuals facing deportation/repatriation should have access to a fair, individualized examination of their particular circumstances, access to legal representation, and to an independent review mechanism with the authority to appeal negative decisions. In this context, an analysis of the general human rights situation in that State must be taken into consideration. In the absence of such procedures, the forced returns carried out by the Turkish authorities may amount to arbitrary or collective expulsion, which are prohibited under international law.

We wish to express our grave concern regarding allegations of violations of the right to seek asylum. In this regard, we would like to refer to article 14 of the Universal Declaration of Human Rights which provides that “everyone has the right to seek and to enjoy in other countries asylum from persecution”. Also, under international human rights law, Türkiye has the obligation to assess the protection needs of asylum seekers arriving to its territory, as well as to ensure their effective access to asylum procedures and subsidiary international protection. Asylum seekers should have access to a full and fair hearing of their claims, with adequate legal representation, and should be able to appeal decisions before they are returned to their country of origin. We also encourage Türkiye to provide access to relevant national and international organizations to the Eritrean nationals who remain in detention, including to the Human Rights and Equality Institution of Türkiye.

We urge your Excellency’s Government to undertake a thorough individual assessment, in full respect of their fundamental safeguards, of the risks the remaining Eritrean nationals could incur upon deportation to Eritrea, including the potential risk of torture and ill treatment, arbitrary detention and enforced disappearance.

We are also deeply disturbed by the allegations referring to the ongoing detention of Eritrean migrants and asylum seekers in Türkiye. We would like to recall that, according to international human rights standards, detention for immigration related purposes should be a measure of last resort, only permissible for adults for the shortest period of time, when no less restrictive measures are available. We emphasize that the enjoyment of rights guaranteed by the International Covenant on Civil and Political Rights (ICCPR), ratified by Türkiye on 23 September 2003, is not limited to citizens of State parties, but “should also be accessible to all persons, regardless of their nationality or stateless status, such as asylum-seekers, refugees, migrants and other persons, who may be in the territory or under the jurisdiction of the State party.” We also wish to draw the attention of your Excellency’s Government to the Working Group of Arbitrary Detention’s revised deliberation no. 5, in which it emphasizes that any form of administrative detention or custody in the context of migration must not only be applied as an exceptional measure of last resort and for the shortest period but can also only be justified by a legitimate purpose, such as documenting entry and recording their claims or initial verification of identity if in doubt. The irregular entry and stay in a country by migrants should not be treated as a criminal offence, and the criminalization of irregular migration will therefore always exceed the legitimate interests of States in protecting their territories and regulating irregular migration flows. Further, any form of detention, including detention in the course of migration proceedings, must be ordered and approved by a judge or other judicial authority. Anyone detained in the course of migration proceedings must be brought promptly before a judicial authority, before which they should have access to automatic, regular periodic reviews of their detention to ensure that it remains necessary, proportional, lawful and non-arbitrary.

We note with concern the reported poor detention conditions at Aydin Removal Centre, including inadequate infrastructure, overcrowding, poor sanitation, limited access to healthcare, and lack of access to communication with the outside world, including with the detainees’ families and legal representatives. We are particularly concerned about the allegations received regarding the beating of a group of Eritreans as punishment for their refusal to be removed to Eritrea, which may amount to torture.

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 the view of irreversibility of the refoulement to Eritrea, we urge your Excellency's Government to take all steps necessary to prevent further deportations of Eritreans that may amount to a violation of the prohibition of refoulement. We call upon your Excellency's Government to review the situation of Eritreans who remain in detention, to provide full access to the asylum system, and to ensure a thorough individual assessment of their cases and the identification of any protection needs, with all the necessary safeguards and in full respect of their fundamental rights and taking all necessary measures to prevent any irreparable damage to their life and personal integrity. We also call on your Excellency's government to ensure that Eritreans in detention have access to legal assistance, and that they can contact their families and counsel of their choice.

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 explain the factual and legal grounds for the deprivation of liberty of the Eritrean migrants and asylum seekers currently in detention in Türkiye, and how these are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.
3. Please indicate measures adopted by your Excellency's Government to protect the human rights of Eritrean nationals, regardless of their migration status, and how these measures are in accordance with international human rights law and other relevant international standards. In particular, please indicate measures taken or to be taken by your Excellency's Government to ensure the full respect of the principle of non-refoulement.
4. Please provide detailed information on the existing legal procedures in Türkiye, ensuring the possibility for foreign nationals, including Eritrean nationals in detention, to challenge the decision to deport them and the safeguards applied in that regard.
5. Please provide information regarding alternative and less restrictive measures to deprivation of liberty that can be provided to migrants and asylum seekers.
6. Please provide detailed information on the Eritrean migrants and asylum seekers who were deported to Eritrea since June 2024. Please indicate how their individual circumstances and protection needs were considered prior to their deportation. Please provide information on whether the potential risks faced upon return to Eritrea have been assessed individually for each of the concerned Eritrean nationals.

7. Please provide information on the measures taken to protect the life and the physical and psychological integrity of the individuals concerned after their deportation to their home country, and facilitate, through appropriate channels and cooperation, their contacts with their family, counsel and other persons of their choice.
8. Please provide detailed information on the legal status and conditions of detention of the Eritrean nationals mentioned in this communication, who remain in detention in Türkiye, as well as any deportation measures that may be planned.
9. Please provide information on the measures taken to protect the rights of Eritrean nationals who remain in detention, including to adequately and individually assessing their circumstances and protection needs and to prevent the risk of refoulement.

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. In particular, we urge your Excellency's Government to stay any order or return to Eritrea the Eritrean individuals currently held at Aydın Removal Centre or at other detention centers in Türkiye, and to adopt all necessary measures to prevent any irreparable harm to their life and personal integrity.

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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