



Resolution 2595 (2025)¹

Putting an end to collective expulsions of aliens

Parliamentary Assembly

1. The Parliamentary Assembly recalls that collective expulsions of foreigners are formally prohibited under Article 4 of Protocol No. 4 to the European Convention on Human Rights (ETS No. 46), a prohibition which is also enshrined in the law of the European Union in accordance with Article 19 of the Charter of Fundamental Rights of the European Union. In this context, the Assembly is concerned about the growing divergence between international law and member States' practice.

2. The Assembly considers that the practice of collective expulsions poses a major challenge to respect for the rule of law and fundamental human rights standards, including the principle of *non-refoulement* and the absolute prohibition of torture. It points to the principles by which the Council of Europe member States are bound and their legal obligations in this respect, and stresses the need for increased action by the Organisation to support them in this area.

3. The Assembly points out that pursuant to the judgment of the European Court of Human Rights ("the Court") in *Khlaifia and Others v. Italy*, "collective expulsion" is to be understood as "any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group".

4. Welcoming the case law of the Court, particularly the *Čonka v. Belgium* judgment, in which it was held that all expulsion procedures must afford sufficient guarantees demonstrating that the personal circumstances of each of those concerned have been genuinely and individually taken into account, the Assembly is alarmed at the widespread practice of collective expulsions in Europe without the individual examination of each person's situation.

5. The Assembly emphasises the importance of an individual examination of each person's situation in preventing collective expulsions. In line with Assembly [Resolution 2461 \(2022\)](#) and [Recommendation 2238 \(2022\)](#) "Safe third countries for asylum seekers", it points out the importance of avoiding the use of lists of safe countries as grounds of inadmissibility for asylum claims and welcomes the decision of the Committee of Ministers to look into the possibility of revising its Recommendation No. R (97) 22 to member States containing guidelines on the application of the safe third country concept.

6. The Assembly also expresses its deep concern at the spread of the notion of "legal fiction of non-entry", whereby persons are considered not to have entered European territory, and the use of which will be facilitated by the implementation of the European Union Pact on Migration and Asylum ("the Pact"), which could make it more difficult for people to seek asylum. It refers in this context to the extraterritorial application of Article 4 of Protocol No. 4 to the European Convention on Human Rights established in the *Hirsi Jamaa and Others v. Italy* judgment, and the fact that the "legal fiction of non-entry" does not exempt States from their obligations, particularly those of *non-refoulement* and the absolute prohibition of torture and ill-treatment.

7. In its [Resolution 2462 \(2022\)](#) "Pushbacks on land and sea: illegal measures of migration management", the Assembly highlighted the intrinsic link between the prohibition of collective expulsions, the principle of *non-refoulement* and the absolute prohibition of torture. Breaching these fundamental principles can expose individuals to tragic consequences for which those responsible must be held accountable.

1. *Assembly debate* on 8 April 2025 (13th sitting) (see [Doc. 16135](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Pierre-Alain Fridez). *Text adopted by the Assembly* on 8 April 2025 (13th sitting).



8. In its [Resolution 2555 \(2024\)](#) “Ensuring human rights-compliant asylum procedures”, the Assembly highlighted the following legal obligations and stresses here the binding nature of these obligations: only through a fair and effective individual examination, including of asylum applications, can a State meet its obligation not to expose, directly or indirectly, anyone falling under its jurisdiction to a risk of torture or inhumane or degrading treatment. Furthermore, in case of an appeal, the remedy must have an automatic suspensive effect on expulsion measures should the applicant complain of a risk under Article 2 or 3 of the European Convention on Human Rights (ETS No. 5, “the Convention”). These procedural safeguards are required for the appeal to be considered effective and in compliance with Article 13 of the Convention, and with the consistent case law of the European Court of Human Rights.

9. Conscious of the requirements of internal security and border management incumbent on States in a geopolitical context that is sometimes complex, the Assembly invites Council of Europe member States nonetheless not to fall into the trap of invoking exceptions to human rights principles in order to meet these challenges. In this respect it refers to its [Resolution 2404 \(2021\)](#) “Instrumentalised migration pressure on the borders of Latvia, Lithuania and Poland with Belarus”, in which it condemned “any instrumentalisation of migrants, refugees and asylum seekers by States for political purposes”.

10. The Assembly underlines that the main victims of what it called “hybrid attacks” in [Resolution 2404 \(2021\)](#) are the migrants themselves. The response of States targeted by such attacks punishes migrants and increases their vulnerability, rather than sanctioning or holding to account the States that are guilty of this instrumentalisation. This twisted logic is a trap, and the extreme vulnerability of migrants and violation of their human rights can be avoided if European States refuse to fall into it.

11. In this respect, the Assembly deeply regrets that the drive to protect national security and ensure a total protection of borders seems to be used to justify the relaxing of the rules in force which were built up and agreed to by the States themselves. It points out that the concept of instrumentalisation does not provide a basis for a general derogation from asylum and human rights norms, including the absolute nature of the principle of *non-refoulement* and Article 3 of the Convention, and the obligation to conduct an individual assessment of a person’s situation before returning them. In this context, the Assembly urges member States not to derogate from their obligations, even in difficult situations, as the Court of Justice of the European Union recalled in the case C-72/22 PPU – Valstybės sienos apsaugos tarnyba.

12. Regretting that no European country on the migration routes taken by those seeking refuge and a decent life in Europe is exempt from the practice of collective expulsions, the Assembly calls on the Council of Europe member States to consider establishing legal migration pathways which will both avoid human tragedies and respond to labour shortages, in keeping with the spirit of its [Resolution 2586 \(2025\)](#) “Immigration, one of the answers to Europe’s demographic ageing”.

13. To make it possible to document any infringements of rights at the border, to hold those responsible accountable and to guarantee access for migrants to legal assistance and information on their rights, border areas must be accessible at all times, including areas where and in procedures during which the “legal fiction of non-entry” applies and/or where migrants are deprived of their freedom. Access should be granted, in law and in practice, not only to the fundamental rights officers of the European Border and Coast Guard Agency (Frontex), but also to national and Council of Europe monitoring mechanisms, the United Nations High Commissioner for Refugees, national human rights institutions, parliamentarians, civil society organisations, health professionals, lawyers and journalists.

14. In this context, the Assembly welcomes the fact that the European Union member States are required to set up independent national monitoring mechanisms by June 2026 to guarantee respect for human rights at borders during the “screening” procedures and the accelerated asylum procedures at the border provided for in the Pact. The Assembly strongly encourages member States to take account of the guidance provided by the European Union Agency for Fundamental Rights in its “Monitoring fundamental rights during screening and the asylum border procedure – A guide on national independent mechanisms”, especially the recommendation to adopt national legislation to extend the scope of monitoring to all aspects of border management, including return procedures.

15. The Assembly recognises that the adoption of the Pact is a sign of the political will among European Union member States to take a consistent approach to these issues. With a transitional period that runs until 2026 and implementing measures yet to be adopted, however, the Assembly stresses that proper safeguards need to be established when devising the national plans for the implementation of the Pact so as to avoid the occurrence of collective expulsions.

16. To guarantee access to an individual assessment of the situation of each migrant, particularly when crossing borders, in the context of asylum or return procedures, the Assembly strongly encourages the member States to:

16.1. adopt national action plans for the implementation of the Pact in line with the 1951 Convention relating to the Status of Refugees of the United Nations (“the 1951 Convention”) and the European Convention on Human Rights, making explicit reference to these treaties;

16.2. provide for the systematic assessment and guarantee of the legality of expulsion orders, including those following a decision of inadmissibility with regard to an asylum application, by a court with jurisdiction in the territory concerned, before any return operation, including in fictional “non-entry” situations;

16.3. provide appropriate training based on respect for international human rights law standards, including the 1951 Convention and the European Convention on Human Rights, intended for border guards and other stakeholders such as lawyers, judges and prosecutors, interpreters and administrative staff. In this context, the Assembly encourages the use of the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe to devise such training programmes;

16.4. provide access to a lawyer and to interpretation services, including when migrants intercepted at sea disembark, and ensure compliance with official note-taking procedures, particularly so as to avoid the misinterpretation of statements made in the context of applications for international protection;

16.5. for those member States that are members of the European Union, allocate sufficient material and human resources for the proper implementation of national plans for the application of the Pact with due respect for human rights, particularly with regard to the implications in terms of procedural guarantees.

17. Noting the high number of applications pending before the Court concerning collective expulsions and of judgments that are still under supervision of the Committee of Ministers of the Council of Europe, the Assembly urges the Council of Europe member States condemned by the Court to execute these judgments promptly and fully, in particular by:

17.1. taking all the necessary measures to ensure that migrants are treated in accordance with the Convention, particularly with regard to collective expulsion, and that they are systematically given genuine and full access to legal entry procedures in the States;

17.2. ensuring that asylum seekers are not expelled without being identified or having their individual situations assessed;

17.3. avoiding any distortion of foreigners’ statements as to whether they wish to request international protection;

17.4. providing migrants with effective remedies, including, in particular, sufficient time to take their case to court before expulsion orders are executed;

17.5. ensuring that the suspensive effect of appeals against decisions to refuse applicants admission to the country applies in law and in practice;

17.6. benefitting from the process of execution of Court judgments in order to develop a comprehensive approach to the challenges posed by large-scale arrivals of migrants, aiming thereby to resolve any complex structural problems identified by the Committee of Ministers.

18. The Assembly welcomes the political will of those States which choose to receive migrants in accordance with international law standards, despite the challenges raised by substantial numbers of arrivals.

19. Noting that the countries in which migrants first arrive are those that shoulder most of the responsibility for reception and integration policies, the Assembly calls for a co-ordinated and coherent European approach to reception of migrants, in law and in practice, between territories, at both national and European levels.

20. The Assembly points out that the prohibition of collective expulsions applies at all borders, including the internal borders of the European Union. Hasty returns within the Schengen area cannot be justified without due regard for applicable procedural guarantees and an individual decision, in keeping with the case law of the Court of Justice of the European Union. The Assembly also draws attention to the extended re-establishment of controls within the internal borders of the Schengen area, which runs counter to this spirit of solidarity.

21. The Assembly points out how essential it is for the best interests of the child to be protected under all circumstances and deeply regrets instances of political instrumentalisation of the situation of unaccompanied children. Where large numbers of such children arrive in particular geographical areas, the Assembly strongly encourages stakeholders to seek a solution enabling their relocation to, reception in and integration into other regions of the same country. This would foster a consistent approach where it comes to giving these children the opportunities for being welcomed and integrated which are their due, including being given support thanks to guardianship systems in keeping with Recommendation CM/Rec(2019)11 of the Committee of Ministers to member States on effective guardianship for unaccompanied and separated children in the context of migration.

22. The Assembly strongly encourages an overhaul of asylum legislation in countries where it is no longer fit for the purpose of coping with increases in migration flows and does not comply with European law.

23. Recognising the importance of providing legal assistance to migrants to make the assessment of their individual situation effective, the Assembly considers it critical that more lawyers specialising in immigration law are available at points of arrival. It therefore strongly recommends the provision of specific training in maritime law and asylum law to support these efforts. It also recommends improved access to interpreters, particularly at the point when migrants disembark.

24. The Assembly is concerned about the sexual and gender-based violence to which women and children are subjected during their journey, and the risks of trafficking afterwards. It points out that if the competent authorities consider that there are reasonable grounds to believe that a person is a victim of trafficking in human beings, they must not be removed from the country until the process of identifying them as a victim is complete. It recommends the introduction of special protection measures to guarantee their safety, including:

24.1. specific training for lawyers to help them better recognise and assist victims of sexual and gender-based violence, with earmarked funding;

24.2. except in cases of family ties or friendships predating the journey, the separation of men and women in reception centres for foreigners or the transfer of women to separate centres to protect them from pressure from the men with whom they travelled.

25. The Assembly welcomes the creation of the new Division on Migration and Refugees at the Council of Europe, established with a view to consolidating and intensifying the Organisation's efforts to address urgent matters related to migration and asylum, and invites the member States to take full advantage of its expertise.

26. Convinced of the Council of Europe's key role in supporting member States in their efforts to honour the commitments they entered into on joining the Organisation and in ratifying its international treaties, particularly the European Convention on Human Rights, the Assembly encourages the member States and European Union bodies to refer systematically to Council of Europe standards when devising national and European public policies on migration and asylum. More generally, it considers that the updating of the "Twenty guidelines on forced return" adopted by the Committee of Ministers (CM(2005)40) and the development by the Council of Europe of a toolkit of good practices concerning the implementation of its standards in the management of migration and asylum by its member States, would be very useful.

27. The Assembly is convinced that the complex situation of Council of Europe member States' overseas territories, which requires a humane and transparent policy response respecting individual rights, would merit further consideration, and recommends that this issue be addressed in a future report.