

Input by civil society to the 2021 EASO Asylum Report

Fields marked with * are mandatory.

D e a r

C o l l e a g u e s ,

The production of the *EASO Asylum Report 2021* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2020 (and early 2021) by topic as presented in the online survey.

Please note that the EASO Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2021 contributions will be published on the EASO webpage. Contributions to the 2020 EASO Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the EASO Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EASO's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

Nina Gregori - EASO Executive Director

*Please complete the online survey and submit your contribution to the 2021 EASO Asylum Report by **Thursday, 25 February 2021**.*

Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- New developments and improvements in 2020 and new or remaining challenges; and
- Changes in policies or practices, transposition of legislation or institutional changes during 2020.

Please ensure that your responses remain within the scope of each section.

Contributions by topic

1. Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

i. Europe-wide Pushbacks (see the full report: <https://refugee-rights.eu/wp-content/uploads/2020/11/pushbacks-and-rights-violations-at-europes-borders.pdf>)

Based on a report published in October 2020 by Refugee Rights Europe and the End Pushbacks Partnership, evidence from 20 internal and external land and sea borders across the EU show a staggering increase in illegal pushbacks since early 2020, which are now widespread and increasingly violent. Pushbacks are increasingly carried out by Member States with a systematised approach, as along the Balkan route, at Greece's borders and in the Central Mediterranean. The in-/direct support of the European Border and Coast Guard Agency (Frontex) is evidenced in several cases. 'On-the-spot pushbacks' take place at the Spain-Morocco land and sea borders, between Bulgaria and Turkey, Greece and Turkey (at land and sea borders) and Croatia and BiH. They are often accompanied by a militarisation or closure of borders and are extremely violent (use of pepper spray, attacks by dogs, beatings and shootings), leading to severe injuries or fatalities. Pushbacks also take the form of arrests in Member State territory, followed by arbitrary detention, refusal of access to asylum and summary returns e.g. at French borders with Spain and Italy or at the Italy-Slovenia and Greece-Turkey borders. Although often allegedly operated under bilateral readmission agreements, these summary returns are conducted without individual vulnerability assessments, access to information, asylum registration or documentation, failing to ensure protection from refoulement. They are often accompanied by beatings, verbal abuse or forced confiscation of private belongings. 'Organised chain refoulement' is evidenced mainly in the Balkan region e.g. from Italy to BiH through Slovenia and Croatia. 'Pull backs' e.g. by Turkish authorities at the land border with Bulgaria and at sea vis à vis Cyprus, are the main methods used in the Central Mediterranean e.g. when Member States direct the so-called Libyan Coast Guard to rescue zones to pull individuals back to Libya. In the Western and Central Mediterranean reports suggest that Member State authorities prevent disembarkation, answer rescue calls with long delays or not at all, fail to intervene and direct third countries' border forces to take people back. In Malta, pushbacks have been operated by private vessels. In the Aegean Sea, attacks of displaced people's boats are followed by abandonment at sea on disabled boats.

Aside from the detrimental impact on displaced individuals, the lack of accountability and impunity surrounding illegal pushbacks risk undermining the integrity of European legal political commitments, potentially damaging the bloc's diplomatic standing. Pushbacks also negatively impact European social cohesion through the normalisation of violence against newcomers and the tolerance of populist and xenophobic groups instrumentalising the issue of border policies for political gains. Evidence is still largely met with denial from Member States and little reaction from the European Commission.

ii. UK & northern France (see ATTACHMENT for full detail & references)

UK border controls in northern France continued to hinder access to UK territory and UK asylum procedures throughout 2020. These controls are authorised by bilateral agreements relating to juxtaposed controls and cross-border transit, establishing UK 'control zones' across northern France, Paris and Brussels. UK law enforcement officers carry out frontier control functions in these zones, including the right to search, arrest and detain people under UK law, extending UK jurisdiction onto French soil to prevent access to UK territory and asylum procedures. The agreements deny the possibility of claiming asylum to UK authorities, even when in the UK 'control zone' or in the four UK detention facilities between Calais and Dunkirk. This could amount to collective expulsion due to the absence of individual assessment of protection needs, as well as violations of Article 3 ECHR. The UK's extraterritorial legal, financial and administrative control on French soil may trigger extraterritorial jurisdiction in line with ECtHR case law such as *Al Skeini v UK*. During 2020 the UK implemented a policy empowering the UK Border Force (UKBF) to fingerprint irregular migrants at UK border controls and new inadmissibility rules concerning persons proven to have travelled through a 'safe third country' (see Question 5 below). Moreover, new policies responding to boat crossings across the Channel included pressure on French authorities to launch interceptions and pullbacks at sea to prevent asylum seekers from reaching British territory, thus undermining the right to individual assessment of an asylum claim. Evidence suggests that the UK's 'hostile environment' policy for migrants across the northern French coastline has contributed to dysfunctions in the right to seek asylum in France.

2. Access to information and legal assistance (including counselling and representation)

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

In 2019, in response to a small increase in asylum seekers arriving by boat from northern France, the UK government began a campaign to return maritime arrivals. Lawyers suspected that the Home Office was using an expedited Dublin procedure in order to achieve this, or indeed bypassing the Dublin procedure entirely, via the so-called Operation Sillath. The chartered returns to European countries as part of this campaign, particularly in the second half of 2020, were widely criticised for the use of force against detainees, the lack of information or legal advice provided, and the disregard for safeguarding procedures in relation to mental health concerns, victims of torture and victims of trafficking. In September 2020, one of these charter flights to Spain was grounded at the last minute due to concerns by judges that the returned asylum seekers would be left destitute in the streets of Madrid.

Please see ATTACHMENT for full detail & references.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

Further to the measures discussed in Question 1. ii regarding the UK's extraterritorial border controls and migration management operations, the UK updated its domestic Immigration Rules in light of its withdrawal from the European Union on 31 December 2020. One change specifically pertains to admissibility procedures, and is particularly concerning in relation to the right to individual assessment of an asylum claim and the prohibition on collective expulsions.

Rule 345A of the domestic Immigration Rules lays out conditions under which an asylum applicant may have their claim rendered inadmissible if "an applicant could enjoy sufficient protection in a safe third country [...] because they could have made an application for protection to that country but did not do so and there were no exceptional circumstances preventing such an application being made". This grants UK Home Office caseworkers the power to render inadmissible, at any point throughout the procedure, the asylum claim of any person who is proven to have passed through a safe third country, which by nature of the geographical positioning of the UK almost every irregular arrival will have done. Moreover, under Rule 345C, once a claim is declared inadmissible the claimant may be returned either to the "safe third country" passed through or to "any other safe third country which may agree to their entry". In its guidance on these decisions, the Home Office gives no procedural guarantees to ensure this "other safe third country" would be safe in relation to the applicant's individual circumstances. This new inadmissibility procedure prevents a person from having a substantive asylum claim heard in the UK based on the route of arrival, and risks removal without adequate assessment.

In addition to the above, Rule 327D removes the possibility of placing an asylum claim whilst in the territorial waters of the UK. Read together with 327C, this actually suggests that individuals must be brought to a "designated place of asylum claim", which could include a UK facility abroad, beyond UK jurisdiction. The UK thus appears to be laying the way for an Australian-type model of offshore detention and asylum processing procedures, and the government has indeed sought advice from Australian Border Force on these issues. In light of the Home Office's proposals to begin interceptions and returns at sea (as discussed above), the non-entrée policies enabled by these Immigration Rules amendments risk entirely circumventing the right to UK asylum, as well as leading to a proliferation of collective expulsions.

Please see ATTACHMENT for full detail & references.

6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

During 2020 there have been drastic changes to the UK's reception conditions for newly-arrived asylum seekers. Roughly since the onset of the Covid-19 pandemic, new arrivals have been housed for extended periods of time either in disused military barracks in remote areas, or in temporary hotel accommodation. This repurposing of military barracks has been widely criticised for the inhumane and degrading living conditions those staying there (mainly young men) are subjected to, with particularly high cases of Covid transmission, self-harm and attempted suicide. Despite widespread calls to end the use of these barracks, the UK government has continued holding people in them since September 2020. A recent leak of the Equality Impact Assessment regarding the use of these barracks shows that they were used in part due to the Home Office's belief that more "generous" accommodation would "undermine public confidence in the asylum system".

The use of temporary hotel accommodation has also been widely criticised by civil society actors and policy-makers. This is primarily due to the limited access to healthcare, poor food quality and restricted access to school for children, as well as to the extended periods of stay in these temporary hotels. The government shows no sign of limiting the use of such accommodation structures.

Please see ATTACHMENT for full detail & references.

7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

While the UK's domestic indefinite detention procedures are well known, for purposes of this submission, RRE highlights the UK's detention procedures and facilities in northern France, at its border. The UK government operates four short-term detention centres in the Calais and Dunkirk 'control zones' discussed above, in which a person at a UK border check suspected of having incorrect paperwork may be detained, after having crossed through French border controls, in line with the aforementioned law enforcement powers granted to UK officials. UK Border Force have continued to detain and hold people in these centres throughout the Covid-19 pandemic, despite concerns relating to the risk of virus transmission given close physical proximity and use of force by border and security officials. They have refused however to publish statistics on the number of people held, which is consistent with the wider lack of accountability and oversight of these offshore centres. As of 2020, only one of the four centres is regulated by the domestic Short-Term Holding Facility Rules in the absence of wider statutory instruments, and no civil society actors are allowed to visit the sites.

In these detention centres, the consistently poor to non-existent access to legal advice and healthcare, the ineffective or inactive safeguarding procedures and the lack of detention and use of force paperwork issued to detainees raise concerns that people may be being detained, denied entry to the UK and subsequently released back to French authorities without due process and without an examination of their individual situation. In particular, the lack of legal advice and paperwork issued means there is no meaningful access to domestic remedy for those turned back at the border point. In 2020, an inspection report by Her Majesty's Inspectorate of Prisons pointed to a particularly concerning trend of people being held in caged escort vehicles whilst waiting for the police to arrive, for unrecorded periods of time. In the three months before the HMIP's November 2019 inspection, over 1,000 detainees were held in escort vehicles. This renders it extremely difficult to identify vulnerabilities, safeguarding concerns or health risks.

Please see ATTACHMENT for full detail & references.

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decisionmaking, timeframes, case management - including backlog management)

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

13. Return of former applicants for international protection

14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

16. National jurisprudence on international protection in 2020 (please include a link to the relevant case law and/or submit cases to the [EASO Case Law Database](#))

17. Other important developments in 2020

References and sources

18. Please provide links to references and sources and/or upload the related material in PDF format

<https://refugee-rights.eu/wp-content/uploads/2020/11/pushbacks-and-rights-violations-at-europes-borders.pdf>

19. Feedback or suggestions about the process or format for submissions to the EASO Asylum Report

Please upload your file

The maximum file size is 1 MB

43e0f2bd-154c-4483-a5da-f8745dd5a820/ATTACHMENT_EASO_asylum_report_2021_CSInput_UK_RRE.pdf

Contact details

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I accept the provisions of the EASO [Legal and Privacy Statements](#)

Useful links

[EASO Asylum Report 2020 \(https://easo.europa.eu/asylum-report-2020\)](https://easo.europa.eu/asylum-report-2020)

[Executive Summary -EASO Asylum Report 2020 \(https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020-Executive-Summary.pdf\)](https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020-Executive-Summary.pdf)

[Bibliography for the EASO Asylum Report 2020 \(https://easo.europa.eu/sites/default/files/easo-asylum-report-2020-bibliography.pdf\)](https://easo.europa.eu/sites/default/files/easo-asylum-report-2020-bibliography.pdf)

[Summary of legislative, institutional and policy developments in asylum in EU+ countries in 2019 \(https://easo.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf\)](https://easo.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf)

[Online database with data and latest asylum trends \(https://easo.europa.eu/asylum-trends-easo-asylum-report-2020\)](https://easo.europa.eu/asylum-trends-easo-asylum-report-2020)

[Online database for EU+ developments \(https://easo.europa.eu/eu-developments\)](https://easo.europa.eu/eu-developments)

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Submission to EASO Asylum Report 2021 Civil Society Input: United Kingdom

Refugee Rights Europe (RRE)

NB. The numbering below corresponds to the [online submission form](#).

1. Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

The UK's operation of border controls in northern France (since 1994), continued to hinder access to UK territory and thus UK asylum procedures throughout 2020. These border controls are authorised by a series of bilateral agreements relating to juxtaposed controls and cross-border transit. These agreements, enshrined in domestic law through the 2003 Juxtaposed Controls Order,¹ establish UK 'control zones' across sites in northern France, Paris and Brussels in which UK law enforcement officers carry out their own frontier control functions. In 2020, officers in these zones continue to be granted the right to search, arrest and detain people under UK legal powers, effectively extending UK jurisdiction onto French soil in order to prevent access to UK territory and to UK asylum procedures. Indeed, whilst establishing UK sovereign powers on French soil, these agreements also explicitly and repeatedly deny the possibility of claiming asylum to UK authorities,² even when in the UK 'control zone' or held in one of the four UK detention facilities between Calais and Dunkirk. There are strong arguments to suggest that this could amount to collective expulsion in light of the absence of individual assessment of protection needs, as well as to a violation of Article 3 ECHR (see also par. 2 below). Moreover, the significant extraterritorial legal, financial and administrative control wielded by the UK on French soil may trigger extraterritorial jurisdiction in line with ECtHR case law such as *Al Skeini v UK*, and thus engender human rights responsibilities.³

The current set-up presents a risk of engaging in refoulement as a result of Article 3 violations found in France. Indeed, a 2020 ECtHR ruling on *N.H. and others v France*⁴ found inhuman and degrading treatment in the case of three destitute asylum-seeking men who were forced to sleep rough, which is not uncommon for those seeking asylum in France.⁵ Multiple domestic courts as well as the ECtHR have also previously found inhuman and degrading treatment in the living conditions of migrants in the camps in the UK-France border region,⁶ to which people are frequently released directly by UK authorities.⁷ Without individual assessment, this presents a risk of forced return, or pushback, to an

¹ <https://www.legislation.gov.uk/ukxi/2003/2818/contents/made>

² Art. 4 Additional Sangatte Protocol; Art. 9 Le Touquet Treaty

³ Timberlake F., 'Experimenting and Exporting the UK Border Regime' https://764cab94-a9b5-43c3-a608-3aca9e914cb0.filesusr.com/ugd/701039_9b5bf64b949f4cbfbd609028faf496db.pdf

⁴ <https://hudoc.echr.coe.int/eng?i=001-203295>

⁵ <https://www.lacimade.org/en-finir-avec-les-situations-inhumaines-derrance-et-de-campements-en-france/>

⁶ <http://lille.tribunal-administratif.fr/content/download/94432/%20908817/version/1/file/1702397.pdf>,

<http://lille.tribunal-administratif.fr/content/download/104162/1042470/version/1/>,

<https://www.asylumlawdatabase.eu/en/content/ecthr-khan-v-france-france%E2%80%99s-failure-protect-unaccompanied-minor-breached-article-3>

⁷ <https://www.justiceinspectores.gov.uk/hmiprison/wp-content/uploads/sites/4/2020/03/France-web-2019.pdf>

unsafe place, in violation of UK domestic law,⁸ and European⁹ and international¹⁰ human rights obligations.

During 2020, the extraterritorial powers wielded by the UK in the aforementioned UK ‘control zones’ have been reinforced. In May, the UK government introduced a policy whereby UK Border Force (UKBF) officials at the juxtaposed controls were granted the power to fingerprint irregular migrants at the UK border controls.¹¹ This was reportedly built on plans – which have now been implemented – to render inadmissible the asylum claims of, and subsequently remove, persons who could be proven to have travelled through a ‘safe third country’¹² (for further detail on these new regulations, see response to Question 5). In light of the UK’s loss of access to the Eurodac database following withdrawal from the European Union, these new domestic biometric data collection powers grant the UK the possibility of denying access to full asylum procedures once a person does eventually reach the territory.

In 2020 the UK Home Office has proposed and put in place a wide range of policies in response to small boat crossings across the Channel. Many recent policies are aimed at preventing access to the territory, thereby undermining the right to individual assessment of an asylum claim, while some of the, as of yet unimplemented, proposals would amount to pushbacks. The proposals implemented so far include pressure on French authorities, supported most recently by a £28.1 million funding agreement towards extra police deployment and surveillance in November 2020,¹³ to engage in pullbacks by preventing departures from the coastline, frequently by use of force. Given that these measures are funded directly, and are partly overseen, by the UK,¹⁴ the effective control wielded over these operations by the UK may be deemed to engender extraterritorial jurisdiction over them¹⁵ and could therefore be found liable for ECHR violations.

During 2020 the UK Home Office has actively pressured French authorities to begin interceptions and pullbacks at sea in order to prevent asylum seekers from reaching British territorial waters. The UK Government has even offered to engage directly in “returns at sea”¹⁶ and to assist such operations through joint exercises at sea, despite diverging French and British interpretations of maritime law as to whether interceptions would be legal or not.¹⁷ While such interceptions have not yet been carried out, to our knowledge, the Home Office’s assertion that they believe this would be lawful, and the change to Immigration Rule 327 (see response to Question 5), suggests such measures may well be implemented in the future.

The UK’s active political and financial support in implementing a hostile environment for migrants across the northern French coastline, through the juxtaposed controls and successive bilateral agreements, has contributed to increased dysfunctions in the right to seek asylum in France. Many people are put off seeking protection in France due to severe police brutality, harsh living conditions and enforced destitution, while eviction and invisibilisation policies in the area destroy trust in authorities and push vulnerable individuals directly into the hands of smuggling and trafficking

⁸ See *R v Home Secretary ex parte Sivakumaran* [1988] 1 AC 958 at [990], *R v SSHD ex parte Ahmed and Patel* [1998] INLR 570 at [583].

⁹ Art 3, ECHR.

¹⁰ Art 33, 1951 Refugee Convention.

¹¹ <https://questions-statements.parliament.uk/written-questions/detail/2020-06-30/66855>

¹² <https://www.telegraph.co.uk/news/2021/01/19/border-force-officers-will-get-powers-force-migrants-give-fingerprints/>

¹³ <https://www.gov.uk/government/news/uk-and-france-sign-new-agreement-to-tackle-illegal-migration>

¹⁴ <https://www.theyworkforyou.com/wrans/?id=2021-01-12.136553.h&s=refugee#g136553.r0>

¹⁵ https://764cab94-a9b5-43c3-a608-3aca9e914cb0.filesusr.com/ugd/701039_9b5bf64b949f4cbfbd609028faf496db.pdf

¹⁶ <https://committees.parliament.uk/oralevidence/312/default/>

¹⁷ <https://committees.parliament.uk/oralevidence/691/pdf/>

networks.¹⁸ On both sides of the border, experienced civil society actors,¹⁹ human rights monitors²⁰ and political leaders²¹ have issued calls for juxtaposed controls treaties to be revoked or significantly adjusted in order to improve the continuing human rights crisis at the UK-France border.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

In 2019, in response to a small increase in asylum seekers arriving by boat from northern France, the UK government began a campaign to return maritime arrivals.²² Lawyers suspected that the Home Office was using an expedited Dublin procedure in order to achieve this, or indeed bypassing the Dublin procedure entirely, via the so-called Operation Sillath.²³ The chartered returns to European countries as part of this campaign, particularly in the second half of 2020, were widely criticised for the use of force against detainees, the lack of information or legal advice provided, and the disregard for safeguarding procedures in relation to mental health concerns, victims of torture and victims of trafficking.²⁴ In September 2020, one of these charter flights to Spain was grounded at the last minute due to concerns by judges that the returned asylum seekers would be left destitute in the streets of Madrid.²⁵

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

Further to the measures discussed in Question 1 in relation to the UK's extraterritorial border controls and migration management operations, the UK updated its domestic Immigration Rules in light of its withdrawal from the European Union on 31 December 2020.²⁶ One change in particular pertains to admissibility procedures, and is particularly concerning in relation to the right to individual assessment of an asylum claim and the prohibition on collective expulsions.

Rule 345A lays out conditions under which an asylum applicant may have their claim rendered inadmissible if “an applicant could enjoy sufficient protection in a safe third country [...] because they could have made an application for protection to that country but did not do so and there were no exceptional circumstances preventing such an application being made”. This grants UK Home Office caseworkers the power to render inadmissible, at any point throughout the procedure, the asylum claim of any person who is proven to have passed through a safe third country,²⁷ which by nature of the geographical positioning of the UK almost every irregular arrival will have done. Moreover, under Rule 345C, once a claim is declared inadmissible the claimant may be returned either to the “safe third country” passed through or to “any other safe third country which may agree to their entry”. In its

¹⁸ https://refugee-rights.eu/wp-content/uploads/2020/10/RRE_Time-for-Change_Safe-and-Legal-Routes.pdf

¹⁹ <https://www.gisti.org/spip.php?article5426>

²⁰ https://www.cncdh.fr/sites/default/files/15.07.02_avis_migrants_calais_0.pdf

²¹ <https://committees.parliament.uk/writtenevidence/11869/pdf/>,

<https://committees.parliament.uk/writtenevidence/11874/pdf/>

²² <https://www.itv.com/news/2019-08-23/pm-warns-migrants-trying-to-illegally-enter-uk-we-will-send-you-back>

²³ <https://www.theguardian.com/world/2020/may/21/home-office-deporting-migrants-who-cross-channel-in-small-boats>

²⁴ <https://corporatetwatch.org/cast-away-the-uks-rushed-charter-flights-to-deport-channel-crossers/>

²⁵ <https://www.theguardian.com/uk-news/2020/sep/16/uk-judge-halts-home-office-flight-to-remove-asylum-seekers>

²⁶ <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-11-asylum>

²⁷

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/947897/inadmissibility-guidance-v5.0ext.pdf

guidance on these decisions, the Home Office gives no procedural guarantees of ensuring this “other safe third country” would be safe in relation to the applicant’s individual circumstances.²⁸ This new inadmissibility procedure prevents a person from having a substantive asylum claim heard in the UK based on the route of arrival, and risks removal without adequate assessment.

In addition to the above, Rule 327D removes the possibility of placing an asylum claim whilst in the territorial waters of the UK. Read together with 327C, this actually suggests that individuals must be brought to a “designated place of asylum claim”, which could include a UK facility abroad, beyond UK jurisdiction. The UK thus appears to be laying the way for an Australian-type model of offshore detention and asylum processing procedures, and the government has indeed sought advice from Australian Border Force on these issues.²⁹ In light of the Home Office’s proposals to begin interceptions and returns at sea (as discussed above), the *non-entrée* policies enabled by these Immigration Rules amendments risk entirely circumventing the right to UK asylum, as well as leading to a proliferation of collective expulsions.

6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

2020 has seen drastic changes to the UK’s reception conditions for newly arrived asylum seekers. Roughly since the onset of the Covid-19 pandemic, new arrivals to the country have been housed for extended periods of time either in disused military barracks in remote areas, or in temporary hotel accommodation. These repurposing of the military barracks has been widely criticised for the inhumane and degrading living conditions those staying there (mainly young men) are forced to live in,³⁰ with particularly high cases of Covid transmission, self-harm and attempted suicide.³¹ Despite widespread calls to end the use of these barracks, the government has continued holding people in them since September 2020. A recent leak of the Equality Impact Assessment regarding the use of these barracks shows that they were used in part due to the Home Office’s belief that more “generous” accommodation would “undermine public confidence in the asylum system”.³²

The use of temporary hotel accommodation³³ has also been widely criticised by civil society actors and policy-makers.³⁴ This is primarily due to the limited access to healthcare, poor food quality and restricted access to school for children, as well as to the extended periods of stay in these temporary hotels.³⁵ The government shows no sign of limiting the use of such accommodation structures.

²⁸ Ibid

²⁹ <https://www.telegraph.co.uk/politics/2020/05/25/home-office-approaches-australian-border-force-chief-helped/>

³⁰ https://www.doctorsoftheworld.org.uk/wp-content/uploads/2020/11/Letter-on-the-use-of-MoD-sites-as-accommodation_26.11.2020.pdf

³¹ <https://www.ecre.org/uk-home-office-cover-up-at-barracks-housing-asylum-seekers-incorrect-age-assessment-causes-harm-inquiry-into-windrush-compensation-scheme/>

³² <https://www.independent.co.uk/news/uk/home-news/asylum-seekers-napier-barracks-home-office-b1793951.html>

³³ <https://homeofficemedia.blog.gov.uk/2020/08/08/the-use-of-temporary-hotels-to-house-asylum-seekers-during-covid-19/>

³⁴ <https://www.thenationalnews.com/world/europe/the-frightening-reality-of-asylum-hotel-life-1.1114885>

³⁵ https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/562/56205.htm#_idTextAnchor029

7. Detention of applicants for international protection (including detention capacity – increase/decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

The UK's domestic indefinite detention procedures are well known, and we will not cover them in this report. We will highlight instead the UK's detention procedures and facilities in northern France, at its border. The UK government operates four short-term detention centres in the Calais and Dunkirk 'control zones' discussed above, in which a person at a UK border check suspected of having incorrect paperwork may be detained, after having crossed through French border controls, in line with the law enforcement powers granted to UK officials.³⁶ UK Border Force have continued to detain and hold people in these centres throughout the Covid-19 pandemic,³⁷ despite concerns relating to the risk of virus transmission given close physical proximity and use of force by border and security officials.³⁸ They have refused however to publish statistics on the number of people held,³⁹ which is consistent with the wider lack of accountability and oversight of these offshore centres. Indeed, as of 2020, only one of the four centres is regulated by the domestic Short-Term Holding Facility Rules in the absence of wider statutory instruments,⁴⁰ and no civil society actors are allowed to visit the sites.

In these detention centres, the consistently poor to non-existent access to legal advice and healthcare, the ineffective or inactive safeguarding procedures and the lack of detention and use of force paperwork issued to detainees⁴¹ raise concerns that people may be being detained, denied entry to the UK and subsequently released back to French authorities without due process and without an examination of their individual situation.⁴² In particular, the lack of legal advice and paperwork issued means there is no meaningful access to domestic remedy for those turned back at the border point. In 2020, an inspection report by Her Majesty's Inspectorate of Prisons pointed to a particularly concerning trend of people being held in caged escort vehicles whilst waiting for the police to arrive, for unrecorded periods of time. In the three months before the HMIP's November 2019 inspection, over 1,000 detainees were held in escort vehicles.⁴³ This makes it incredibly difficult to identify vulnerabilities, safeguarding concerns or health risks.

³⁶ Art. 13 Juxtaposed Controls Order 2003.

³⁷ <https://questions-statements.parliament.uk/written-questions/detail/2020-05-05/hl3893>

³⁸ <https://borderlandscapes.law.ox.ac.uk/sites/default/files/2020-07/uk-sthfs-in-northern-france---briefing%20%281%29.pdf>

³⁹ <https://questions-statements.parliament.uk/written-questions/detail/2020-05-11/45262>

⁴⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721583/STHF-rules-operational-guidance-v1.0-EXT.pdf

⁴¹ <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2020/03/France-web-2019.pdf>

⁴² <https://journals.sagepub.com/doi/abs/10.1177/1477370820902971>

⁴³ <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2020/03/France-web-2019.pdf>