

## **Third informal thematic session of the global compact on safe, regular and orderly migration**

### **PANEL 3: International cooperation and governance of migration on return, readmission, integration and reintegration**

#### **Intervention of the Office of the High Commissioner for Human Rights (OHCHR)**

Mr Moderator,

I would like to make five brief points on the issues of returns.

First; **lawfulness**. While it is evident that the ability to remove those who should not be in the territory is a component of a State's sovereign rights, any such returns or removals must only be carried out in accordance with international human rights and refugee law.

This means that States have an obligation to ensure that no person is returned to a place where he or she would be at risk of torture or other serious human rights violations. Both the principle of non-refoulement and the prohibition of arbitrary or collective expulsion apply to all migrants, wherever they are, and regardless of their migratory status. And the best interests of the child, rather than migration management objectives, should be the primary factor in determining whether a child is returned or not.

This means that, prior to being returned, all migrants have the right to an individual assessment, in accordance with due process and fair trial guarantees, assessing their situation and the risks that they might face upon removal.

Secondly, the **concern** that this is not happening. In countries around the world fast-track systems are being put in place as a "rush to return" increasingly characterizes migration governance. Such systems compromise the right to an individual assessment and lead to unnecessary detention and a serious erosion of due process safeguards, such as legal aid. Readmission agreements often lack transparency and a basis in human rights principles.

Returns that are carried out in haste, in the absence of safeguards, without adequate due process, or which are intended solely to send a message of deterrence or to respond to untested assumptions that irregular migrants threaten the "integrity" of asylum systems simply will not lead to well-governed migration.

Third; there is an urgent need to address the **sustainability of returns**. When migrants are sent back to countries in which they face the same conditions that compelled them to leave, they will have nothing to return to, and no reason to stay. Instead, we will likely see repeat migration through increasingly dangerous routes.

Thus, premising migration governance solely on the shifting sands of unsustainable returns and repeated cycles of precarious migration will not be effective.

Instead, returns must be premised upon the meaningful and sustainable reintegration of migrants. States should implement measures that will enable all returning migrants to enjoy their human rights in their countries of origin. Effective and tailored reintegration programmes that address the different needs of women, men and children should be put in place and all returned migrants should have access to effective complaint mechanisms and remedies.

Children should only be returned where it has been determined through a formal, adequate and participatory process that return is in the best interest of the child. And return should not cause children to be separated from their parents, to become homeless, or to be left without proper care and custody.

Fourth; independent and effective **monitoring** arrangements should examine the well-being of migrants at pre-removal, during returns and after migrants arrive home.

Finally; from a human rights perspective it is evident that **voluntary return** should be promoted in preference to forced return to enable migrants to return to their countries in dignity. But here it is important to be clear that returns can be called “voluntary” only if migrants are fully and meaningfully informed of their choices and only if consent is given free of any coercion. And, to be clear, violence or ill-treatment, an actual or implied threat of prolonged, indefinite or arbitrary detention, or detention in inadequate conditions are forms of coercion.

I thank you.