



International Organization for Migration (IOM)
The UN Migration Agency

Article 1 paragraph 1 lists deportation as an act that can constitute a crime against humanity when the elements in such paragraph 1 concur. Deportation (or forcible transfer of population) is described, for the purposes of the draft articles, as forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law. Please be aware that, in the context of migration, the word deportation is used in respect of forceful return to their countries of origin of migrants who are in an irregular situation, that is, who are not legally present in the country in question. Within the Global Compact for Migration, States' right of deportation of migrants in irregular situations is recognized, only subject to the limitations specifically described in it, namely no forced return of persons who are irregularly present in a country can be made when there is a real and foreseeable risk of death, torture and other cruel, inhuman, and degrading treatment or punishment, or other irreparable harm in the country of origin.

As for the principle of *non-refoulement* and in connection with the above, it is a fundamental element of refugee law, applicable also in some cases of migration law. Please note that during the negotiations of the Global Compact for Migration during 2018, there was no agreement between States as to the scope and meaning of this concept as applicable to migrants and whether it could be considered as customary international law. Consequently, the notions of *non-refoulement* and return

were phrased in the text of the Global Compact for Migration in the above-mentioned terms of a prohibition of collective expulsion and returning of migrants when there is a real and foreseeable risk of death, torture and other cruel, inhuman, and degrading treatment or punishment, or other irreparable harm, in accordance with a particular State's obligations under international law. *Non-refoulement* and the compromise language above are very specific treaty obligations under the Refugee Convention, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and also partly in the International Covenant on Civil and Political Rights.