

POSITION PAPER UNICEF

ROUNDTABLE PUSHBACKS - 12 JANUARY 2022

A. INTRODUCTION

Who are we?

The United Nations Children's Fund (UNICEF) is a United Nations agency responsible for providing humanitarian and developmental aid to children worldwide. Guided by the 1989 [UN Convention on the Rights of the Child](#), we advocate for the protection of children's rights, helping to meet their basic needs, and giving them a fair chance to reach their full potential.

UNICEF works in over 190 countries and territories to save children's lives, to defend their rights, and to help them fulfil their potential, from early childhood through adolescence.

Protection of children on the move

UNICEF works around the world to protect the rights of migrant and displaced children, address the root causes of migration and displacement; combat xenophobia and discrimination; ensure access to basic services without discrimination based on a child's migration status; prevent and mitigate harmful practices like child immigration detention and family separation; and ensure that migrant and displaced children are engaged and empowered to reach their potential.

Globally, including in Europe, UNICEF, and its partners, provide life-saving humanitarian supplies to migrant, refugee, and internally displaced children, provide child protection services, including mental health and psychosocial support, and ensure access to formal or non-formal education and services to address gender-based violence. We run child-friendly spaces – safe places where children on the move can play, where mothers can rest and feed their babies in private, where separated families can reunite. We support national and local governments to put in place laws, policies, systems, and services that are inclusive of all children and address the specific needs of migrant and displaced children, helping them thrive.

B. PUSHBACKS

UNICEF recognizes member states' sovereignty and the need for border management processes that are safe and orderly, while upholding human and children's rights. UNICEF is deeply concerned about the instrumentalization and pushbacks of children on Europe's borders that resulted in the loss of lives and children and families being put into harms' way.

Reports of children living in appalling conditions, being pushed back on the EU's external borders, forcibly returned or detained, are a direct violation of the UN Convention on the Rights of the Child. Children and their families have the right to access territory to seek asylum and have their protection needs evaluated on an individual basis.

In line with our UN sister agencies at UNHCR, IOM and OHCHR we condemn the use of pushbacks, wherever they occur, as they violate international law and put children's lives at risk without considering their best interest or the risks they may face upon return.

UNICEF main concerns and calls:

- 1) **UNICEF calls upon each EU Member States to uphold access to territory and protection for children seeking asylum in the EU. All children should have their claim evaluated on an individual basis, compliant with the right to seek asylum and the principle of non-**

refoulment. Access should be complemented by swift identification, registration, adequate reception capacities and the frontloading of resources to support referral to appropriate procedures and services.

Recent political discussions suggest a trend towards fortification of external borders, expedited returns procedures, and pushbacks. UNICEF is not only concerned about the children directly affected by these developments, but also the risk of further normalizing and potentially legitimizing pushbacks and related child rights violations in member states approaches to border management. Children and their families have the right to seek asylum and have their protection needs evaluated on an individual basis. Expanded and efficient use of responsibility sharing mechanisms such as family reunification procedures and voluntary relocation schemes can go a long way in sharing pressures responsibly and hereby preempt the need for emergency measures that temporarily suspend asylum procedures.

To prevent the erosion of international standards and practice – in Europe and beyond- it is critical that EU member states sustain their commitments to protect children's rights at the EU's external borders. Any measures that undermine the best interests of children in asylum, border and return procedures will put children's lives at risk and erode international refugee law and shared commitments to safe, orderly and regular migration management.

2. UNICEF calls for children's best interest to be systematically assessed in returns decisions and warns against expedited procedures that do not include sufficient safeguard or consider the risks children may face upon return.

Any proposed measures to expedite returns must be complemented by a renewed emphasis on procedural and legal safeguards and on pathways to regular status for children. The best interests of children should be a primary consideration in their qualification for international protection, submission of applications for other legal protections, or access to other forms of regular status, whether they are unaccompanied or traveling in a family unit.

The precondition to the return of any child – whether unaccompanied or within a family – is that return has been found to be in their best interests through an individual and participative process with the involvement of child protection authorities. To identify a sustainable solution that upholds a child's best interests at every step of asylum, return and migration management, states need to invest in robust best interests' procedures that are led by child protection actors. To ensure returns are sustainable, reintegration assistance should be provided to all returning children, including children returning with family members.

3. UNICEF calls for a renewed commitment to protect children in countries of origin, transit and destinations and warns against policies that reduce protections down to only those who are unaccompanied.

Children who arrive unaccompanied need robust protections and support and should never be returned unless it is found to be in their best interest. At the same time, policies that reduce protections for children in families, can contribute to the instrumentalization, abandonment, and trafficking of children. A child is a child, whether alone or in a family unit.

UNICEF calls for broader legal protections for all children in the context of migration as well as prioritized investments in child protection capacities and services in countries of origin, transit and destination. Sustained investments in reception, referral and child protection capacities and support to enhance collaboration of child protection actors across borders is critical to prevent the exploitation and trafficking of children, prevent children from going missing and strengthen protections for all children within the EU regardless of their migration status.

Children should be prioritized in development and migration partnerships with countries of origin and transit and investments in child-critical services – including child protection and education services- need to be frontloaded. Protecting children and unlocking the talent of children and young people on the move around the world is in the EU's own interests.

4. UNICEF remains concerned that the new procedures may increase reliance on closed facilities as children go through screening, border, asylum or return procedures.

The best alternative to this remains adequate reception and care arrangements for all children and families. Any proposed screening, border, asylum or return procedures need to include robust safeguards to prevent the de-facto deprivation of liberty of children – no matter the age or whether they are in family units. Apart from their very damaging impact on children, closed facilities are extremely costly in practice. Financial investments should be shifted from closed facilities into adequate reception and care arrangements, which tend to be less costly in practice.

UNICEF advocates for children to have freedom of movement (no detention) and access to services at all times. Detention has a very harmful effect on children, even if the detention is of relatively short duration. Children held in detention are at risk of being depressed and anxious. Some show symptoms of post-traumatic stress disorder (PTSD) such as insomnia and nightmares. Incarceration can also cause significant damage to children's long-term cognitive and physical development).

C. THE WAY FORWARD

There is a need for a renewed collective political commitment for the protection and safeguarding of all children in Europe—regardless of their migration status. Migrant, refugee or asylum-seeking children should not be instrumentalized for political purposes and their right to safely claim asylum must be guaranteed.

UNICEF stands ready to work with governments, UN organizations and civil society to provide urgent humanitarian support, protection and child-friendly accommodation for all children in need at international borders and calls for the urgent adoption of asylum and migration reform measures that uphold children's rights in countries of origin, transit and destination.

Together, we can – and we must – ensure the rights of all children are protected and promoted everywhere. A child is a child. No matter the circumstances.