

Submission to the United Nations Human Rights Committee regarding Turkey's adherence to the International Covenant on Civil and Political Rights

Suggested List of Issues Prior to Reporting

Report for the 132nd Session of the International Covenant on Civil and Political Rights

Submitted by:

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## **I. Reporting Organisation**

1. Border Violence Monitoring Network (BVMN) is a coalition of organisations working to document illegal pushbacks, collective expulsions and police violence along the EU's external borders in the Western Balkans, Greece and Turkey since the network's formulation in 2016. The collection of data on illegal pushbacks and police violence is done by a consortium of independent field volunteers who are part of or cooperate with humanitarian support groups united through the Border Violence Monitoring Network.

## **II. Executive Summary**

2. Despite the ratification of the International Covenant on Civil and Political Rights (ICCPR) and its subsequent integration into Turkish domestic law, we assert that Turkey has failed to meet its obligations under the ICCPR.

3. We affirm that the practice of pushbacks, collective expulsions and the refoulement of refugees and migrants carried out by Turkish authorities is in contradiction to the obligations set out under the ICCPR.

4. As set out within Article 6 and 7 of the International Covenant on Civil and Political Rights, States have an obligation not to return a person where there are substantial grounds for believing that there is a real risk of irreparable harm. Therefore, due to the continued human rights violations being perpetrated against the populace in Syria, we assert that all actions of pushbacks, collective expulsions or any other forms of return carried out or facilitated by the Turkish State to Syria would violate Article 6 and Article 7 of the ICCPR.

5. Furthermore, we assert that all and any 'voluntary returns' agreed through coercive measures<sup>1</sup> are null and void, and should further be viewed as an additional violation of the International Covenant on Civil and Political Rights inline with Article 6 and 7.

## **III. Pushbacks, collective expulsion and refoulement as a violation of the International Covenant on Civil and Political Rights**

**Article 6 ICCPR:** Article 6 of the International Covenant on Civil and Political Rights

**Article 7 ICCPR:** Article 7 of the International Covenant on Civil and Political Rights; General

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<sup>1</sup> Amnesty International. (2019). Turkey: Syrians illegally deported into war ahead of anticipated 'safe zone'. Available: <https://www.amnesty.org/en/latest/news/2019/10/turkey-syrians-illegally-deported-into-war-ahead-of-anticipated-safe-zone/>

Comment No.20 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)<sup>2</sup>.

### **Explanatory Note:**

7. ‘Pushback’ is a common term to denote the action of State representatives forcibly and in most cases collectively returning individuals seeking protection to another country in an irregular/informal manner and subsequently preventing or restricting them access to protection mechanisms.

8. Pushbacks encompass the legal concept of collective expulsion and the principles of non-refoulement which are prohibited under Article 6 and Article 7 of the ICCPR. The United Nations Human Rights Committee has previously outlined that States must not expose individuals to danger or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement<sup>3</sup>. Furthermore, State parties are required to ensure these rights extend to persons who may not be in the States territory but fall under the States effective control<sup>4</sup>.

9. The Border Violence Monitoring Network, through our field-based partner organisations, have collected testimonies that recall Turkish authorities pushing back and refouling people to Syria and Greece. We assert that both destinations of refoulement come with considerable risk of further rights violations, and due to the violence, abuse and torture that routinely accompany pushbacks, the pushbacks themselves should also be viewed as a violation of the ICCPR.

### **Evidence of pushbacks to Syria:**

10. Since 2016 the Working Group on Enforced or Involuntary Disappearances has expressed “serious concern” regarding the high number of mass returns of Syrian refugees from Turkey. The Working Group has cited the allegations of violence by border guards, including the use of live ammunition, to prevent Syrian nationals, including children, from entering Turkey from the Syrian Arab Republic<sup>5</sup>.

11. Following the expression of serious concern, the Working Group further confirmed that the act of pushing back migrants or conducting collective expulsion contravenes the

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<sup>2</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992. Available at: <https://www.refworld.org/docid/453883fb0.html>

<sup>3</sup> Ibid

<sup>4</sup> UN Human Rights Committee (HRC), *CCPR General Comment No.33 [80] The Nature of the General Obligation Imposed on State Parties to the Covenant*, 26 May 2004. *CCPR/C/21/Rev.1/Add.13*. Available at: <https://www.refworld.org/docid/478b26ae2.html>

<sup>5</sup> UN Human Rights Committee (HRC), *Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey*, 27 July 2016. Available at: <https://undocs.org/A/HRC/33/51/Add.1>

Declaration. In light of that, the report confirmed that mass returns by Turkish authorities could violate Turkey's obligations of non- refoulement under the Declaration<sup>6</sup>.

12. In addition to UN bodies identifying the rights violations incurred during Turkey's return or refoulement proceedings, a wide range of NGOs and civil society actors have also independently collected evidence that further corroborates such claims.

13. In 2016, Amnesty International published evidence of the 'near-daily' forced expulsion of around 100 Syrian men, women and children from Turkey to Syria. At the Southern Turkish border, multiple testimonies were collected indicating large-scale returns from the Hatay province to Syria, a practice that is illegal under both Turkish, EU and international law<sup>7</sup>

14. In 2017, Human Rights Watch reported the collective expulsion of large groups of Syrian refugees to Idlib Syria. According to Human Rights Watch, the Turkish authorities have routinely intercepted hundreds, and at times thousands, of asylum seekers at the Turkey-Syrian border since at least December 2017 and summarily deported them to Idlib governorate in Syria<sup>8</sup>.

15. In 2019, Amnesty International published a research report that, through interviews with 28 Syrian nationals, documented 20 cases of unlawful forced returns that occurred between 25th May and 13th September 2019. Amnesty International explained that of the 20 cases documented within their report, the interview respondents said that several dozen (between 35 and 60) people were on their busses, therefore illustrating a sample of several hundred victims of forced returns to Syria by Turkish authorities<sup>9</sup>.

16. In 2019, Mobile Info Team recorded multiple testimonies of people who were pushed back from Greece across the Evros River to Turkey, where they were subsequently arrested by Turkish authorities and then pushed back to Idlib, Syria. Upon being pushed back into Syria,

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<sup>6</sup> UN Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances on enforced disappearances in the context of migration, 28 July 2017, A/HRC/36/39/Add.2, Available at <https://www.refworld.org/docid/59bfb3aa4.html>

<sup>7</sup> Amnesty International. (2016). "Turkey: Illegal Mass Returns of Syrian Refugees Expose Fatal Flaws in EU-Turkey Deal". Available at: <https://www.amnesty.org/en/latest/news/2016/04/turkey-illegal-mass-returns-of-syrian-refugees-expose-fatal-flaws-in-eu-turkey-deal/>

<sup>8</sup> European Council on Refugees and Exiles. (2018). "Human Rights Watch Report: Push Backs of Syrian Refugees by Turkey". Available at: <https://www.ecre.org/human-rights-watch-report-push-backs-of-syrian-refugees-by-turkey/>

<sup>9</sup> Amnesty International. (2019). "Sent to a War Zone: Turkey's Illegal Deportation of Syrian Refugees". Available at: <https://www.amnesty.org/download/Documents/EUR4411022019ENGLISH.pdf>

one of the respondents testifies how as a result of the chain pushback initiated by Greece, he was destined and placed in a prison in Idlib where he was subsequently tortured<sup>10</sup>.

### **Evidence of pushbacks to Greece:**

17. In addition to our concerns regarding the continued evidence that Turkey is conducting pushbacks and refouling people to Syria, BVMN is additionally concerned with the substantial evidence of violent and illegal pushbacks to Greece.

18. In October 2020, BVMN<sup>11</sup> documented a chain-pushback where the respondent was pushed back to Turkey. Once in Turkey, the respondent described being apprehended and attacked by the Turkish authorities before again being pushed back to Greece. During the pushback carried out by the Turkish authorities, the respondent described how they threw stones and fired their weapon into the river to force people to cross back to Greece.

19. In November 2020, BVMN<sup>12</sup> documented a pushback where the respondent was pushed back to Turkey. Once in Turkey, the transit group was met by Turkish soldiers who used their battens and ‘rifles’ to beat the group. Recalling the attack, the respondent said: “It was like they meant to kill us.” After attacking the group, the soldiers then pushed them back across the river to Greece. The respondent indicated that some of the transit group likely died during the pushback by the Turkish authorities.

20. In November 2020, BVMN<sup>13</sup> documented a pushback of 65 people aged between 3 to 50 who after being pushed back across the Turkish border by Greek authorities, were apprehended by Turkish soldiers and all the single men were isolated from the rest of the transit group and pushed back again to Greece.

## **II. Coercive ‘voluntary returns’ as a violation of the International Covenant on Civil and Political Rights**

### **Article 6 ICCPR:** Article 6 of the International Covenant on Civil and Political Rights

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<sup>10</sup> Mobile Info Team. “Illegal Pushbacks at the Border: Denying Refugees the Right to Claim Asylum”. November 2019. Available at:

[https://static1.squarespace.com/static/597473fe9de4bb2cc35c376a/t/5dcd1da2fefabc596320f228/1573723568483/III\\_egal+Evros+pushbacks+Report\\_Mobile+Info+Team\\_final.pdf](https://static1.squarespace.com/static/597473fe9de4bb2cc35c376a/t/5dcd1da2fefabc596320f228/1573723568483/III_egal+Evros+pushbacks+Report_Mobile+Info+Team_final.pdf)

<sup>11</sup> Border Violence Monitoring Network. (2020). I Saw People Walk Into The River and the Current Took Them Away. Available at: <https://www.borderviolence.eu/violence-reports/october-30-2020-0000-nea-vyssa/>

<sup>12</sup> Border Violence Monitoring Network. (2020). “Sometimes they hit you with the baton, for nothing. Just like that. For having fun maybe”. Available at:

<https://www.borderviolence.eu/violence-reports/november-14-2020-0000-dilofos-kapikule/>

<sup>13</sup> Border Violence Monitoring Network. (2020). “My son was crying so much, he was freezing and so afraid of the river”. Available at: <https://www.borderviolence.eu/violence-reports/november-3-2020-2100-close-from-tychero/>

**Article 7 ICCPR:** Article 7 of the International Covenant on Civil and Political Rights; General Comment No.20 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)<sup>14</sup>.

### **Explanatory Note:**

21. In addition to the documented practice of Turkish authorities conducting pushbacks, collective expulsions and refouling refugees and migrants back to Syria, there is a growing acknowledgement of Turkey's use of coercive 'voluntary returns'.

22. In 2019, multiple ministries of the Turkish government attested to the varying extent of their return program. In 2019, The Ministry of Justice had stated that 373,592 Syrian nationals had left Turkey and returned to their country of origin<sup>15</sup>, The Ministry of Foreign affairs had stated the 371,000 people had returned to Syria<sup>16</sup> and the Ministry of Defence said that 580,000 Syrians had been repatriated back to Syria<sup>17</sup>.

### **Evidence of a lack of independent oversight in the Turkish voluntary returns program:**

23. In 2019, the UNHCR<sup>18</sup> observed the interviews of over 34,300 families during their voluntary return process. Whilst significant, this represents only a fraction of the voluntary returns conducted. Furthermore, in 2019, from July to October neither the UNHCR, Turkish Red Crescent or any other NGO was present during voluntary return procedures in Istanbul for Syrian nationals<sup>19</sup>.

24. Additionally, the UNHCR<sup>20</sup> has previously asserted that whilst they attempt to ensure that these voluntary return interviews are free from coercion, they are restricted in their observation activities.

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<sup>14</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 10 March 1992. Available at: <https://www.refworld.org/docid/453883fb0.html>

<sup>15</sup> Haber 3. (2020). '2019'da gönüllü olarak Suriye'ye dönen Suriyeli sayısı açıklandı'. Available at: <https://www.haber3.com/guncel/2019da-gonullu-olarak-suriyeye-donen-suriyeli-sayisi-aciklandi-haberi-5069244>

<sup>16</sup> AA news. (2019) 'Dışişleri Bakanı Çavuşoğlu: 371 bin Suriyeli güvenli şekilde geri döndü'. Available at: <https://www.aa.com.tr/tr/politika/disisleri-bakani-cavusoglu-371-bin-suriyeli-guvenli-sekilde-geri-dondu/1675403>

<sup>17</sup> Ministry of Defence. (2019). Bakanlığın Faaliyetleri ve Gündemdeki Konulara İlişkin Basın Bilgilendirme Toplantısı Düzenlendi. Available at: <https://www.msb.gov.tr/SlaytHaber/27122019-04384>

<sup>18</sup> The Guardian. (2018). 'It's against the law': Syrian refugees deported from Turkey back to war. Available at: <https://www.theguardian.com/global-development/2018/oct/16/syrian-refugees-deported-from-turkey-back-to-war>

<sup>19</sup> Evrensel. (2019). 'İHD'den mülteci hak ihlalleri raporu: Gönüllü geri dönüş formlarında yetkili imza yok'. Available at: <https://www.evrensel.net/haber/390040/ihdden-multeci-hak-ihlalleri-raporu-gonullu-geri-donus-formlarinda-yetkili-imza-yok>

<sup>20</sup> The Guardian. (2018). 'It's against the law': Syrian refugees deported from Turkey back to war. Available at: <https://www.theguardian.com/global-development/2018/oct/16/syrian-refugees-deported-from-turkey-back-to-war>

25. Further highlighting the possible scope for procedural abuse, voluntary return interviews used to establish the elective nature of the return, are not carried out in Turkish removal centres<sup>21</sup>. This means that voluntary returns carried out from removal centres are void of any independent oversight.

### **Evidence of coercion and abuse in the Turkish voluntary return program:**

26. In addition to the continued lack of independent administrative and procedural oversight in the Turkish voluntary return programme, multiple NGOs have documented the use of coercion and abuse inside detention centres to force individuals to agree to sign return documents.

27. In the Erzurum Removal Centre, Amnesty International<sup>22</sup> reported multiple allegations of abuse where Syrian nationals were forced or coerced into agreeing to the voluntary return program. This included a 26-year old Syrian woman and a three-year-old child who were allegedly physically forced to put their fingerprints onto a document as proof of consent to returning to Syria.

28. In the Gaziantep (Oğuzeli) Removal Centre, allegations have arisen that ill-treatment and inhumane detention conditions are used to coerce detainees into opting for voluntary returns. This included ill-treatment against persons with a YTS code and limitations on access to water and hygiene facilities.

29. An investigation by The Guardian<sup>23</sup> found that Syrian nationals detained within the Gaziantep (Oğuzeli) Removal Centre were effectively given the choice between indefinite detention or signing voluntary documents and return to Syria. The investigation found that often Syrian nationals who did not appear to have committed any crime were also being detained here and similarly coerced into signing voluntary returns.

30. Additionally, Human Rights Watch<sup>24</sup> documented a case of a Syrian who had been living in Gaziantep in southeast Turkey since 2013. Here he was arrested by police and transferred to the Gaziantep (Oğuzeli) Removal Centre. He was held there for six days and forced to sign

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<sup>21</sup> Asylum in Europe. (2020). Country Report: Cessation of Temporary Protection. Available at: [https://asylumineurope.org/reports/country/turkey/temporary-protection-regime/qualification-temporary-protection/cessation-temporary-protection/#\\_ftn15](https://asylumineurope.org/reports/country/turkey/temporary-protection-regime/qualification-temporary-protection/cessation-temporary-protection/#_ftn15)

<sup>22</sup> Amnesty International. (2015). Europe's Gatekeeper: Unlawful Detention and Deportation of Refugees from Turkey. Available at: <https://www.amnesty.org/download/Documents/EUR4430222015ENGLISH.pdf>

<sup>23</sup> The Guardian. (2018). 'It's against the law': Syrian refugees deported from Turkey back to war. Available at: <https://www.theguardian.com/global-development/2018/oct/16/syrian-refugees-deported-from-turkey-back-to-war>

<sup>24</sup> Human Rights Watch. (2019). Turkey Forcibly Returning Syrians to Danger. Available at: <https://www.hrw.org/news/2019/07/26/turkey-forcibly-returning-syrians-danger>

a voluntary return document. On July 9, the authorities forcibly returned the men to Azaz in Syria via the Öncüpınar/Bab al Salameh border gate near the Turkish town of Kilis.

31. In the Aydın removal centre, multiple testimonies<sup>25</sup> have indicated how coercion and deceit are used to get Syrian nationals to sign voluntary return forms. One person testified to how after refusing to sign the voluntary return form, he was taken to a nearby bathroom with another Syrian national who had also refused to sign. There, he described being intimidated for several hours and showed images of a man who had been badly beaten and tied to a chair with plastic tape. After being shown these graphic images the guards told him “If you don’t sign, you’ll end up like that.”

32. Additionally, a Syrian national testified to how he was held in a detention facility in Aydın for six days where he was physically and verbally assaulted until he signed a voluntary return document. After signing he was reportedly returned to Syria on July 15 with 35 other Syrians through the Öncüpınar/Bab al-Salameh border crossing.

33. In 2019, Human Rights Watch<sup>26</sup> reported on the case of four Syrians who had been returned to Syria. Human Rights Watch reported that police had arrested him and had coerced him and other Syrian detainees into signing a form, transferred them to another detention centre, and then put them on one of about 20 buses headed to Syria.

34. Additionally, Human Rights Watch<sup>27</sup> published the case of two men who said the Turkish coast guard and police intercepted them at checkpoints near the coast as they tried to reach Greece, detained them, and coerced them into signing and fingerprinting voluntary repatriation forms. The authorities then deported them to Idlib and the northern Aleppo governorate.

### III. Conclusion and recommendations:

35. The Border Violence Monitoring Network is deeply concerned with the continued rights violations being carried by the Turkish State. Therefore, considering the aforementioned evidence of pushbacks, collective expulsions and the violation of the principle of non-refoulement, the Border Violence Monitoring Network respectfully request that the government of Turkey respond to the following questions and recommendations:

1. What measures has the Turkish government implemented to ensure that the conduct of all State actors is in full compliance with the principles of non-refoulement.

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<sup>25</sup> The Atlantic. (2019). Europe’s Complicity in Turkey’s Syrian-Refugee Crackdown. Available at: <https://www.theatlantic.com/international/archive/2019/08/europe-turkey-syria-refugee-crackdown/597013>

<sup>26</sup> Human Rights Watch. (2019). Turkey Forcibly Returning Syrians to Danger. Available at: <https://www.hrw.org/news/2019/07/26/turkey-forcibly-returning-syrians-danger>

<sup>27</sup> Ibid



2. What steps have been taken to ensure that independent monitoring such as the UNHCR has unfettered access to monitor the voluntary returns of Syrian nationals.
3. What steps are being taken to ensure all foreign nationals facing deportation or return proceedings have access to legal representation in line with Turkish domestic law.
4. What progress has been made to investigate allegations of pushbacks and the violation of non-refoulement, including any outcomes or 'judgments passed'.
5. What progress has been made to investigate allegations of violence, torture and inhuman conditions within detention centres, including any outcomes or 'judgements passed'.