

**EU Home Affairs Sub-Committee evidence session on UK-EU asylum cooperation after
Brexit**

Refugee Rights Europe Written Submission

Executive Summary

- The UK's withdrawal from the EU must not lead to the weakening of the protections afforded to refugees and asylum seekers.
- The UK Government must ensure that family reunion for unaccompanied minors remains UK law after its withdrawal from the EU, in order to protect vulnerable refugee children in Europe. A no-deal Brexit would be detrimental to the rights of refugee children in Europe, and the Government must commit to negotiate this within a specified time frame.
- The current Dublin III Regulations and current Common European Asylum System (CEAS) have had unintended consequences in terms of widespread human rights violations across Europe. Future negotiation with the EU post-Brexit must seek to address these issues within the context of Dublin IV.
- Future UK involvement in the EU's third country cooperation agreements on asylum and migration with e.g. North African states and Turkey must only take place where such third countries have a functioning asylum system and uphold, *de facto*, international human rights law.
- Future co-operation with the EU must be based on the principles of universal human rights enshrined in the UN Declaration and a commitment to uphold the 1951 Geneva Convention and the 1967 New York Protocol on the rights and protections for refugees.

1 About Refugee Rights Europe (RRE)

1.1 Refugee Rights Europe (RRE) is a human rights organisation and registered UK charity (No 1168841).

1.2 Founded in late 2015, our organisation uses its first-hand research on the situation for refugees and displaced people seeking protection in Europe, to encourage human rights-centered policy development at national and regional levels, in accordance with the Universal Declaration of Human Rights.

1.3 Further information can be found here: www.RefugeeRights.org.uk

2 RRE's response to specific questions

2.1 What type of future cooperation should the UK seek with the EU with regard to asylum seekers?

2.1.1 The UK's exit from the European Union must under no circumstances lead to a weakening of protections afforded to refugees and asylum seekers. Indeed, the UK must ensure that it continues to uphold its commitments under international human rights and refugee law.

2.1.2 The UK ought to ensure that upon exiting the European Union, family reunification for unaccompanied minors with family in the UK is urgently

renegotiated, within a specified timeframe, to ensure that refugee children are not left trapped in potentially harmful environments¹. While the Government has committed to negotiating a family reunification route for minors in Europe which is legislated as part of the European Union (Withdrawal) Act, Clause 17², concrete safeguards must be in place as part of the Immigration Bill 2017-2019.

- 2.1.3** Moreover, the UK should continue to play a role in supporting other European states to implement humane policies in regards to refugees and asylum seekers. This includes working with other European states to develop a well-functioning and sufficiently resourced operational plan for search and rescue missions in the Mediterranean with disembarkation in the EU, to prevent further deaths³.

2.2 What is your assessment of the Dublin system? Has it achieved its aims, including ensuring quick access to asylum procedures?

- 2.2.1.** As unintended consequences of the current Common European Asylum System (CEAS) and its Dublin Regulation, in combination with national-level policies, refugees and displaced people across Europe are often trapped within unhealthy environments and facing a number of concerning rights violations. Research⁴ conducted by RRE from early 2016 to present indicates widespread human suffering across the continent, as a direct or indirect result of the CEAS, Dublin protocols and national level policies.
- 2.2.2.** The living conditions documented⁵ by RRE have indicated that refugees and displaced people are often denied access to basic shelter and adequate sanitation facilities. Many are living in sub-par, unsanitary conditions in overcrowded reception centres at the 'hot-spots' in Greece and Italy, or in complete destitution at transit-points such as Calais, Ventimiglia, and the streets of major cities such as Paris and Brussels.
- 2.2.3.** As regards health conditions, large numbers of displaced people have experienced health problems since arriving in Europe, often due to unhealthy living environments or the experience of violence. Mental health issues are widely reported⁶, ranging from insomnia and anxiety to suicidal tendencies among respondents. In light of this, it is alarming that only a small proportion of displaced people appear to have access to medical care on European soil.
- 2.2.4.** A striking absence of accessible information available to refugees and displaced people on their rights and opportunities, as well as information on European asylum law has been documented. This lack of information risks leading to a situation in which rumour spreads and may cause refugees to jeopardise their

¹ Currently legislated under Article 8 of Dublin III Regulations. RRE are not calling for a renegotiation of Dublin III but focusing specifically on family reunion provision.

² <http://www.legislation.gov.uk/ukpga/2018/16/enacted>

³ <https://www.unhcr.org/desperatejournneys/>

⁴ <http://refugeerights.org.uk/reports>

⁵ <http://refugeerights.org.uk/wp-content/uploads/2018/07/LivingConditions2.pdf>

⁶ <http://refugeerights.org.uk/wp-content/uploads/2018/07/Health-in-displacement-3.pdf>

claim or take life-threatening journeys. It may also increase the length of time spent in harmful environments.

- 2.2.5.** Within the context of border closures, RRE has documented⁷ worrying occurrences of police violence in the form of physical violence, verbal abuse, the excessive use of tear gas and reports of arbitrary detention, including of unaccompanied minors. In many locations, this violence is reported to take the form of dangerous or life-threatening forms.
- 2.2.6.** The failings of the CEAS have also put children⁸ at increased risk of, or exposure to, violence and ill-health. The lack of legal advice, guidance and adequate safeguarding mechanisms for displaced children in Europe puts them at heightened risk of exploitation and abuse and can often lead to them taking life-threatening journeys or falling into the hands of traffickers.
- 2.2.7.** As regards the situation of women in displacement, research⁹ raises severe concerns about the lack of safeguarding measures and adequate camp design, coupled with a lack of access to sexual and reproductive healthcare, including during pregnancy and following rape, which not only allows high levels of sexual and gender-based violence to unfold but also exacerbates the consequences of such violence.

2.3 What is your opinion on the Government's position on family unification for asylum seekers, as outlined in the Immigration White Paper?

- 2.3.1** RRE supports the expansion of the UK rules on family reunion and is part of the 'Families Together' coalition¹⁰.
- 2.3.2** The Government's position on refugee family reunion in its Immigration White Paper is disappointing. It is particularly concerning that while the Government has said it will consult on the White Paper, it is not clear how or to what extent this will involve civil society and whether there is an opportunity to consult specifically on those sections related to refugees.

2.4 Do you expect the EU will seek to ensure that any future agreement on asylum cooperation with the UK includes a burden-sharing mechanism, as in the proposed Dublin IV Regulation?

- 2.4.1** If the UK expects to remain a part of the Dublin Regulation it is RRE's prediction that the UK will indeed be expected to take part in any responsibility sharing that is agreed as part of the Dublin IV Regulation.
- 2.4.2** It is likely that other EU states would highlight the UK's responsibility in addressing meaningfully the precarious and untenable bottle-neck scenario which has been unfolding in Calais and Dunkirk and the wider region for decades without resolution, and which has more recently spread further afield to cities

⁷ <http://refugeerights.org.uk/wp-content/uploads/2018/07/Information-and-Education-1.pdf>

⁸ <http://refugeerights.org.uk/wp-content/uploads/2018/07/Children-in-Displacement-2.pdf>

⁹ <http://refugeerights.org.uk/wp-content/uploads/2018/07/Women-in-Displacement-1-1.pdf>

¹⁰ For more information on the coalition and its position please see: <http://refugeestogether.co.uk/>.

including Brussels and Paris where aspiring asylum seekers gather in the hope that they will make it across to Britain. Rather than building additional walls and contributing towards further securitisation, EU states may encourage the UK to meaningfully address the situation.

2.4.3 It is moreover likely that a number of EU states will continue to argue for the omission of the first irregular entry criterion, by which the Member State through which an individual first enters the EU is responsible for the processing of their asylum claim, in order to alleviate disproportionate pressure on EU front-line states and ensure a more even distribution of asylum claims across Europe, including the UK.¹¹

2.5 What are the implications of a 'no deal' Brexit scenario for UK-EU asylum cooperation? How can any risks be managed or avoided?

2.5.1 If the UK fails to reach an agreement with the European Union, it is RRE's concern that this will lead to a gap in provision for unaccompanied minors in Europe, who will no longer be covered by legislation that would enable them to reach their family safely and legally in the UK. Such a gap in provision may lead to more vulnerable children taking increasingly desperate and dangerous journey's in order to reach the UK. For this reason, RRE believes that the Government ought to agree a timescale by which family reunion for unaccompanied minors will be negotiated, in the event of a no deal.

3 Further considerations

3.1 Channel crossing and returns to Northern France

3.1.1 RRE is alarmed by the hardening rhetoric towards those seeking safety in the UK. The signing of the UK-France Joint Action Plan¹² this January 2019 was accompanied by concerning references by the Home Secretary, suggesting that individuals who have crossed the Channel would be immediately returned to France¹³. Asylum applicants must be allowed to have their claims submitted on an individual basis, regardless of the means by which they entered a country - as enshrined in international and national refugee law. Moreover, the approach of blanket returns to France fails to take into consideration the context in which refugees and displaced people are currently living in Northern France, and indeed the wider context of overstretched asylum systems elsewhere in Europe.

¹¹ RRE has produced a comprehensive set of policy recommendations in light of the ongoing reform of the CEAS: <http://refugeerights.org.uk/wp-content/uploads/2018/09/CEAS-Policy-Recommendations.pdf>.

¹²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773403/UK_France_declaration_24_Jan_13.00.pdf

¹³ <https://www.gov.uk/government/speeches/statement-migrant-crossings>

3.1.2 In addition, the Sandhurst Treaty¹⁴, signed in January 2018, included the creation of UK Liaison Officers whose role was to facilitate the safe, legal transfer of individuals with the right to come to the UK, both through family reunion and under S.67 of the Immigration Act 2016, or the ‘Dubs’ amendment. RRE recommends that the UK clarifies and expands the mandate of the Home Office liaison officers in Northern France.

3.2 Third country cooperation agreements

3.2.1 In light of the alarming rights violations occurring on Libyan soil, including reports of torture, rape and slavery¹⁵, RRE believes that the UK Government must urgently cease any funding for Libyan detention centres, as well as the contribution to EU funding to the Libyan coastguard, where the return of displaced people rescued in the Mediterranean to such conditions would appear to violate the principle of *non-refoulement* enshrined in the 1951 Geneva Convention. The desire to reduce migration to Europe and the UK must not come at the expense of human rights.

4 Conclusion and recommendations

- 4.1** Future co-operation with the EU must be based on the principles of universal human rights enshrined in the UN Declaration and a commitment to uphold the 1951 Geneva Convention and the 1967 New York Protocol on the rights and protections for refugees. The UK has an opportunity to support and implement policies which will protect the rights of refugees and displaced people arriving in Europe, as well as strengthen cooperation with other EU states.
- 4.2** The UK must work towards permanent EU resettlement and relocation programmes, to ensure strengthened safe and legal routes both within Europe and from countries of origin.
- 4.3** The UK must ensure that family reunification applications are processed in a fair and timely manner, while asylum seekers with family members in the UK are processed under family reunification procedures to ensure resettlement places are kept for other applicants.
- 4.4** More widely, the UK Government ought to take a greater role in the identification and processing of unaccompanied minors in Europe with family in the UK, in particular the large numbers of minors in Northern France, including through an expanded mandate of the Home Office liaison officers in Northern France.
- 4.5** Future UK involvement in the EU’s third country cooperation agreements should refrain from externalising asylum and migration control to states without a functioning asylum system adopted through national legislation, states which are not parties to the 1951 Geneva Convention and the 1967 New York Protocol, and states which do not comply in practice with international human rights law.

¹⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/674880/2018_UK-FR_Summit_Communique.pdf

¹⁵ See <https://unsmil.unmissions.org/sites/default/files/libya-migration-report-18dec2018.pdf> and <https://www.msf.ie/article/migration-european-government-policies-condemn-people-be-locked-libya-or-drown-sea> and <https://edition.cnn.com/specials/africa/libya-slave-auctions>

- 4.6** The UK should work with other European states to develop a well-functioning and sufficiently resourced operational plan for search and rescue missions in the Mediterranean with disembarkation in the EU.
- 4.7** The UK must refrain from returning asylum seekers crossing the Channel from France without having first had asylum claims assessed and the individual circumstances of applicants considered in line with the 1951 Geneva Convention and the 1967 New York Protocol.