

# Legal proof against frontex

The delegation of Mauritania would like to highlight that even if no treaty directly forbids migration externalization, international law clearly limits it. In fact, under Article 3 of the European Convention on Human Rights, no State may expose individuals to torture or inhuman or degrading treatment. The European Court of Human Rights has confirmed that a State can be responsible even outside its territory if it exercises effective control. Therefore, if European-coordinated operations stop migrants from accessing asylum procedures or send them to unsafe conditions, responsibility remains with the authority in control.

The Delegation further recalls Article 33(1) of the 1951 Convention Relating to the Status of Refugees, which states: “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to territories where his life or freedom would be threatened.” The wording “in any manner whatsoever” is clear and broad.

Addingly, the principle of non-refoulement is customary international law. The 1951 Refugee Convention clearly states that no person may be returned to a country where their life or freedom is at risk. If interceptions coordinated or supported by Frontex result in migrants being returned to territories where:

- ❖ They lack access to asylum procedures
- ❖ They risk arbitrary detention
- ❖ They face degrading conditions

Then responsibility attaches to the coordinating authority since indirect refoulement (chain refoulement) is prohibited.

According to the spanish newspaper El pais, 130 malian got expelled from a spanish camp in canaries to Mauritania this february, even though they had the right to asylum. The Mauritanian organisation Nouakchott had to bring them back to Mali. The delegate of Mauritania considers this an absolute crime that should be abolished.

- On Effective Control and Attribution

Under the Articles on State Responsibility (ILC), responsibility arises where an actor exercises effective control over operations.

Frontex:

- ❖ Coordinates maritime surveillance in the Atlantic route toward the Canary Islands
- ❖ Deploys EU-funded vessels and aircraft
- ❖ Supports interceptions through intelligence-sharing
- ❖ Operates under EU mandate

Therefore, operational control lies with the European Union and Frontex. Where effective control exists, legal responsibility follows. Externalization cannot serve as a legal shield.

The Delegation also recalls the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

Since January, more than 30,000 migrants have been intercepted on Mauritanian soil between January and April 2025. In four months, the country also dismantled 88 smuggling networks, but resources are limited and the European Union's help is required.