

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and the Special Rapporteur on the human rights of migrants**

REFERENCE:  
AL GBR 3/2016

10 January 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and as Special Rapporteur on the human rights of migrants, pursuant to Human Rights Council resolutions 31/9 and 26/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the eviction from Calais camp of approximately 10,000 migrants, including asylum seekers, children and adolescents; the lack of individual assessment of each resident as well as the lack of informed consultation; the lack of alternative adequate housing and lack of accessible and relevant information.**

According to the information received:

*Background information*

The Calais camp was a large refugee and migrant camp which was located in the Department of the Pas-de-Calais, in northern France. It was situated just across the English Channel from Dover and is the main ferry crossing point between France and the United Kingdom of Great Britain and Northern Ireland (UK).

The Calais camp was composed of an official site, including the day center Jules Ferry, a center for women and children with 400 places, and, since January 2016, a reception and orientation center (CAO, for its initials in French) where older and vulnerable migrants receive accommodation on a priority basis, as well as an informal site known as the Calais "Jungle". The unofficial part of the camp had very poor living conditions and housed all persons who did not fit in the official site, mostly men and young boys.

In February and March 2016, those living in the southern part of the Calais camp were evicted, reducing the number of residents to 3,500. However, during the summer 2016, the number of migrants present on the site in Calais increased again to approximately 10,000 people due to the arrival of new migrants. In September 2016, according to reliable information, 10,188 people were in the "Jungle", including 1,179 minors, of which 1,022 were unaccompanied minors. At the same time, the Prefecture of Pas-de-Calais advanced an official figure of 6,900 residents in August 2016.

At the beginning of September 2016, the Minister of the Interior of the French Republic announced the dismantling of the Calais camp and explained that migrants would be moved across France to the newly created reception and orientation centers (CAO). Between October 2015 and October 2016, 450 CAO were created in different regions to receive all migrants from the Calais camp.

It is alleged that there was no meaningful consultation with the residents of the camp about the eviction and relocation plans. The information provided on the eviction was hardly accessible, irrelevant and often not formulated in a language that migrants were able to understand; residents of the Calais camp received little to no information on relocation sites, on the right of asylum, family reunification, or referrals for migrants who have been registered in another country of the European Union before arriving in France. In addition, interpretation services were not available.

On 17 October 2016, the Minister of the Interior of the French Republic decided to proceed with the expulsion of the population of the Calais camp and set the date for 24 October 2016.

#### *Demolition of the Calais migrant camp*

The dismantling of the Calais camp started on 24 October 2016. A force of 1,500 policemen was set up. On the first day, 2,500 migrants voluntarily left the camp. On 25 October 2016, other 1,500 migrants also voluntarily left the camp.

It is alleged that only residents of the camp, the authorities and accredited journalists and associations could be present in the camp on the day of the eviction. Several organisations and lawyers were denied access because of their lack of accreditation. This prohibition of access to the camp during the eviction was never publicly mentioned by the Ministry of the Interior of the French Republic during previous meetings and press conferences.

According to the information received, the provision of information on legal rights in the CAO was unsatisfactory and access to legal assistance and medical care was insufficient. In addition, the duration of stay in these centers is supposed to be limited to one month, after which residents may be forced to leave. It is alleged that there are not enough shelters for asylum seekers and that several thousands of asylum seekers are already homeless.

#### *Unaccompanied children*

According to the information received, in September 2016, 1,179 minors were living in the Calais camp, of which 1,022 were unaccompanied children.

About 80 per cent of unaccompanied minors had expressed that they wanted to travel to the UK before the demolition of the camp. The week before the eviction, only approximately 15 per cent of the total number of unaccompanied minors in the Calais camp had been brought to the UK.

Reportedly, disagreements between your Excellency's Government and the French authorities over who should take responsibility for the majority of these children led to serious violations of the children's rights. With the demolition of the makeshift "Jungle" camp, unaccompanied migrant children were forced to take shelter in shipping containers or to sleep outside while waiting to be transferred to provisional reception centres across France. Hundreds of children were subjected to inhumane living conditions, left without adequate shelter, food, medical services and psychosocial support.

According to the Ministry of Interior of the French Republic, children and adolescents were relocated to dedicated centres across France where their applications for asylum in the UK and France would be processed. It is alleged that there is no appropriate nor specific accommodation for unaccompanied children in the new centers created and that they were housed with adult migrants in the CAO. In addition, it is alleged that the identification system of minors for their transfer to a CAO was unsatisfactory and many minors, because of their physical appearance, were considered adults despite their status as minors. Some unaccompanied children who agreed, on 24 and 25 October 2016, to their transfer to a CAO had to remain in the camp and come back the next day for a possible transfer, putting them in a very vulnerable position. Other sources confirmed that a group of about 100 unregistered minors, gathered outside the camp, were left in limbo, uncertain about whether they would be assisted or arrested.

According to updated information from December 2016, an estimated 1,900 unaccompanied migrant children, who previously sought to reach the UK from the informal camp in Calais, were moved into provisional reception centers across France when government authorities closed the camp in late October 2016. Officials from the UK Home Office interviewed these children in Calais and in the new Reception and Orientation Centers for Unaccompanied Minors (Centres d'accueil et d'orientation pour mineurs isolés, CAOMI) to assess their eligibility for family reunion. This process ended on 9 December 2016 with the transfer of 750 children to the UK. The Home Office clarified that 200 of those children had been accepted under the Dubs amendment and that children with relatives in the UK who were not accepted for transfer during expedited processing can still be considered for transfer once they apply for asylum in France.

It is alleged that the family reunification process was non-transparent and arbitrary and children lacked information about the outcome of their cases, the selection criteria, and the alternative options when not accepted. Situations falling under the Dubs amendment in which the criteria do not appear to have been correctly followed have also been reported. Some children with family in the UK

have not been approved for transfer and have felt arbitrarily excluded. Children have consequently suffered from anxiety and cases of mental health disorders have been reported. Some children have already threatened to leave their shelters to reach the UK, risking homelessness, exploitation, and violence.

The Committee on the Rights of the Child reviewed the UK in May 2016, and your Excellency's Government was given precise recommendations regarding the treatment of unaccompanied child migrants, including those in Calais. These recommendations included the need to stop the detention of asylum-seeking and migrant children; the need to conduct age assessments only in cases of serious doubt and in those cases, through multi-disciplinary and transparent procedures; and the obligation to respect children's right to humane living standards and adequate health care services.

In addition, the UK is legally bound by the Dublin III Regulations which imposes the legal obligation to enable children and some adults seeking asylum to be reunited with their family members in the UK.

We are particularly concerned about the violation of the principle of the best interest of the child. We are worried that the lack of protection for migrant children, especially unaccompanied minors, in providing them with appropriate housing, access to education and health and supporting their request for speedy family reunification may violate their rights and adversely affect their development. Further, we are concerned over the lack of appointment of legal guardians to protect their interests *in loco parentis*, as well as lawyers to represent them in the various proceedings that they may face.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide all information or additional comments in relation to these allegations.
2. Please provide information on the measures taken to guarantee the consultations with and individual assessment of each person living in the Calais camp, and the exploration of all feasible alternatives before their eviction and to ensure that the evictions did not result in individuals, including children and adolescents, being rendered homeless or vulnerable to the violation of other human rights.
3. Please provide information about the number of persons living in the Calais camp who have been granted asylum in the UK and what will be the options for the others.

4. Please provide information about legal remedies available to migrants facing homelessness or other violations of their right to adequate housing.

5. Please specify how many children have applied for family reunification under the Dublin III regulation and how many children have already been reunited with their families in the UK.

6. Please provide information on existing mechanisms to accelerate the process of the family reunification of unaccompanied children under Dublin III Regulations.

7. Please explain how the current proceedings are in line with the principle of the best interest of the child, as defined in the Convention on the Rights of the Child?

8. Please explain what measures are in place to appoint a legal guardian and lawyer for unaccompanied migrant children.

9. What measures have been taken to ensure protection and special aid for children and young persons temporarily or definitely deprived of their family's support?

10. Please explain what measures have been taken to implement the recommendations made by the Committee on the Rights of the Child?

11. Please share your strategy with respect to the provision of information on the legal rights of migrants which will be accessible, relevant, and formulated in a language understandable to all migrants.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We wish to bring to your attention that we may also wish to publicly express concerns in the future about this matter as we are of the view that the information upon which a public statement would be based is sufficiently reliable to indicate a matter warranting immediate attention.

We also wish to inform you that a similar letter concerning this case will be sent to the Government of France.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Leilani Farha

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

François Crépeau

Special Rapporteur on the human rights of migrants

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights article 2, and the International Covenant on Civil and Political Rights, to which the United Kingdom of Great Britain and Northern Ireland is a party since 20 May 1976.

We call your attention in particular to general comment No.31 of the Human Rights Committee which stated that "States Parties are required by article 2, paragraph 1, to respect and to ensure the Covenant rights to all persons who may be within their territory and to all persons subject to their jurisdiction". This means that a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party. As indicated in general comment No. 15 adopted at the twenty-seventh session (1986), the enjoyment of Covenant rights is not limited to citizens of States Parties but must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party." In a similar vein, general comment No. 20 of the Committee on Economic, Social and Cultural Rights clarifies that "Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation."

In addition, we wish to draw the attention of your Excellency's Government to its obligations under article 11.1 of the International Covenant on Economic, Social and Cultural Rights which states that "[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right [...]". In this context, we would like to bring to the attention of your Excellency's Government general comment No. 4 (1991) of the Committee on Economic, Social and Cultural Rights which defines seven fundamental characteristics of this right that the Government must ensure including: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) and cultural adequacy.

In its general comment No. 7 on forced evictions (1997), the Committee recognizes that "forced evictions are prima facie incompatible with the requirements of the Covenant" and provides explicit legal advice on how the Government can find lasting solutions. The Committee says, in paragraph 15, that: "[a]ppropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights". The Committee considers that these procedural protections w include: (a) an opportunity

for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts. As indicated in paragraph 16, “evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

We would like to refer your Excellency’s Government to article 16 (3) of the Universal Declaration of Human Rights that states that “the family is the natural and fundamental group unit of society and is entitled to protection by the society and the State”.

Allow us also to draw your Excellency’s Government attention to articles 2, 17, 23 and 24 of the International Covenant on Civil and Political Rights. We wish to refer particularly to article 23 which provides that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”

We would also like to recall that in accordance with article 22 of the Convention on the Rights of the Child, to which the UK is party since 1991, that “[s]tates Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.”

Furthermore, we would like to refer your Excellency’s Government to article 10 (1) of the Convention on the Rights of the Child which establishes inter alia that “[...] applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with States Parties in a positive, humane and expeditious manner”. This should be read in the light of article 3 of the Convention which provides that the best interests of the child shall be a primary consideration.

In this connection, we would like to recall to your Excellency’s Government the para. 10 of the General Assembly Resolution 62/156 which “urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international



obligations and commitments, the principle of the best interest of the child and family reunification”.

We would like to recall the Program of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and related intolerance, inter alia “calls upon States to facilitate family reunification in an expeditious and effective manner which has a positive effect on integration of migrants, with due regard for the desire of many family members to have an independent status”.

Finally, we would like to remind your Excellency’s Government of its obligations under the European Social Charter articles 31 (2) and 17 (1) (c) which guarantee the right to shelter recognizing that States must take the necessary measures to promote access to housing and prevent and reduce homelessness with a view to its gradual elimination as well as the State’s obligation to provide protection and special aid for children and young persons temporarily or definitely deprived of their family’s support.