



September 2008

## **The Law of the “Jungles”** *The Situation of Exiles on the shore of the Channel and the North Sea*

### **Recommendations**

The 19 recommendations of the CFDA are linked with the findings of the report entitled *La loi des "jungles"- La situation des exilés sur le littoral de la Manche et de la Mer du Nord* (The law of the “jungles” - The situation of exiles on the shores of the Channel and the North Sea), drafted after a visit to an area where different types of migrations have been taking place for years. However, they are relevant in every instance and circumstances where - in France and other Member States of the European Union - people see their fundamental rights violated because they are either migrating, seeking or asking for protection.

The respect of the dignity of any person covered by these recommendations translates to everyday life in the areas of civil, political, economic and social rights. Migrants are not excluded from the protection of these rights. Their administrative status can not and should not be considered a pretext in order not to respect their rights or not to protect them. The States, and particularly those in charge of the management of the cross-Channel border, an external border of the Schengen area, must respect national and international rules and be their guarantors. Therefore, those places where foreigners in their wanderings happen to live momentarily should in no case be ruled by exceptional norms or the very absence of rights.

This set of recommendations relates to those rights protected by international conventions and ratified by France. There exists, in particular a mandatory rule according to which no person can be sent back “to the frontiers of territories where his life or freedom would be threatened<sup>1</sup>”, or if he/she could be “subjected to torture or inhuman or degrading treatments or punishment”<sup>2</sup>. This principle of *non-refoulement* is binding on all States for all the people present on their territory, regardless of their administrative status. In order to respect this principle, States must refrain from such expulsions; and they also must make sure that a person is not subjected to serious violations of his/her fundamental rights on their territory that could force him/her to go back against their will to a country where his/her freedom and security are not protected.

<sup>1</sup> Article 33 of the 1951 Geneva Convention relating to the Status of Refugee.

<sup>2</sup> Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms..

***La Coordination française pour le droit d'asile rassemble les organisations suivantes :***

**ACAT** (Action des chrétiens pour l'abolition de la torture), **Act-Up Paris**, **Amnesty International** - section française, **APSR** (Association d'accueil aux médecins et personnels de santé réfugiés en France), **CAEIR** (Comité d'aide exceptionnelle aux intellectuels réfugiés), **CASP** (Centre d'action sociale protestant), **Cimade** (Service oecuménique d'entraide), **Comede** (Comité médical pour les exilés), **Croix Rouge Française**, **ELENA**, **FASTI** (Fédération des associations de soutien aux travailleurs immigrés) **France Libertés**, **Forum Réfugiés**, **FTDA** (France Terre d'Asile), **GAS** (Groupe accueil solidarité), **GISTI** (Groupe d'information et de soutien des immigrés), **LDH** (Ligue des droits de l'homme), **MRAP** (Mouvement contre le racisme et pour l'amitié entre les peuples), **Association Primo Levi** (soins et soutien aux victimes de la torture et des violences politiques), **Secours Catholique** (Caritas France), **SNPM** (Service National de la Pastorale des Migrants), **SSAE** (Service social d'aide aux émigrants).

La représentation du **Haut Commissariat pour les Réfugiés** en France est associée aux travaux de la CFDA

The proposals are organised around five topics: the respect of the right of asylum, the obligation to provide for reception conditions to migrants (including asylum seekers) respecting their dignity, the protection of vulnerable persons, a stop to police harassment and the rights of persons kept in detention.

## **I. Respect of the right of asylum**

### ***I-1. Revision of the Dublin regulation***

The “Dublin” regulation is based on the principle according to which any asylum seeker in the European Union sees his/her application examined by a single Member State. Many asylum seekers become the “victims” of the criteria established to determine the State responsible for examining asylum applications. The lack of regard for their wishes or the prospects of settling down in the country of their choice, as well as total ignorance of the considerable differences in treatment of asylum claims among Member States make them reluctant to apply for asylum in France for fear of being sent back to a country where their fingerprints were taken (Eurodac regulation).

The concentration of foreigners along the North-West coast of France has two reasons. Firstly, it is the end of the road of continental Europe, on the brink of a gulf that is difficult to cross for exiles trying to join their family or to find hospitable land eventually. Also, the island of Great-Britain is playing with the rules of the European Union to convert this gulf into a double administrative and police hurdle as it refuses to join the “Schengen area” of free circulation within European borders and, for asylum seekers, by keeping the barrier of the Dublin regulation which makes it possible to send some of them back to another member State.

**1-** The Dublin system needs to be seriously revised: Should the principle according to which an asylum application is examined by only one Member State remain valid, then the applicant has to be able to choose this State. The criteria according to which the State responsible for the examination of the application is the one through which the asylum seeker entered the Union or transited through it must be repealed. A solidarity mechanism should be created to help the Member States according to the number of asylum seekers received.

**2-** In any event, in France and elsewhere, asylum seekers to whom the Dublin procedure apply should benefit from the same reception conditions as other applicants. They must be kept informed of measures concerning them. Applicants concerned by a possible admission or readmission in another Member State should be able to appeal against that decision with suspensive effect before a jurisdiction.

**3-** Any asylum seeker in France who is a “victim” of the Dublin regulation must be allowed to apply for asylum on the basis of the above recommendations; the same goes for persons seeking protection and for whom transfer to another Member State turns out to be a source of difficulties, since the priority must be absolute respect of the right of asylum and the notion of protection.

### ***I-2. Information of exiles and access to asylum procedure***

Préfectures are the first contact point for people seeking protection. However, exiles are often obliged to travel hundreds of kilometres to get their asylum application filed, a trend worsened by the “regionalisation” of the delivery of stay permits.

**4-** The respect of the right of asylum and the principle of *non-refoulement* mean that objective information on procedures needs to be made available by the authorities in languages which the applicants understand. Access to such information must be made easier in préfectures, police stations or places where exiles live, as well as with non governmental organizations (presence of experienced staff, availability of documents in places attended by exiles). Public authorities

should encourage and not fight initiatives to inform about asylum procedures and the rights of exiles in France and in other European countries.

**5-** In order to make it easier to present an asylum application, those places where applications can be filed should be brought closer to, rather than further away from places attended by exiles, particularly in cities on the Channel and the North Sea coasts. Staff in public administrations (police, employees in Préfectures) should receive specific training on the right of asylum.

**6-** Persons who have been arrested who apply for asylum in France should not necessarily be submitted to an accelerated procedure.

## **II. Reception conditions**

**7-** Migrants, irrespective of their administrative status, must be able to benefit from accommodation, food and access to health care in the respect of human dignity. Those who apply for asylum must be granted adequate accommodation as well as social and legal assistance.

**8-** The State and local authorities (regions, department, cities) must set up sufficient accommodation facilities in decent conditions, particularly in coastal towns and cities, if needed through additional beds in emergency shelters or public baths. Accommodation centres should be reminded that social regulations for accommodation exclude no one in need, whatever the nationality or administrative status of the person.

**9-** In those regions where exiles live on the streets, mobile health care services (Permanences d'accès aux soins de santé, or Pass) must be set up. Also in those regions, facilities such as health care beds ("Lits Halte Soins Santé" or Lhss) must be created. These medical and social accommodation centres are aimed at people whose health does not require them to go into hospital, or stay on any longer, but who nevertheless need to be cared for.

**10-** The action of the non governmental organizations that help refugees, which everybody agrees is very useful, should be reinforced and promoted by the authorities. Administrative hurdles, threats and intimidations against these organisations and citizens who help exiled people must stop. It is particularly important to do away with the threat of penal sanctions for "help for illegal stay" against people who put up exiles or act in a clearly humanitarian way.

## **III. Protection of vulnerable persons**

### ***III-1. The protection of foreign minors***

During their visits, CFDA investigators were particularly shocked by the presence of many minors in various exile camps. France must urgently apply French legislation and the International Convention on the Rights of the Child. All unaccompanied foreign minors must be given immediate protection and adequate social and educational care.

**11-** Depriving unaccompanied minors of their freedom must be forbidden and the impossibility to send them back respected.

**12-** The protection system for minors must be enhanced, be it through the Aide sociale à l'enfance, ASE (Social care for children) or through the Protection judiciaire de la jeunesse, PJJ (Judiciary protection for youth).

### ***III-2. Protection of the victims of trafficking or of the violence of some traffickers***

Illegal crossing of borders has become a very profitable market where unscrupulous organisations and individuals thrive, notably because States are continuously increasing the

stringency of access controls to their territory. In their search for a welcoming country, thousands of foreigners also meet with people and organisations who act in a selfless way for the sake of solidarity.

**13-** The French authorities must do everything in their power to identify the foreign persons who fall victim to human trafficking and persons who are victims of violence, whether it be from trafficking networks or other individuals, and grant them unconditional protection and assistance. They must also facilitate the filing of complaints as well as asylum applications.

### ***III-3. Taking traumas into account.***

A vast majority of exiles who cross the region bear the physical and psychological scars of serious traumas they suffered in their country of origin or on the often long road of their exile. The effects of torture and of cruel, inhuman or degrading treatments, including sexual abuse, are sometimes difficult to identify and often characterized by a feeling of shame or guilt that prevents any expression.

**14-** Migrants, and particularly minors, must be systematically offered access to medical and psychological care in order to be able to receive, if needed, appropriate treatment through therapists specifically trained to listen to and care for them.

## **IV. Put an end to police harassment and violence**

The first mission of the police is to ensure the safety of all residents, whatever their administrative status. That mission is being perverted when checks, which are acceptable in cases foreseen by the law, become a way of frightening foreigners and of humiliating them repeatedly, as is often the case in the places where exiles live, particularly in Calais and its surroundings (roads leading to health centres, places where people sleep).

**15-** Migrants, even undocumented or without stay permit, should not anymore be targeted for repeated arrests, often on the sole basis of their supposedly looking foreign. Physical violence or harassment measures (unnecessary handcuffing, blows, use of tear gas, damaging of their belongings, systematically disturbing them when they are sleeping, etc.) must stop. Further up the system, Prosecutor's services have the duty to exert control over the behaviour of police forces. Further down the line, whenever there are signs of abuse, it is the duty of the chiefs of police services and Préfets to make sure administrative enquiries are launched and carried out as it is the duty of the justice system to launch criminal enquiries.

**16-** It must be possible to lodge complaints about police violence and people must be referred to the appropriate structures and organisations.

## **V. Rights of persons kept in administrative detention**

**17-** Foreigners kept in administrative detention who happen to file an asylum application must be granted satisfactory conditions to do so, in particular a suspensive right to appeal against any expulsion measure.

**18-** Exiles who can not be deported, particularly because conditions in their country of origin do not allow it, should not be repeatedly arrested, nor kept in detention.

**19-** Persons who have been submitted to inhuman and degrading treatments should not be kept in administrative detention but be referred to competent structures or organisations.