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OPINION

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# OPINION ON THE SITUATION OF EXILED PERSONS IN CALAIS AND GRANDE-SYNTHE

11 FEBRUARY 2021



*The Opinion on the situation of exiled persons in Calais and Grande-Synthe  
was adopted unanimously at plenary assembly on 11 February 2021.*

**SUMMARY**

Following CNCDH's third trip to Calais and Grande-Synthe on 15 and 16 December 2020 to meet with exiled people, public authorities and associations, the Commission recommends that the public authorities put an end to the policy to combat “*anchor points*”, with its disastrous consequences for exiled persons and caregivers. The CNCDH also recalls the need to set up a “humanitarian infrastructure” in Calais mentioned by the President of the Republic to meet the most essential needs of the exiled persons. Finally, following some thirty recommendations, the CNCDH stresses the need to establish international protection for exiled persons in the post-Brexit negotiations with the United Kingdom.

1. Alerted by several of its members<sup>1</sup> to the extremely worrying humanitarian situation of exiled persons<sup>2</sup> in Calais and Grande-Synthe and infringements of their most fundamental rights, in particular, the right to asylum, the Commission nationale consultative des droits de l'homme (CNCDDH) [National Consultative Commission on Human Rights] has decided to gather information again about this situation. The particular difficulties of the health crisis and more generally the context of the epidemic provided the impetus for quickly organising a mission on the ground. In order to draw up an objective finding, a delegation of the CNCDDH conducted hearings and travelled to Calais and Grande-Synthe on 15 and 16 December 2020. This initiative occurs in the context of previous missions in 2015 and 2016 that gave rise to the publication of opinions denouncing the unacceptable living conditions of migrant persons in the coastal area and proposing recommendations for the public authorities to ensure respect for their fundamental rights<sup>3</sup>.

2. The CNCDDH again observed the deterioration of the living conditions of exiled persons in Calais and Grande-Synthe in a national and international context that is increasingly hostile to them.

#### *The disappearance of tolerated camps in the coastal area.*

3. In Calais, the complete dismantling of the “jungle” camp took place on 24 October 2016, after the decision of the Minister of the Interior Bernard Cazeneuve to evacuate thousands of exiled persons to reception and orientation centres (CAO), reception centres for asylum seekers (CADA)<sup>4</sup> and minor centres (CAOMI), opened throughout France. This operation was accompanied by the political decision not to execute transfer orders as part of the “Dublin procedure”<sup>5</sup> for asylum seekers who were in the jungle in order to enable them to file their asylum applications in France (in application of the humanitarian clause of Article 17-2 of the Dublin III Regulation).<sup>6</sup>

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1. Le Secours catholique-Caritas France, la Cimade, Amnesty International, France Terre d'asile...

2. The term “exile”, as distinguished from “migrants”, “immigrants”, “refugees”, embraces people who have followed the same, often perilous, paths, and who have in common the fact of fleeing situations of violence (wars, extortion, but also poverty and economic and social chaos), all of whom are carried by the same vital force to find a place where they can live in dignity and ensure a future for their families.

3. CNCDDH, 2 July 2015, *Opinion on the situation of migrants in Calais and Calaisis*, OJRF No. 0157 of 9 July 2015, text No. 102; CNCDDH, 26 May 2016, *Opinion on the situation of migrants in Grande-Synthe*, OJRF No. 0131 of 7 June 2016, text No. 46; CNCDDH, 16 July 2016, *Follow-up opinion on the situation of migrants in Calais and Calaisis*, OJRF No. 0164 of 16 July 2016.

4. *Le Monde* with AFP, September 2, 2016, Bernard Cazeneuve réaffirme la poursuite du démantèlement de la “jungle” de Calais [Bernard Cazeneuve reaffirms the continuation of the dismantling of the “jungle” of Calais].

5. European Union Regulation No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person, the Dublin III Regulation lays down the principle that only one State is responsible for examining an asylum application if the applicant travels or moves from one State to another.

6. CNCDDH, 16 July 2016, *Follow-up opinion on the situation of migrants in Calais and Calaisis*, OJRF No. 0164 of 16 July 2016, p. 11.

4. In Grande-Synthe, the camp with humanitarian standards set up by the town hall was destroyed by a fire on 10 April 2017, resulting in its final closure<sup>7</sup>. During the winter of December 2018, the Mayor of Grande-Synthe made the gymnasium of the Moulin Youth Area available to exiled persons. However, on 4 September 2019, the court granted the request of the new Mayor of Grande-Synthe to expel the exiled persons from the gym and since that date there have been no places of shelter authorised in the territory of the municipality<sup>8</sup>.

5. Since 2016, the number of people exiled in Calais and Grande-Synthe has decreased, but arrivals and departures have never ceased. In Calais, the number of exiled persons on the coastal zone was estimated to be between 500 and 800 in mid-December 2020, mainly men, youths, originating in Sudan, Eritrea, Afghanistan, Iran, or Syria. In Grande-Synthe, the estimates ranged from 300 to 500 people in mid-December. These were mainly people of Kurdish, Iraqi and Iranian origin, including many more women and children than in Calais.

6. All exiled persons arriving at this Channel frontier have experienced human distress in many countries, some having had their asylum applications rejected in a European country, others threatened with transfer to another European State under the Dublin III procedure.

#### *The application of a systematic policy to combat the “anchor points”*

7. Following the dismantling of the last camps tolerated by the authorities in Calais and Grande-Synthe, the public authorities have put in place an intransigent policy to combat the “*anchor points*” on the entire Channel coast in order to deter exiled persons from coming to this area<sup>9</sup>. On the ground, this results in almost daily dismantling and destruction of temporary shelters and increasing barriers to prevent civic aid initiatives. As a result, exiled persons exhaust themselves wandering, constantly looking for makeshift shelters and means of survival in ever more hostile, more insalubrious, more isolated, and thus more dangerous places. Those active on the ground say that the situation of migrants in Calais and Grande-Synthe is the worst they have known since 2010. “*The camps have been closed, but we opened the door to the unspeakable*”, one elected member observed to the delegation of the CNCDH.

8. In addition, this policy also caused a deterioration of the environment in the vicinity of Calais following operations aimed at making the area inhospitable in

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7. *Le Monde* with AFP, 11 April 2017, Le camp de migrants de Grande-Synthe ravagé par un incendie [The camp of migrants in Grande-Synthe destroyed by a fire].

8. Administrative Court of Lille, interlocutory judge, 4 September 2019, order No.1906898.

9. *France 24*, 23 June 2017, Calais: Collomb ne veut pas de «point de fixation» pour les migrants [Collomb does not want an «anchor point» for migrants].

particular by deforestation of forested areas where exiled persons took refuge<sup>10</sup>, and the installation of kilometres of fencing, grating and walls.

### *Increasing risk-taking in “small boat” crossings*

9. Since 2018, the hardening and sophistication of truck crossing control measures has led to a dramatic increase in attempts to get to the United Kingdom using makeshift boats. The northern maritime prefecture counted 9,500 crossings or attempts to cross to the UK in 2020, four times more than in 2019. The consequences of these extremely dangerous attempts are an increase in the number of deaths and missing persons and serious trauma for those who have been saved from drowning.

### *An increasingly controlled border*

10. The exit of the United Kingdom from the European Union did not call into question the bilateral Franco-British agreements on police and judicial cooperation on the management of migration movements in the border zone. On 12 July 2020, the two ministers of the Interior signed an agreement, one of the objectives of which is to combat “uncontrolled” crossings of the Channel. It provides, on the one hand, for the return to France of exiled persons arriving in the United Kingdom and, on the other, for the creation of a Franco-British intelligence unit consisting of six French police officers and six British police officers. In addition, a new administrative agreement, concluded by Mr Gérald Darmanin and Ms Priti Patel on 28 November 2020, further strengthened the system providing for additional patrols and technological resources, such as drones and radars, to identify attempts at illegal crossing. Following this agreement, 400 additional French mobile police and gendarmes were to be mobilised from December 2020 in Calais. CNCDH regrets that these agreements have not been officially published.

11. In this context, the CNCDH must recall that no initiative under the State’s migration policy to control flows can be tolerated if it has the effect of infringing the fundamental rights of exiled persons, including their right to asylum. The CNCDH, based on observations on the ground and hearings carried out in the context of this opinion, will address the consequences of the tightening of the security policy (1), insufficient responses to the basic needs of exiled persons (2), and the response to international protection needs (3).

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10. Major deforestation operations since the end of 2019 (Dunes Industrial Zone, Shell site, Pul wood, hospital site, Fort Nieulay, etc.).

## **I - TIGHTENING OF SECURITY POLICY AGAINST EXILED PERSONS AND CAREGIVERS**

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12. The combination of French and British migration policies in the Channel coastal zone amounts to a double obligation for exiled persons: not to stay in the coastal zone and not to cross to the United Kingdom. This dual obligation, exclusively implemented on French territory due to the outsourcing of the British border, results in the deployment of security forces on the ground, on the one hand to dismantle all temporary shelters and deter any form of installation, and on the other to strengthen measures for closing the border.

### **I.1. A policy of dismantling and destroying informal shelters that infringes human dignity**

13. In Calais and in Grande-Synthe, the argument of the “pull factor” supposedly encouraged by the existence of reception facilities on the coast, remains the main justification invoked by the public authorities in the implementation of the “zero anchor point” policy which has been strengthened further over the last three years.

#### **I.1.1. Systematic expulsions from informal living spaces experienced as harassment**

14. In Calais, the Human Rights Observers association identified more than 1,000 expulsions from informal living spaces in Calais and in the region in 2020 (including 41 in September, 46 in October, 73 in November, and 87 in December<sup>11</sup>). In Grande-Synthe, ten expulsions were identified in September, seven in October, seven in November, and nine in December<sup>12</sup>. According to the Observatory of expulsions from informal living spaces<sup>13</sup>, expulsions on the northern coast alone represent 88% of the expulsions of camp sites at national level. These dismantling operations are often carried out by the police on the directive of the public prosecutor due to the illegal occupancy of land after a complaint is filed by the owner of the land. Other expulsions are based on the order of the court or administrative court. It was reported to the delegation of the CNCDH that these legal bases were not always made explicit<sup>14</sup>, which made it more

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11. Human rights observers, monthly newsletters of the observations of expulsions in Calais, Pas-de-Calais, September 2020, October 2020, November 2020, December 2020.

12. Human rights observers, monthly newsletters of the observations of expulsions in Grande-Synthe, Nord, September 2020, October 2020, November 2020, December 2020.

13. Observatory of expulsions from informal living spaces, detailed analysis note, 1 November 2019 – 31 October 2020, p. 14.

14. Observatory of expulsions from informal living spaces, detailed analysis note, 1 November 2019 – 31 October 2020.

difficult to raise legal challenges against some of these expulsions<sup>15</sup>.

15. During these expulsions, exiled persons are strongly encouraged to get on buses to go to reception and examination centres (CAES), whose locations they do not know, which are far away from the coast and where they stay for short periods in the majority of cases.

16. The CNCDH deplores the attacks on human dignity caused by these incessant destructions of the makeshift shelters of exiled persons, which have already been denounced by the United Nations Special Rapporteur on appropriate housing as an element of the right to a sufficient standard of living and on the right to non-discrimination in this regard<sup>16</sup>.

17. It was reported to the delegation of the CNCDH that the State often has an incomplete vision of the state of housing and shelter needs. However, associations making visits to exiled persons are able to identify these needs and they should be able to report them to the public authorities.

**Recommendation No. 1:** The CNCDH recommends that no evacuation operations be carried out without suitable shelter/accommodation proposals being made on the basis of adequate information.

**Recommendation No. 2:** The CNCDH recommends that a global monitoring platform for the number of places available within the accommodation facilities be set up and communicated to all associations carrying out outreach work among dispersed people.

### **I.1.2. Violent expulsions under the increasingly restricted view of third-party observers**

18. It was brought to the attention of the delegation of the CNCDH that the conditions under which the expulsions are carried out are said to be increasingly harsh, with sometimes disproportionate use of force by the agents of the State. As of 2017, this disproportionate use was not only denounced by associations<sup>17</sup>, but also noted by the public authorities. Investigations by the General Administration Inspectorate (IGA), the Inspectorate of the National Police (IGPN) and the General Inspectorate of the National Gendarmerie (IGGN) concluded that *“the on-site investigations confirm plausible breaches of doctrine and ethics committed by the internal security forces in Calais and*

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15. Court of Boulogne sur Mer, 6 November 2021.

16. United Nations, Specialised Housing as an element of the right to an adequate standard of living and on the right to non-discrimination in this regard, Visit to France, 28 August 2020, A/HRC/43/43/Add.2, paragraph 76.

17. Human Rights Watch, “It’s like living in hell”, Police abuse in Calais against migrants, children and adults, 26 July 2017.

to a lesser extent *Dunkirk*<sup>18</sup>. Several observers indicated that evacuation operations often involve abusive police practices: night operations, tearing of tents, confiscation of blankets and other property thrown into skips, incineration of objects remaining on site... Their testimony corroborates that of migrant people facing these practices on an almost daily basis.

19. In addition, the CNCDH was informed that new dissuasive measures were put in place to move the presence of observers away, whether members of associations or journalists, during evacuation operations. Security perimeters that are disproportionate to the risks caused by the evacuations are imposed by the law enforcement authorities, hindering the observation by third parties of the dismantlings being carried out.

**Recommendation No. 3:** The CNCDH recommends that the State prevent excessive use of force by security forces in the evacuation of informal living spaces.

**Recommendation No. 4:** The CNCDH recalls the recommendation of the United Nations Committee against torture alerted in 2016 to allegations of violence against asylum seekers and migrants in Calais<sup>19</sup>. In this regard, it stresses the importance of conducting comprehensive investigations to combat any form of impunity by law enforcement authorities

**Recommendation No. 5:** The CNCDH recommends that external observation by citizens or journalists not be hindered during camp evacuation operations<sup>20</sup>.

### **1.1.3. Caregivers, association members or simple citizens, subjected to forms of harassment**

20. Since 2016, caregivers, whether members of associations or citizens, have said that they are subject to increasing pressure from public authorities in order to hamper their humanitarian activities with migrant people. In addition to the prohibition on the distribution of drinks and foodstuffs in certain locations in the city of Calais<sup>21</sup>, they testify to abusive behaviour by law enforcement authorities against them. In this respect, the Town Hall of Calais ordered in December 2020 the installation of rocks blocking members of associations from visiting this site which was very popular with

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18. IGPN, IGA and IGGN, Evaluation of the action of law enforcement in Calais and Dunkirk, October 2017.

19. United Nations, Committee against torture, Final Observations on the Seventh Periodic Report of France, 10 June 2016, CAT/C/FRA/CO/7, paragraph 17.

20. Conseil d'État, urgent applications judge, order of 3 February 2021, No. 448721, paragraph 5: "it is the responsibility of the Prefects of Nord and Pas-de-Calais to ensure, in the organisation of future operations, particularly with regard to the setting of safety distances, that an infringement of the kind mentioned in Article L. 521-2 of the Code of Administrative Justice is not committed against the freedom cited".

21. See below.

exiled persons because it gave them access to their essential needs<sup>22</sup>. The CNCDH then questioned the reasons for this initiative<sup>23</sup>.

21. Thus, a report published by four associations in August 2018 alleged that the law enforcement authorities had significantly stepped up the use of unjustified fines against them<sup>24</sup>. In 2021, members of associations were reported for non-compliance with the lockdown despite the existence of a derogatory reason for “assistance to vulnerable persons”<sup>25</sup>. During its mission in Calais, several associations also reported to the CNCDH practices of intimidation from law enforcement, such as a stepping up of identity checks, arrests, but also vehicle searches and body searches. Finally, Amnesty International draws attention to cases of physical violence by law enforcement authorities on caregivers<sup>26</sup>.

**Recommendation No. 6:** Like the United Nations Special Rapporteur on the Human Rights of Migrants, the CNCDH recommends that the public authorities cease all forms of intimidation, hindrance and harassment against caregivers<sup>27</sup>. It also recommends ensuring that the measures adopted at local and national level, as well as their implementation, facilitate the work of those who defend the fundamental rights of exiled persons, in particular on the basis of the principle of the constitutional value of fraternity<sup>28</sup>.

**Recommendation No. 7:** The CNCDH recommends that France establish a general statute for human rights defender as it committed to do on 9 December 1998 at the time of the adoption of the *Declaration on the Situation of Human Rights Defenders*<sup>29</sup> and reaffirmed it at the World Summit of human rights defenders in 2018.

**Recommendation No. 8:** Alarmed by prejudices that cast caregivers as the “accomplices” of the people-smugglers, the CNCDH recommends that the importance of their role, whether they are simple citizens or associations, be recognised and valued by the public authorities.

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22. Distribution of food, heating wood, clothing, tents, access to first aid, and games.

23; Letter from the President of the CNCDH to the Mayor of Calais, 14 January 2020, available at: [https://www.cncdh.fr/sites/default/files/lettre\\_a\\_la\\_maire\\_de\\_calais\\_janvier\\_2021.pdf](https://www.cncdh.fr/sites/default/files/lettre_a_la_maire_de_calais_janvier_2021.pdf).

24; L'Auberge des migrants, Utopia 56, Help Refugees and Refugee Info Bus, Calais, 7 August 2018: Police Harassment of Volunteers, Study from November 1, 2017 to July 1 2018.

25. Decree No. 2020-293 of 23 March 2020 prescribing the general measures necessary to deal with the Covid-19 epidemic within the framework of the health emergency, Article 3, I, 4; Decree No. 2020-1310 of 29 October 2020 prescribing the general measures necessary to deal with the Covid-19 epidemic within the framework of the health emergency, Article 4, I, 4.

26. Amnesty International, La solidarité pris pour cible [Solidarity under attack], June 2019.

27; United Nations Special Rapporteur on the Human Rights of Migrants, Report on the Right to Association of Migrants and Their Defenders, A/HRC/44/42, 13 May 2020, paragraph 89 (I).

28. Constitutional Council, 6 July 2018, Decision No. 2018-717/718 QPC, paragraph 7.

29. United Nations General Assembly, Resolution A/RES/53/144, 9 December 1998.

## 1.2. A more controlled border and more dangerous crossings

22. Since the Sandhurst<sup>30</sup> agreements providing for a significant financial commitment from the United Kingdom to strengthen the anti-migrant mechanisms in and around the port of Calais and following recent agreements between French and British ministers, crossings via the port of Calais have become increasingly difficult. New Channel-crossing routes have developed in small boats, offering networks of people-smugglers and traffickers of exiled persons a new field of action<sup>31</sup>.

### 1.2.1. Enhanced border crossing control

23. Considerable investments have been and continue to be made to secure the port of Calais against attempts at truck crossings and these are largely financed by the UK (approximately 150 million pounds since 2016). This involves in particular the erection of an “anti-migrant” protective wall, more than 4 meters high, on the harbour ring road and the construction of high safety fences over 65 kilometres around the port and the entrance of the tunnel under the Channel. As a result, attempts at boarding trucks remain very high (especially for the poorest). Successful crossings of the border by truck from the Calais area are said to be less and less common.

24. Private security officers are responsible for controlling the car parks and places around the port in order to secure these premises. However, the delegation of the CNCDH has received reports of violent behaviour against migrant people present on these sites as well as the use of dogs to threaten and frighten them. Cases of bites have been reported.

25. Since 2018, a new very dangerous way of crossing the Channel has developed on small boats. The maritime prefecture counted 868 crossings or attempts to cross in 2020 corresponding to 9,551 people, compared with 203 crossings or attempts to cross in 2019, corresponding to 2,294 people. According to the border police, about 50% of crossings are said to succeed, without it being possible to confirm this. The number of drowned people whose bodies have been found is increasing: at least 12 bodies in 2020. According to the observatory of migrants in Calais, more than 200 migrant people are said to have died trying to cross this border between 1999 and 2019. For the shipwrecked survivors, the trauma can be very serious. Currently, the care of people

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30. Treaty between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland on strengthening cooperation for the coordinated management of their common borders, signed in Sandhurst on 18 January 2018.

31. The term “people smuggler” is a generic term covering several realities, ranging from providing assistance to cross borders free of charge, or organised by criminal networks in return for large sums of money, to exiled persons financing their own passage themselves. According to the Palermo Protocol, the last two categories are regarded as migrant traffickers because there is financial compensation, even though of course the scale of each of these types of trafficking is disproportionate.

rescued at sea varies depending on the circumstances without taking account of the trauma experienced after the rescue. Some are left to their own fate, soaked and cold, others are placed in detention.

**Recommendation No. 9:** The CNCDH recommends the establishment of public arrangements for dealing with shipwrecks, as well as specific support measures in the event of death or disappearance at sea, in connection with families, relatives and local associations.

### **1.2.2. Networks of smugglers and traffickers of exiled persons adapt constantly**

26. The development of smuggler and trafficker networks is the consequence and not the cause of persistent attempts at illegal crossings to the United Kingdom. Indeed, the lack of legal channels for access to the United Kingdom and the stepping up of obstacles to crossing the Franco-British border force exiled persons who have decided to go to this country to resort to smugglers more frequently. These are more organised and their requirement is in line with the objective difficulties of the passage. The cost of crossings required by migrant persons (between €3,000 and €12,000 per person depending on the means of transport) represents a very profitable activity, giving rise to the growing interest of criminal networks. According to the Border Police, the thirty trafficker networks dismantled per year represent only a tiny fraction of the whole. Beyond the activities of the “*small-time smugglers*”, there is a rise in the people-smuggling business at the hands of violent networks of traffickers of exiled persons who do not hesitate to use physical force on exiled persons (even in the living quarters of the shelters).

27. Police forces are trying to trace the networks but are faced with the difficulty of gathering evidence of flagrant crimes and the silence of the victims who dare not denounce them and sometimes remain under their control.

**Recommendation No. 10:** The CNCDH once again recommends that the public authorities strengthen the resources of police forces in order to implement an intransigent and ambitious criminal policy against everything related to organised trafficking in exiled persons<sup>32</sup>.

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32. CNCDH, 26 May 2016, *Opinion on the situation of migrants in Grande-Synthe*, Recommendation No. 42, OJRF No. 0131 of 7 June 2016, text No. 46.

## II - INADEQUATE "HUMANITARIAN INFRASTRUCTURE" FACED WITH EMERGENCY

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28. During his visit to Calais in January 2018, the President of the Republic defined the contours of a “*humanitarian infrastructure*” consisting of the implementation of state-funded mechanisms entrusted to mandated associations: food distributions, re-establishment of systems for access to water and shower facilities (following a verdict against the State and the Town Hall of Calais delivered by the Conseil d’État in 2017<sup>33</sup>), and possibilities for emergency shelter in the CAES. If the current response proves to be imperfect and insufficient, it has the merit of existing in Calais. On the contrary, it is almost absent in Grande-Synthe even though the survival conditions and distress of the exiled persons are similar.

29. The recurrent or even systematic practice of evacuations results in a dispersion of living spaces and tends to make exiled persons invisible. To respond to this situation, members of associations have developed “go to” approaches. However, the continuous change in the survival sites of exiled persons as the dismantlings proceed and the fear of new evacuation operations is a major factor complicating the work of associations in identifying them and meeting their needs.

### II.1. Insufficient access to essential services

30. The delegation of the CNCDH noted during its visit that access to essential services for exiled persons was insufficient or inadequate, in particular with regard to the effectiveness of access to water and food, hygiene, health, communication and, above all, dignified accommodation.

#### II.1.1. Access to water and food

31. In Calais, food and water distributions are organised daily by an association mandated by the State (La Vie active). Insufficient water taps are made available to exiled persons at a few fixed points. In Grande-Synthe, no association is mandated by the State to distribute food and a single water point has been made available to exiled persons on the Puythouk site.

32. According to statements made to the delegation of the CNCDH, the average nutritional intake of the meals distributed by associations mandated by the State is not sufficient for some of the exiled persons concerned because of their travels even before they arrive in France and their exhaustion, a situation further aggravated by

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33. Conseil d’État, Commune de Calais, Minister of State, Minister of the Interior, 31 July 2017, No. 412125, 412171.

their young age with regard to unaccompanied minors. In addition, the transformation of the methods of distribution in the form of outreach visits has led to difficulties in identifying more and more dispersed and hidden people as the dismantlings proceed. Thus, despite the outreach visits to distribute food, the associations have difficulty reaching these exiled persons who are now dispersed and fearful.

33. In addition, associations not mandated by the state which try to compensate for these shortcomings are increasingly confronted with administrative prohibitions. A prefectural order dated 10 September 2020 prohibited the distribution of free food and beverages in the city centre of Calais<sup>34</sup>, subsequently extended by four prefectural orders<sup>35</sup>. In a letter addressed to the Minister of the Interior, the president of the CNCDH expressed its concern from September 2020 about the use of the health argument to restrict the work of associations supporting migrant people and recalled that measures that are excessively restrictive upon freedom can create instability and insecurity in an already highly vulnerable population<sup>36</sup>.

**Recommendation No. 11:** The CNCDH recommends setting up food distributions in sufficient quantities close to the living spaces of exiled persons by an association mandated by the State in Grande-Synthe, and a strengthening of the existing system in Calais.

### II.1.2. Access to hygiene

34. In Calais, the establishment of water, latrines and shower points results from an injunction from the administrative courts issued to the State in 2017 to *“create in places easily accessible to migrants, outside the centre of Calais, several water access devices allowing them to drink, wash themselves and wash their clothing, as well as latrines, and to organise a suitable, fixed or mobile mechanism for access to showers in a manner that will allow access, as frequently as appropriate, for the most vulnerable persons”*<sup>37</sup>. The State has commissioned La Vie Active [The Active Life] association to manage these mechanisms. Thus, 200 showers are offered per day, with time slots reserved for women. In order to be able to benefit from this, tickets are distributed during the outreach visits, which results in some exiled persons being potentially excluded. In addition, it appears that the number of possible showers per day is unsuitable for the needs of exiled persons in Calais. About thirty latrines were installed

34. Prefect of Pas-de-Calais, Order of 10 September 2020 prohibiting the distribution of foodstuffs in certain places in the city centre of Calais, in prevention of health risks and risks related to public hygiene.

35. Prefect of Pas-de-Calais, Order of 30 September 2020; Prefect of Pas-de-Calais, Order of 19 October 2020; Prefect of Pas-de-Calais, Order of 16 November 2020 extending the prohibition on the distribution of foodstuffs in certain places in the city centre of Calais to prevent health risks and risks related to public hygiene; Prefect of Pas-de-Calais, Order of 13 January 2021.

36. CNCDH, Letter dated 22 September 2020.

37. Administrative Court of Lille, interlocutory judge, 26 June 2017; Conseil d’État, 6th Chamber, 31 July 2017, No. 412125.

on three sites in Calais.

35. In Grande-Synthe, the town hall has installed a water point as well as two dry toilets on the Puythouk site which have not been used since their installation. They are currently being used as a protected shelter for a family. Access to showers is possible at Dunkirk twice a week.

36. This lack of access to hygiene for exiled persons is a real public health problem as it is conducive to diseases and transmission.

**Recommendation No. 12:** CNCDH recommends that accessible mechanisms and sufficient access to showers and toilets be installed at both the Calais and Grande-Synthe sites.

### II.1.3. Access to health

37. Emergency first aid, as well as orientation and referral to health services within the hospital are provided by outreach visits and mobile consultations carried out by certain associations that ensure that they act as a gateway to Health Service Access Points (PASS) without substituting for them. Attendance at the latter shows the deterioration of the general state of health of exiled persons and therefore the scale of their needs.

38. Mobility to the Health Service Access Points of hospital centres in Calais and Dunkirk is particularly complicated for some exiled persons. Thus, many of them waive emergency support to which they are entitled.

39. Taking into account the need to integrate access to care into the “*humanitarian infrastructure*” deployed by the State, the implementation of a “go-to” approach by the Health Service Access Points, on the mobile Health Service Access Points model that has developed in several territories, appears relevant in this border area. This would make it possible to expand the opening hours of these services, effectively mobilise interpreters and widen the spectrum of the proposed specialties (particularly in terms of dental and psychological care).

**Recommendation No. 13:** The CNCDH recommends the creation of a permanent mobile access to health care (PASS) for exiled persons and the strengthening of resources for the management of certain pathologies, including mental health and dental care problems.

**Recommendation No. 14:** The CNCDH recommends that medical care take into account the different situations of vulnerability and their specific needs (unaccompanied

minors, women).

**Recommendation No. 15:** The CNCDH recommends the inclusion of exiled persons in the Covid-19 vaccination programme in accordance with the recommendations of the UN Special Rapporteurs<sup>38</sup>.

#### **II.1.4. Telephone charging and Internet access**

40. The delegation of the CNCDH was able to see the essential importance for exiled persons of having access to telephones and Wi-Fi both in the context of maintaining family connections and their administrative procedures and in all emergency situations. In Calais and Grande-Synthe, no association is mandated by the State to provide access for recharging phone batteries, phone credit or Internet access. In order to compensate for this absence, the Secours Catholique-Caritas France and the French Red Cross provide exiled persons with the means of charging their mobile phones. Other associations offer a Wi-Fi connection from a truck.

**Recommendation No. 16:** The CNCDH recommends that access to means of communication (telephone recharging, Internet access) be considered an essential need under the “humanitarian infrastructure”.

#### **II.1.5. Access to dignified accommodation**

41. Emergency shelters for exile populations in a situation of high vulnerability on the coast should be treated as a humanitarian imperative, under ordinary law, given the distress and extreme destitution in which they are living. However, the resort to ordinary law mechanisms is in fact only very rarely used according to the information collected by the delegation, except for very vulnerable families and for a few days. The arguments put forward are, both the saturation of the emergency accommodation systems in the region, but also and above all the fact that the provision of emergency shelters for migrant persons is considered to be the responsibility of the State which has set up specific centres, the CAES.

42. To put an end to the indignity of the living conditions of migrant people in the coastal zone, which has been denounced for years, and to consider solutions that would take note of the temporary presence of migrant persons in transit, several actors who met during the mission defended the idea of creating small living units spread across the Channel coast. On the one hand, they would give the opportunity to access emergency, temporary and respite accommodation, to migrant persons in transit who do not want to move away from the coast or embark on a process of integration

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<sup>38</sup>. United Nations, Special Rapporteur on the Human Rights of Migrants and Special Rapporteur on the right of everyone to enjoy the best physical and mental health possible, Joint Declaration of 22 January 2021.

in France. On the other hand, they could be a bridge to more sustainable support mechanisms located remotely from the coast.

43. Indeed, the finding that many migrant people give up on access to the CAES or stay there for only a few days before returning to the coast, is explained by the fact that they are too distant from crossing points at the border and the lack of appropriate support allowing them to plan for a move towards integration within France.

44. The establishment of small respite units on the territories of different coastal municipalities in agreement with municipalities and with the support of associations would allow exiled persons to go in confidence and receive reliable information on the prospects and risks of the crossing and reception in the United Kingdom and on the possibilities of carrying out their migration plans within France (in particular with regard to asylum).

45. Criticisms of this type of solution on the grounds that it would generate “a pull factor” can easily be countered. They reflect a lack of knowledge of the reality of the migration plans of exiled persons which are determined not on the basis of the quality of reception but their desire to travel to the UK. On the other hand, a priori refusal to create conditions of another type of, more dignified, reception, is to resign oneself to the current impasse and its unacceptable consequences in terms of infringements of the dignity and fundamental rights of these children, women and men present today on French territory. In order to avoid recreating any significant concentrations in one or two places, it is appropriate to set up small transit centres spread across many municipalities in the coastal zone, and not just in Calais or Grande-Synthe.

**Recommendation No. 17:** The CNCDH recommends the establishment of small living units along the coast, allowing exiled persons to find a secure place and a respite time conducive to reflection on their migration plans.

**Recommendation No. 18:** The CNCDH, while recognizing the current reluctance, recommends engaging and encouraging a coalition of host cities on the coast to be set up in order to develop a realistic and shared welcome strategy, supporting the approach initiated by the Mayor of Grande-Synthe.

46. More generally, the CNCDH regrets that the response of the public authorities to the humanitarian needs of exiled persons is only built in response to the successive judgements of the courts and to liberty injunction procedures initiated by the associations<sup>39</sup>. This emergency strategy does not allow the development of a public policy that is worthy of the name and durable over the long term, defining the configuration of a humanitarian infrastructure compatible with respect for human

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39. For example, the Administrative Court of Lille, urgent applications judge, 22 September 2020, order No 2006511; Conseil d'État, 25 September 2020, interlocutory decision No.444793.

dignity.

**Recommendation No. 19:** the CNCDH recommends the establishment of a true “*humanitarian infrastructure*” meeting all the essential needs of exiled persons throughout the area and compatible with respect for their dignity.

## II.2. Insufficient care for particularly vulnerable people

47. All exiled persons in transit in the border area are de facto in a position of extreme vulnerability given the policies of destruction of camps and the inadequacy of the humanitarian infrastructure. In addition, some of these people require special additional protection: unaccompanied minors, women, children and people who are victims of human trafficking.

### II.2.1. Unaccompanied minors in danger

48. During its visit, the delegation of the CNCDH was informed of the presence of minors in danger and met some of them. These are mainly minors from Sudan, Eritrea, Afghanistan, etc., who experienced dangerous journeys before reaching the Channel. Surviving amidst adults, they face violence in the conditions of a wandering life, repeated expulsions, insufficient responses to their basic food or health needs and violence by sexual predators and human traffickers. First, these are minors in danger who should be able to access the protection to which they have the right like any minor present on French territory<sup>40</sup>.

49. In Calais, the associations the delegation met mentioned the difficulty of getting in touch with these very mobile minors. In October, they met 209 minors and 164 in November 2020. The association France Terre d’Asile is mandated by the State to carry out outreach operations in order to identify these minors, offer them shelter on their premises in Saint-Omer and prepare for them to be taken care of by the Aide Sociale à l’Enfance (ASE) [Social Assistance to the Child] mechanisms under ordinary law after the authorities have declared them minors. The capacity is 80 places, and 200 young people are sheltered every month. However, it has been reported to the CNCDH that a substantial proportion of these minors leave the centre which they consider to be too far from the coast and return after a few days of respite to places of departure for the United Kingdom. Nevertheless, the coordination of associations involved in dealing with unaccompanied minors was set up in Calais a year ago and represents real progress in taking care of these children in a better coordinated way.

50. In Grande-Synthe, the associations estimated at 116 the number of

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40. International Convention on the Rights of the Child adopted on 20 November 1989.

unaccompanied minors identified in October 2020, but they believe there are many others that have not been approached. The association AFEJL is in principle responsible for reporting to the ASE, but associations in the field indicated to the delegation that in reality these reports to the ASE were mainly made by Utopia 56 and Refugee Women Center.

51. Although the outreach programs provide certain information to minors on the rights they could claim, it seems that ultimately the lack of support and follow-up, particularly because of their high mobility due to evacuations and their mistrust means that for them to have access to care by the ASE is still a remote prospect. In addition, the associations testify to numerous malfunctions of the State's management system: no presumption of minority status until final judgement after appeal, appointment of an ad hoc administrator or legal representative, inadequate appropriate support, etc.

52. It was reported to the delegation that, in Pas-de-Calais, half of unaccompanied foreign minors would not be recognised as minors after the minority assessment. The assistance required to enable them to appeal is often not sufficient and these minors are excluded from the systems, even though many of them are in danger (sexual exploitation, coming under the power of networks, violence). The average age of minors moving to the reception centre for unaccompanied minors in Saint Omer is 16 and a half years of age. Thus, a certain number of young people will become adults quickly and their future is very uncertain. Finally, very few young people are appointed an ad hoc administrator, which is not only contrary to the provisions of the CESEDA<sup>41</sup> but also particularly serious for isolated minors who are in danger and vulnerable.

53. Finally, Brexit has the effect of ending the possibility of family reunification in the United Kingdom under the Dublin III Regulation from which unaccompanied minors benefited, in particular, until 31 December 2020.

54. The UK Government had already terminated in 2020 the possibilities opened by the Dubs Amendment<sup>42</sup> allowing the transfer to the United Kingdom of certain categories of minors.

55. The legal pathways to the UK that were open to unaccompanied minors to a limited extent are therefore closed. The associations will no longer be able to propose to these minors to accept shelters with a view to preparing their legal passage to the UK and thus avoiding the dangers of illegal crossings.

**Recommendation No. 20:** The CNCDH recommends that the presumption of minority status should always be taken into account. It is by law in application of international

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41. Code on the Entry and Residence of Foreigners and the Right of Asylum, Article L221-5; Code on the Entry and Residence of Foreigners and the Right of Asylum, Article L741-3.

42. Immigration Act, Section 76.

texts ratified by France<sup>43</sup>. Any decision concerning isolated minors must be made in their best interests based on their word and an objective assessment of their age.

**Recommendation No. 21:** The CNCDH recalls that under positive law, each unaccompanied minor must, upon arrival on French soil, have an independent ad hoc administrator appointed for him or her. The CNCDH deplores the insufficient number of ad hoc administrators registered on the lists in the jurisdiction of the Douai Court of Appeal.

**Recommendation No. 22:** The CNCDH recalls that a foreign isolated minor on the Franco-British border zone has the right to benefit from child protection, like any other child in France. Its child welfare (ASE) support is based on ordinary law and the corresponding financial resources must be allocated.

**Recommendation No. 23:** The CNCDH, recalling the case law of the European Court of Human Rights<sup>44</sup>, recommends that, without waiting for support by the ASE, the essential needs of these endangered minors should be guaranteed : safekeeping, food and water, health, education, means of communication...

**Recommendation No. 24:** The CNCDH recommends that the steps concerning the right of asylum be taken very quickly without waiting for their majority. A minor subject to a refusal by the ASE to assume responsibility for them cannot see this fundamental right obstructed.

**Recommendation No. 25:** The CNCDH recommends that the care of these minors be conducted from the perspective of their integration into France in order to avoid a hard exit, at 18 years of age, from the ASE system (school, assistance in job search, right of residence, legal aid if necessary).

**Recommendation No. 26:** The CNCDH recommends that the government enter into negotiations with the United Kingdom to reopen legal access to its territory to unaccompanied minors based on the right to family reunification.

## **II.2.2. Women inadequately cared for**

56. Women accompanied by their families or alone today represent a minority of migrant people on the coast and are mainly located in Grande-Synthe. According to an estimate provided to the delegation of the CNCDH during its trip, 17 families with children and 5 unaccompanied women were present on the Puythouk site in Grande-

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43. United Nations Committee on the Rights of the Child, Communication No. 16/2017, 10 July 2019, CRC/C/81/D/16/2017, paragraph 12.3.

44. ECHR, Judgement, Court (Fifth Section), *Case Kahn v France*, 28 February 2019, 122267/16.

Synthe in mid-December. Since no associations mandated by the State to conduct outreach are specifically dedicated to women, they therefore do not benefit from appropriate care. However, the associations involved in Grande-Synthe reported extremely worrying situations of women in very vulnerable situations due to their isolation, or their pregnancy sometimes, as well as their exposure to violence from spouses or from smugglers or traffickers. In addition, the constant insecurity in which they find themselves and the trauma experienced during their exile journeys sometimes have very serious psychological consequences. Emergency accommodation in ordinary law mechanisms via 115 is only accessible for very limited periods. They are offered a shelter in the CAES.

57. Finally, associations do not always take into account gender issues in the deployment of their services (specific time slots or queues, adaptation of assistance, presence of employees/interpreters of the same sex) which is likely to remove some women from access to aid due to the exclusive presence of men.

**Recommendation No. 27:** The CNCDH recommends the establishment by the State of a specific system for the identification and care of particularly vulnerable women (home, medico-social support, particularly for their pregnancy).

**Recommendation No. 28:** The CNCDH also recommends that mandated associations incorporate provisions in their specifications to ensure effective access by women to the various humanitarian services proposed.

### **II.2.3. People who are victims of exploitation or trafficking in human beings**

58. The delegation of the CNCDH has been informed of serious suspicions about human trafficking practices in the coastal zone, but victims remain poorly identified and poorly protected. The context of insecurity and instability in which exiled persons survive, as well as the lack of training of those involved within institutions (police, justice, social, health, national education, etc.), make it very difficult to identify victims of trafficking. In addition, the networks have a strong influence on these people who are afraid to speak, all the more so in that they often depend on violent traffickers to cross the border.

59. In addition, it was stated to the delegation that reports sent by associations to the public prosecutors dealing with minors, following proven suspicions of trafficking, remained unanswered. The CNCDH regrets that the priority given by the security forces to the search for and arrest of human traffickers is not accompanied by the provision of assistance to the victims of these same traffickers or persons profiting from the vulnerability of these people.

**Recommendation No. 29:** The CNCDH recalls that enhanced support should be reserved for victims of trafficking in human beings. This includes awareness and training of all health professionals, education professionals, social services, police, identification, orientation and support for these victims<sup>45</sup>.

**Recommendation No. 30:** The CNCDH recommends that reports to the competent public prosecutors about persons who are likely to be victims of trafficking are followed up with effective responses. In addition, the CNCDH recommends that those who make these reports are able to find out what consequences the reports have had so they can follow up on them.

### III - BETTER RESPONSE TO INTERNATIONAL PROTECTION NEEDS IN THE AFTERMATH OF BREXIT

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60. Beyond the evolution of the figures in recent years, the concentration of exiled persons in Calais and on the coasts of the Channel has been a constant, at least since the arrival of the first refugees from Kosovo in 1999. A substantial part of this concentration relates to the deregulation of the right of asylum at the Franco-British border, as well as the absence of legal means of entry into the United Kingdom for other reasons.

#### III.1. The concentration of exiled persons in Calais and its causes

61. In Calais and Grande-Synthe, the total number of exiled persons was estimated at 6,200 people, in 2016<sup>46</sup> and approximately 1,300 by mid-December 2020. The origins and paths of these exiled persons evoke the wandering paths into Europe and France of people in search of protection. There is a lack of data on the proportion of those people who would like to get asylum in France: according to those recently identified in the CAES in the region, this is said to represent only 10% of the people sheltered there.

62. The decline in the overall figure in the context of a reduction in the number of arrivals in Europe is not only due to the slowdown in mobility due to the Covid-19 pandemic, but also to a significant extent to European border closure policies. To a certain extent, this decrease is also due to the public dismantling policy conducted since 2016, which has also had an effect on the circumstantial movements of exiles

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45. CNCDH, 28 April 2020, *Opinion on the "Creation of a national reference mechanism" concerning trafficking in human beings*, OJRF No. 0108 of 3 May 2020, text No. 48.

46. CNCDH, 16 July 2016, *Follow-up opinion on the situation of migrants in Calais and Calaisis*, OJRF No. 0164 of 16 July 2016.

between Calais and the Paris region. Border closure measures with Italy, then Germany, also seem to have been taken on the basis of the pressure observed in Calais, and are said to have contributed to the decrease in the number of exiles in Calais. This policy, which now takes the form of the continuous struggle mentioned above against the reconstitution of any “anchor point” must not create illusions. The hardening of the measures taken on site leads to the exhaustion of the interested parties, but in no way to them giving up.

63. The reasons for exile in Calais, as analysed in the previous opinions, are still today: supposed attractiveness of the British asylum procedure, the flexibility of the labour market, the presence of family members, a diaspora and, finally, knowledge of the English language<sup>47</sup>. The incentive role of smugglers, sometimes from the country of origin, which has been strengthened, should be added to this. However, CNCDH regrets that this latter argument, constantly invoked and denounced as the primary cause of the “crisis” in Calais by the public authorities, gives rise to so few known analyses and studies.

64. A substantial part of the arrivals in Calais must be linked to the impasses in Europe’s asylum policy. The “secondary movements” of people who have been “Dublined”<sup>48</sup> or people whose asylum claims were rejected in other EU countries tended to increase in France until 2020 more than elsewhere, as recognised by the public authorities, with Calais, often targeted.

65. The associations encountered believe that for almost half of the exiled persons present on the coastline who have left other European countries or who have been blocked in Dublin proceedings in France, the hope of passing to the UK is a sort of last chance attempt after their wandering paths in Europe. The small number of refugee claims is difficult to interpret. It is apprehended less by the registrations of requests than by informal interviews or outreach visits. Asylum sometimes seems to be less desired than the UK labour market or family reunification in the United Kingdom. But the asylum application is thus doubly prevented: if the exiled persons file it in France, they may fear being subject to a “Dublin” transfer; and to file it in the United Kingdom is impossible since the border is positioned on French territory under the Touquet agreements.

## III.2. The issue of asylum at the British border

66. Three deregulations today affect the exercise of the right of asylum in Calais: the deregulation of European policy, the deregulation of French policy, the deregulation of asylum policy in the United Kingdom.

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47. CNCDH, 2 July 2015, *Opinion on the situation of migrants in Calais and Calaisis*, paragraph 17, OJRF No. 0157 of 9 July 2015, text No. 102.

48. Exiled persons subject to the procedure of the Dublin III Regulation referred to above.

### III.2.1. The disruption of European policy

67. The deregulation of European asylum policy is one of the fundamental causes of the arrival in Calais of people who have been deprived of the right of asylum or “Dublined” in another EU country. This first observation obliges us to think of reception solutions, at least until this cause has disappeared.

### III.2.2. The disruption of French policy

68. Deregulation of which French policy forms a part, until the reception and accommodation of all asylum seekers is ensured<sup>49</sup>. It has been reported to the delegation of the CNCDH, in particular by exiled persons and associations who assist them on site, a serious criticism of the current shortcomings of this reception throughout France. To this general comment, there is also the observation of the conditions and difficulties experienced by exiles who wanted to apply for asylum in France in Calais, such as the removal of the office, now transferred from Calais (sub-prefecture) to Lille (prefecture), or the inadequacy of information systems in terms of asylum rights (access to this right provided by OFII and associations such as the Cabane Juridique).

69. Moreover, despite the recognition of the malfunctions of the Dublin III Regulation, its rigid application by France leads a number of people into wandering in a state in which they are deprived of rights, a certain number of whom are located at the Franco-British border. However, the Dublin Regulation provides for a humanitarian clause (Article 17-4) for exceptional situations, as is the case here.

**Recommendation No. 31:** In the short term and with a view to an agreement with the United Kingdom concerning the management of asylum at the border, the CNCDH called for activation of the humanitarian clause of the Dublin III Regulation not as a substitute for the obligations of the United Kingdom but as a contribution by France to the reception of asylum seekers in Calais and Grande-Synthe.

### III.2.3. Deregulation of asylum policy in the United Kingdom

70. The first symptom of this, too little known, is seen in the number of asylum seekers and refugees registered in the UK in 2020 in relation to its population of 5.78 per 10,000, compared with 19.52 for Germany, 16.93 for France or 60.57 for Greece<sup>50</sup>.

71. The cause of this particularity, for a founding state of the Geneva Convention, is not only geographical. For the most part, this request is legally and effectively

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49. National scheme for the reception of asylum seekers and refugees of 19 December 2020

50. Eurostat, figures 2020.

prevented by the bilateral agreements between France and the United Kingdom which mean that controls are based in France for entry to the UK territory from Calais (see in particular Article 9 of the Touquet Treaty<sup>51</sup> for ports and Article 4 of the Sangatte Additional Protocol for rail stations).

### **III.2.4. Solution paths to escape the deadlock**

72. Since Brexit, the United Kingdom is no longer bound by the Dublin III Regulation. In addition, Brexit changes perspectives and would justify a challenge to the Touquet agreements.

73. Historically, the United Kingdom had considered it appropriate to comply with the Dublin Regulation, which allowed it to justify not opening up the possibility of applying for asylum in the United Kingdom at its border (in Calais in this case) for persons who had already stayed in another EU country.

74. The UK's exit from the Dublin regime having rendered this logic obsolete, an asylum procedure at the United Kingdom border has become meaningful again. The obstacle established by the Touquet agreements is no longer justified by the system for the distribution of asylum seekers organised by the Dublin Regulation. France is, even more than in 2015, justified in challenging the compatibility of these treaties (and the administrative arrangements concluded for their implementation, which should be published in order to assess the compatibility of the whole) with the provisions of the Geneva Convention on the possibilities of applying for asylum upon arrival in the territory of a State Party.

75. Outside Dublin's scope, the United Kingdom can no longer carry out transfers of asylum seekers to EU states<sup>52</sup>. This could encourage the United Kingdom to seek the conclusion of readmission agreements (agreements no doubt foreshadowed or initiated by the first bilateral administrative arrangements concluded with France on 12 July and 28 November 2020, which, according to the ministerial statements, allow for the refoulement to France of exiles who have arrived by sea on the British coast) in lieu of the Touquet agreements.

76. If the United Kingdom commits to this path, it is possible to envisage negotiations on an orderly distribution of asylum claims appearing at the border in Calais and Grande-Synthe. The solution could be radical (denunciation of the Touquet agreements

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51. Touquet Agreements, Article 9: "Where a person issues an application for asylum or requests any other form of protection provided for by international law or the national law of the State of departure during a check carried out in the State of departure by officials in post of the State of arrival, the request shall be examined by the authorities of the State of departure in accordance with the national procedure of that State."

52. While the Dublin transfers were activated in 2019, particularly for exiles whom it was judged had stayed for more than five months in France

by France, and implementation by the United Kingdom of an asylum procedure at the border as is the case at French ports and airports), or gradual (the border crossing controls could last for some time in Calais, if the United Kingdom agrees to enter into a discussion on the fate of exiled persons who request asylum).

77. The termination clause of the Sangatte and Touquet agreements includes a two-year notice requirement, conducive to a step-by-step approach: two years to negotiate a sharing of asylum seekers' reception (and provide criteria). France could use, on a transitional basis as in 2016, the humanitarian clause of the Dublin III Regulation to take part in the reception of exiled persons under the Dublin procedure.

78. The French government's interest in taking these steps already existed in 2015 when the CNCDH called for the denunciation of the Franco-British bilateral agreements<sup>53</sup>. Other EU states could support France, such as Belgium which has not entered into this logic of agreements moving the British border on to its territory, or Italy and Germany, which have suffered from our measures to close the borders linked to the situation in Calais.

79. The following recommendations open up a possible negotiating space and are addressed to the French government. Failing to seize this opportunity condemns it to be trapped in the impasse which has lasted for years: locking the border and evacuation operations at the price of intolerable harm to the dignity and fundamental rights of exiled persons.

**Recommendation No. 32:** The CNCDH again recommends the denunciation of the treaties of Sangatte and Touquet<sup>54</sup>.

**Recommendation No. 33:** In accordance with the termination clause providing for two years' notice, the CNCDH recommends that the French government, during this notice period, engage in negotiations with the United Kingdom, as well as with the other EU Member States concerned, on agreements to distribute the reception of asylum seekers registered on the coast of Hauts-de-France. In addition, it recommends, among other things, negotiating, in return for any readmission agreements with the United Kingdom, the development of legal channels for access to the UK territory, such as an asylum procedure at the border.

**Recommendation No. 34:** The CNCDH recommends the publication of the administrative arrangements between France and the United Kingdom pursuant to the Sangatte and Touquet treaties.

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53. CNCDH, 16 July 2016, *Follow-up opinion on the situation of migrants in Calais and Calaisis*, OJRF No. 0164 of 16 July 2016.

54. CNCDH, 16 July 2016, *Follow-up opinion on the situation of migrants in Calais and Calaisis*, recommendation No. 1, OJRF No. 0164 of 16 July 2016

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80. In conclusion, the CNCDH considers that the deterioration of the conditions under which exiled persons survive in the border area and the recurrent violation of their fundamental rights are unacceptable on the territory of the Republic and also unnecessary since they will not affect the determination of all exiled persons in their migration plans.

81. Like the Human Rights Defender, the CNCDH “calls on public authorities not to persist in what approximates to a denial of the existence of the exiles”<sup>55</sup> and calls for a reorientation of the priorities for action implemented in this territory.

82. In the immediate future, the CNCDH calls for the restoration of dialogue and cooperation between the various parties concerned (State, local communities, associations and civil society) with the sole purpose of protecting lives and respecting the fundamental rights and dignity of people at the Franco-British border. This coordination must also enable the search for realistic long-term solutions and the development of strategies that include the contribution and expertise and experience of all stakeholders, particularly those of associations<sup>56</sup>.

83. Finally, the CNCDH considers that the situation of Calais should not remain without prospects and that alternatives must be considered, both in terms of the organisation of reception and support conditions and in terms of the political transformation of Franco-British relations concerning the management of asylum seekers and legal entry into the United Kingdom.

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55. Human rights defender, Press release following the visit of the Human Rights Defender, 22 September 2020

56. CNCDH, 16 July 2016, *Follow-up opinion on the situation of migrants in Calais and Calaisis*, OJRF No. 0164 of 16 July 2016.

## LIST OF PERSONS INTERVIEWED AND INTERVIEWED BY THE CNCDH

### Persons encountered during the trip of the CNCDH

Many exiled persons met in Calais, including Fort Nieulay and the Secours Catholique-Caritas France premises, and Grande-Synthe on the so-called Puythouck site.

Mrs Marie Le Ray, Plateforme des Soutiens aux Migrant.e.s [Platform for Support for Migrants]

Mrs Lucie Bichet, Safe Passage

Mrs Camille Boittiaux, Refugee Rights Europe

Mr Antoine Caquot, Choose Love, Protection de l'enfance [Child Protection]

Mr Antoine Guittin, Help Refugees/Choose Love

Mrs Claire Cleenewerck, Amnesty Nord-Pas-de-Calais/Somme

Mrs Juliette Delaplace, Secours Catholique-Caritas France - Littoral Nord

Mrs Morgane Denieul, France Terre d'Asile

Mrs. Aurélie Denoual, Médecins du Monde – Programme Nord Littoral

Mrs Marion Dumontet, La Cabane Juridique

Mrs Nora Fellens, La Cabane Juridique

Mrs Vittoria Logrippio, French Red Cross – Mobile support system for exiles

Mrs Siloé Medriane, Utopia 56 Calais

Mrs Claire Millot, Salam

Mrs Sylvie Desjonquère, Emmaüs France

Mr Robert Despré, Bethlehem

Mrs Claudette Hannebicque, ADRA Dunkerque

Mrs Clara Houin, Project Play

Mrs Laure Pichot, Utopia 56 Grande-Synthe

Mrs Vaina Tetaronia, Refugee Women's Centre

Mr Stéphane Duval, Director of Active Life

Mr François Guennoc, Auberge des Migrants

Mr Ezedine Kara, deputy for solidarity, Town Hall of Calais

Mrs Faustine Maliar, Director of Cabinet, Town Hall of Calais

Mr Martial Beyaert, Mayor of Grande-Synthe

Mr Louis le France, Prefect of Pas-de-Calais

Mr Guillaume Thirard, Sub-Prefect of Saint-Omer

Mr Hervé Tourmente, Sub-Prefect of Dunkirk

Mr Michel Tournaire, Sub-Prefect of Calais

Mrs Hélène Bodart, Departmental Director, France Terre d'asile

Mr Claude Picarda, Director of CHRS and CAES, La Vie Active

Mr Hervé Derache, Divisional Police Commissioner, Interdepartmental Director of Police at the border of Pas-de-Calais

Human Rights Observers

Refugee Youth Service

## **Persons interviewed by the CNCDH**

**Mr Nathanaël Caillaux**, Secours Catholique-Caritas France

**Mrs Lisa Maracani**, Amnesty International

**Mrs Katia Roux**, Amnesty International

**Mrs Maria Serrano**, Amnesty International

**Mr Olivier Cahn**, Professor of Private Law and Criminal Sciences, University of Tours

**Mr Matthieu Tardis**, Institution national des relations internationales (IFRI) [National Institute for International Relations]









COMMISSION NATIONALE  
CONSULTATIVE  
DES DROITS DE L'HOMME

RÉPUBLIQUE FRANÇAISE

Created in 1947 at the instigation of René Cassin, **the National Consultative Commission on Human Rights (CNC DH) is the French national institution responsible for promoting and protecting human rights with level 'A' accreditation from the United Nations.**

The CNC DH performs a three-pronged role that involves the following:

- enlightening the public decision-making process with regards to human rights;
- monitoring the effectiveness in France of rights protected by international human rights conventions;
- overseeing France's implementation of recommendations made by international committees.

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