

Ensuring that border monitoring is effective, meaningful and independent

Five recommendations to the European Commission and European Parliament

Policy Recommendations

January 2025

Rights violations at the European borders have been widely documented. The Danish Refugee Council (DRC) is part of the **Protecting Rights At Borders** (PRAB) Initiative, a cooperation of twelve protection and legal aid organisations focusing on human rights compliance at the EU's external and internal borders. From January 2021 to December 2023, PRAB has documented **28,609 pushback cases**. PRAB partners have well-established field presence in the countries of operation enabling direct access to victims of pushbacks, as well as longstanding experience in strategic litigation. Of all pushback testimonies recorded by PRAB in **2023** (in total 5.081), 39% reported denial of access to asylum procedures, while 42% reported physical abuse/assault, 46% theft, extortion or destruction of property, and 63% abusive or degrading treatment.

The tacit acceptance of the persistent and well-documented human rights violations by border authorities at the European borders equals a widespread impunity of EU Member States. The European Commission's proposal, as part of the **proposed pre-entry screening in 2020**, to establish an independent border monitoring mechanism to investigate allegations of rights violations at borders was a first step in the right direction. However, the proposed mechanism could **only address rights violations if** it was expanded in scope; independence was ensured; accountability for violations was strengthened; and suitable consequences would follow governments' non-compliance.

Unfortunately, Article 10 of the [Screening Regulation](#), the final text following negotiations between the European Parliament and Council of the EU, failed to address all [concerns expressed by civil society organisations](#). The national monitoring mechanisms thus risk becoming fig leaves behind which violations continue. The operationalization of the monitoring mechanism should be done in good faith to effectively do what its name claims.

Fundamental rights violations on the EU's land and sea borders often go unreported. Investigations into these violations need to be more effective. More information about the PRAB initiative and its reports available [here](#), and joint recommendations on an effective border monitoring mechanism are available via this [link](#). The human rights impact of pushbacks at EU borders is also further documented by [the UN Special Rapporteur on the human rights of migrants](#), the [UN Refugee Agency](#), the [International Organization for Migration \(IOM\)](#), as well as [human rights](#) organizations.

Danish Refugee Council's five recommendations for attention and action by the European Commission and European Parliament to ensure effective monitoring and accountability for rights violations and pushbacks at European borders

1

INDEPENDENCE. The involvement of independent national authorities and civil society with relevant monitoring experience and support through EU funding is required. Investigating violations of fundamental rights perpetrated by police, border guards, or other government actors is politically sensitive.

Existing national institutions, such as the national human rights institutions and/or national ombudspersons, should be included as they are subject to international standards guaranteeing independence. To ensure that the mechanism is credible and effective, aiming to address the lessons learned from the monitoring mechanism set up by Croatia as the pilot, it is important that the mechanism's actors are effectively independent and have previous relevant experience, including in monitoring rights violations and working with people on the move.

2

EXPANDED SCOPE. The scope of the monitoring should include all alleged fundamental rights violations by national border management authorities or during border control activities. As people are the factor-pushed outside a territory, a physical barrier is often present to achieve pathways to justice. Victims further report destruction of evidence of their presence on the territory, aiming to erase traces and complicate legal remedies. Safeguards should be provided to enable pathways to justice, such as cross-border legal assistance.

3

PATHWAYS TO JUSTICE. Victims of rights violations at Europe borders should be informed about the possibility to report the alleged rights violations to the monitoring mechanism to get information about and access to legal advice and start legal remedies. In line with the Better Regulation guidelines. The EU and the Member States must assess the impact of its actions through systematic monitoring and evaluation and address protection implications of its external actions from the outset of rolling-out new migration partnerships. The integration of human rights monitoring and oversight in extraterritorial migration cooperation with third countries must be a priority.

4

ACCOUNTABILITY. Allegations of human rights violations and pushbacks should be investigated to end the abuse, in full transparency, aiming to hold perpetrators accountable. Fundamental rights violations on the EU's land and sea borders often remain unreported; and even if reported, many incidents are not investigated. If criminal investigations are initiated, these are often closed at a pretrial phase. While there is a suggestion in the Screening Regulation to trigger, where necessary, investigations into allegations; it remains unclear how the evidence of pushback(s) (practices) presented by victims or collected by other actors than the mechanism can be shared and will equal an investigation, irrespective of a discretionary decision on the necessity. The responsibility to investigate rights violations lies with Member States, with a transparent, impartial, and independent process. Additionally, Member States should report publicly and periodically on steps taken to hold perpetrators of rights violations to account. Finally, if Member States fail to cooperate with the mechanism, or in case it is not set up or its findings ignored, it should come at a political and financial cost, aiming to end the impunity at Europe's borders.

5

MONITOR THE MONITOR. A mechanism purposely designed not to monitor rights violations, likely discredits future allegations of rights violations and can equal a cover-up operation. Having a mechanism which is not able to deliver on what its name proclaims risks resulting in contradictory findings - evidence that pushbacks are not taking place (as they fall outside the reporting scope) as well as evidence that reports on rights violations effectively occurring. Following the ongoing pattern in some Member States, evidence of remaining pushback practices (collected outside the official monitoring mechanism) is likely to be immediately discredited by political leaders as 'fake news'. Reference to the data of the other mechanism, made on purpose unfit for purpose, risks further polarization and denial of rights violations. It is therefore of paramount importance that the limitations of the mechanism's scope of are recognised, and ideally addressed, and that additional support is foreseen to effectively continue monitoring rights violations at borders - even if that includes the monitoring of the agreed upon monitoring mechanism itself.