REJECTION AND RISK: THE EFFECTS OF BREXIT ON REFUGEES IN CALAIS
EXECUTIVE SUMMARY:
BREXIT AND THE FUTURE

The UK government often stated that leaving the EU would give back control of the country’s borders. However, now the UK is no longer part of the EU, it has lost the ability to deport refugees to other EU countries. And refugees are well aware of this. Talking to people in Calais, 55% say they feel that post Brexit they have a better chance of being granted asylum in the UK, compared to 18% who feel they have less chance and 27% who don’t know.

An attempt has been made to remedy this by introducing new UK legislation to deport people, but for this to work individual agreements will need to be made with any countries to which the UK wants to send people back - and so far the EU do not appear keen to discuss this.

In Calais, with juxtaposed UK border controls and UK funded French border security, legal deals with the EU are of less importance. Most of the cooperation is based on agreements between France and the UK only, and it is likely that security cooperation will continue be stepped up, with ever more harsh security measures and border militarisation. This is a trend that has been going on for years and is welcomed by the military and security industry, which sees continual new profit opportunities arise.

However, one immediate effect of Brexit is long delays at border points, with lorries queuing up due to extra inspections and new paperwork requirements. In the first days of January this was somewhat concealed because of truck drivers avoiding Calais, but the Road Haulage Association expects to see volumes of freight movement going up again soon, leading to more significant disruption. This will mean miles-long lines of lorries waiting to go to the UK, providing many opportunities for refugees to try to climb aboard, risking their lives as they do. Once again, the refugees are well aware of what is coming, with 58% saying they are most likely to try to cross by lorry in the coming weeks. Surprisingly, given the pattern of the last twelve months, only 22% say they will only be trying with boats, with 20% telling us they will try both methods. Boats are more expensive they tell us, and more dangerous too.

In the midst of the continuing Covid-19 crisis the situation for refugees at Calais has turned worse than ever. Having to live with fears of getting the virus, they are victims of ever more repression by French police forces and ever less adequate assistance. To get to the UK they have the choice between risky attempts to climb on lorries or equally dangerous crossings by small boats. In the latter case they have to face an increasingly militarised response in the Channel and possible confrontations with far-right vigilante groups on UK shores. And if they arrive in the UK, more often than not their rights, including the right to apply for asylum and non-refoulement principles, are trampled...
upon in bids to deport them as quickly as possible; being locked in inhumane detention centres and army barracks is common.

A September 2020 report from the House of Commons Home Affairs Committee found that the Home Office “based policy decisions not on evidence, but rather “anecdote, assumption and prejudice” against migrants. Even more scathing was a November 2019 report by the Foreign Affairs Committee, that found that “in the absence of robust and accessible legal routes for seeking asylum in the UK, those with a claim are left with little choice but to make dangerous journeys by land and sea”. It concluded that “a policy that focuses exclusively on closing borders will drive migrants to take more dangerous routes and push them into the hands of criminal groups”.

Sound conclusions and advice, which has been completely ignored. The UK government is focussed almost exclusively on introducing new legislation and measures to keep or get refugees out of the country. It continuously steps up efforts to stop migrants from crossing from France and now explores all kinds of draconian measures, which are often at odds with international law.

Yet, the Home Office had to acknowledge that “many of these people are desperate”, and according to their own Clandestine Channel Threat Commander “the vast majority – very close to all – of small boats arrivals claim asylum when they arrive in the UK.”

The full consequences of Brexit remain to be seen, with the UK having to negotiate new agreements on migration with individual countries within the EU. The prospects aren’t hopeful though. It seems more than likely that the UK government will continue its escalation of anti-migration policies, leading to more dangers, inhumane situations and neglect of rights for refugees.

A completely different approach is needed, one based on the presumption of freedom of movement, providing shelter and support to refugees and working towards eliminating the reasons people are forced to flee in the first place, for which the UK and other western countries carry a large responsibility with their selfish international (trade) politics, military interventions, arms trade to conflict regions, authoritarian regimes and contributions to climate change.

CALAIS UPDATE

A year ago we published the report ‘Hunted. Detained. Deported. – UK-French co-operation and the effects of border securitisation on refugees in Calais’. This report painted a grim picture of the situation for refugees in and around Calais and investigated the UK policies and security cooperation with France that created this.

Since then, the situation has escalated and worsened, with the Covid-19 crisis (as well as its direct health risks) and developments around Brexit used as excuses to further increase border security efforts and violent police operations against the refugees at Calais. While attempted crossings via lorries are still going on as before, much of the new developments have concentrated on the rise in attempted small boat crossings.

In this update we look at the steps that were taken in UK-France cooperation, the militarisation of the Channel, the developments in broader UK immigration and border policies, the consequences of Brexit and what this all means for the refugees on the ground.
UK POLICIES AND PLANS

As well as steps taken to further militarise the area at and around Calais and the Channel, as described below, the UK government has also tried to tighten asylum laws to act as a deterrent against migrants. The most far-reaching change, which came into effect on 1 January 2021, is new rules to make asylum claims from refugees who have travelled through or are connected to safe third countries inadmissible in the UK, and which make claiming asylum in UK territorial waters impossible. Both new rules are target refugees crossing from Calais or other places on the European mainland. While Immigration compliance minister Chris Philp said: “There is no reason to leave a safe country like France to make a dangerous crossing. These measures send a clear message and are just one of the steps the government is taking to tackle the unacceptable rise in small boat crossings.” Beth Gardner-Smith, Chief executive of Safe Passage, international called the new rules “a direct assault on the fundamental human right to asylum”.

The explanation of the ‘safe third countries’ principle in these new rules, goes as far as stating that it is applicable when a refugee has a ‘connection to’ a third country which would make it “reasonable for them to go there to obtain protection”, leaving room for broad interpretation. Equally problematic is the possibility of returning refugees to any ‘safe’ third country that wants to take them. However, experts called the new rules unworkable, only leading to delays in the asylum process.

With Brexit, the UK has left the Dublin system, which gives EU member states the right to return a refugee to their first country of entry into the EU. Now that this possibility has disappeared the UK would have to negotiate and conclude new return agreements with individual states in order to make its new rule work. In a parliamentary debate, Philp said that if refugees are “declared inadmissible, we will seek for a short period to get the agreement of that other country to return them there, where their asylum claim can be substantively and properly considered. If that is not possible, the asylum claim will of course be substantively and properly considered in this country.”

Another controversial plan that was investigated was the use of offshore detention and processing centres, mirroring the much criticised approach of Australia, which refused all refugees arriving by boat, leaving them for years in inhumane circumstances in detention centres on Papua New Guinea and Nauru.

Other possibilities investigated by the UK Foreign Office included building asylum processing centres on the remote Ascension Island or St. Helena in the south Atlantic. Another option looked at was building such centres in Morocco, Moldova and/or Papua New Guinea. For now these plans seem to be shelved, with the Foreign Office raising lots of legal and practical obstacles. The government also discussed putting asylum seekers on disused ferries off the British coast or sending them to decommissioned oil platforms in the North Sea.


3 The UK government also looked to Australia regarding its infamous ‘Operation Sovereign Borders’, aimed at turning back any boat with migrants trying to reach Australia. The Home Office contacted the Australian Border Force, and its former head Roman Quaedvlieg, for advice. Quaedvlieg proposed introducing new legislation to be able to intercept and return boats, which is not possible under current international laws. Former Australian Prime Minister Tony Abbott, who was appointed as an adviser to the British Government’s Board of Trade in September 2020, also advised the UK government to adopt policies similar to the ones he had rolled out when in power and to ignore legal obstacles and protests from neighbouring countries: “To stop people from setting out for Britain in unseaworthy boats, you have to ensure that they never arrive; or that if they do arrive they are swiftly sent back.”


6 George Parket, Peter Foster, Sebastian Payne and Michael Peel, Priti Patel looked at shipping UK asylum seekers to south Atlantic, Financial Times, 29 September 2020. Available at: https://www.ft.com/content/ff1dc189-5531-4d81-b317-7E325962C1d (accessed 12 January 2021)


8 Steven Swinford, George Grylls, Emily Goodsen and John Simpson, Floating asylum centres planned on retired ferries, The Times, 1 October 2020. Available at: https://www.thetimes.co.uk/article/home-office-considered-sending-asylum-seekers-to-north-sea-oilrig-3vog22xi5 (accessed 13 January 2021)


10 Tony Abbott, Channel crossings will continue as long as illegal migrants are allowed to stay in Britain, The Telegraph, 31 May 2020. Available at: https://www.telegraph.co.uk/news/2020/05/31/channel-crossings-will-continue-long-illegal-migrants-allowed/ (accessed 13 January 2021)
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In 2020 new steps were taken in this regard. In early May Home Secretary Patel and her then French counterpart Christophe Castaner agreed in a phone call that more needed to be done to stop boats by doing three things: increase the enforcement to date - intercepting the boats, making arrests, returning people back to France and putting the criminals responsible behind bars - the numbers continue to increase.11 However, instead of questioning the failure of increasing border security or looking at alternatives such as providing safe and legal routes, both ministers decided to expand policies that have been endangering refugees for years, as our report ‘Hunted. Detained. Deported.’ showed in detail.

Notwithstanding the agreement about further cooperation, days after her visit Patel heavily criticized France, to its dismay, for not doing enough to stop migrant boats in a meeting with the Commonwealth Affairs Committee.12 This echoed the remarks of several Conservative MPs in parliamentary debates through the year.

The main point of discussion between the two countries revolves around stopping boats in French waters, with an ongoing dispute about interpretations of maritime law. Patel accused France of not intercepting boats at sea, claiming that French authorities think maritime law doesn’t allow them to do this, while the UK thinks this is perfectly possible.13 Her remarks were contested by French MP for Calais Pierre-Henri Dumont, who said France did stop boats and take refugees back.14 Patel also approached French authorities with a proposal to cooperate on blocking the Channel. According to secret documents seen by The Guardian, a blockade has already been tested: “Trials are currently under way to test a ‘blockade’ tactic in the Channel on the median line between French and UK waters, akin to the Australian ‘turn back’ tactic, whereby migrant boats would be physically prevented (most likely by one or more UK RHIBs [rigid hull inflatable boats] from entering UK waters.”15

At the end of November Patel and Darmanin reached a new agreement, again focussed on boat crossings. The agreement includes doubling the number of officers patrolling French beaches along a 150-kilometre stretch of coastline. Since November 2019 the UK had paid for 45 French police patrols.16 The UK also promised to supply new surveillance technology (including drones, radar equipment, optronic binoculars and fixed cameras) to France and increased border security at ports in northern and western France.17 The UK committed £31.4 million (£28.2m) to these measures. According to director of Detention Action Bella Sankey this comes down to throwing “taxpayers’ money away on more of the same measures that stand no chance of having a significant impact on this dangerous state of affairs”, created by the “refusal to take the sensible step of creating a safe and legal route to the UK from northern France, thereby preventing crossings and child deaths.”18

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This new spending comes on top of hundreds of millions spent on border security at Calais since 2010, as detailed in our report ‘Hunted. Detained. Deported.’1 An answering parliamentary questions in May 2020 minister Philp said €68.2 million had been spent in recent years on commitments under the Joint Declaration (2015), the Sandhurst Treaty (2018) and Joint Action Plan on small boats (2019), “including investments in improving border infrastructure at the ports of Calais and Dunkirk” and “the purchase of equipment to improve detections of boats making crossings”.20 In December, Philp told the Commons Home Affairs Committee the UK has spent £192 million on border security and control activities in France since September 2014.21 Comparing this with figures presented earlier this seems to be an underestimate, with a previous Home Office estimate of spending in the years 2014-2016 already running up to almost £160 million.22

While previously the UK left most of the actual border security work to French authorities, supplying them with money and equipment, the increasing occurrence of Channel crossings by small boats has spurred measures of its own. While in 2018 the total number of migrants crossing by boat was 300, this rose to over 1,800 in 2019 and to more than 8,400 in 2020.23

The first steps to counter this, including an increase in Border Force patrol on the Channel, the use of drones and the temporary deployment of a navy vessel, were already taken in 2019, as described in the report “Hunted. Detained. Deported”.24 In 2020 many other, sometimes outrageous, ways to stop boats were explored. Worryingly, not only the government tries to stop refugee boats, but far-right groups are increasingly patrolling beaches and ports on their own as well.25

In the first months of 2020 there was much fuss over the increase of migrant boats trying to cross, as was the case in the whole of 2019. Often this increase has been presented as a consequence of making it more difficult to climb on lorries going from France to the UK, in line with other developments in international migration movements where making more difficult the use of certain routes has led to pushing refugees to other, mostly more dangerous, routes.26 Regardless, climbing on lorries or crossing by boat each come with their own set of risks and dangers, which wouldn’t arise if there were safe and legal migration options available.


34 Euro-Med Human Rights Monitor: “It’s time for the French to take action to stop the boats leaving French shores in the first place.” Another possible tactic on the UK side


39 Dan O’Mahoney, My job is to end illegal Channel crossings — and that’s what I will do, The Sun, 5 September 2020. Available at: https://www.thesun.co.uk/news/12594380/dan-omahoney-ending-illegal-boat-crossings/.
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45 Jim Pickard, George Parker, Robert Wright and Helen Warrell, UK considers floating walls in Channel to block asylum seekers, Financial Times, 1 October 2020. Available at: https://www.ft.com/content/ac0891c-c8b3-444c-b6f1106a99fd-404d6a (accessed 11 January 2021)


52 Thom Tyerman and Travis Van Isacker, Border Securitisation in the Channel, Border Criminologies, Faculty of Law, University of Oxford, 9 October 2020. Available at: https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2020/10/border (accessed 13 January 2021)
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DEPORTATIONS

As described above the UK has been tightening its migration policies in general, partly as a move to deter refugees from crossing from France. According to Susan Williams (Minister of State (Home Office)) this includes “maximised returns – to remove the incentives for people to seek to reach the UK via small boat and other dangerous methods.”

To this end Home Secretary Patel tried to convince France to agree to immediately take back migrants crossing the Channel, whether they are intercepted at sea or on UK soil. Meanwhile, the UK itself started Operation Sillath, to swiftly return migrants coming by boat from France. According to human rights lawyers these deportations sometimes take place before asylum claims have been properly considered and/or without evidence that people had been registered in France at all, violating Dublin regulation rules. Lily Parrott (Duncan Lewis Solicitors) said this amounts to “an egregious breach of European law that allowed many asylum-seekers to be wrongly removed from the UK.” Among the refugees deported in this way there have been victims of trafficking and torture. Notwithstanding this severe criticism, it was revealed in September that Home Secretary Patel was planning weekly deportation flights of migrants arriving via the Channel. She also accused “activist lawyers” of frustrating deportations by filing last minute legal procedures.

More generally the UK sped up deportations to other EU member states in the last months of the year, in the light of the end of its participation in the Dublin system as Brexit came into effect at the start of 2021. According to campaigners this again included removals of trafficking and torture victims, without proper screening because of the rush in deporting them. Moreover, many of the deportees were simply dumped upon return without any assistance or place to go, sometimes in places with heavy Covid-19 problems and subsequent lockdowns.

Two legal blows against the deportation policies didn’t seem to affect them, with the government ignoring their merits. The High Court decided that Patel was “acting unlawfully in curtailing asylum screening interviews by asking a narrower set of questions than those that are identified in the published policy guidance” to identify victims of trafficking. The counsel for the Home Office told the court that it took the position there was “a justified departure from the published policy and it doesn’t really matter.” In another legal case, the Court of Appeal also ruled a policy that gave migrants as little as 72 hours’ notice before deporting them to be unlawful. The policy, which was meant to prevent last-minute legal procedures, led to an “unacceptable risk of interference with the right of access to court”, according to the court.

The Home Office stated that “the majority of returns take place on commercial scheduled flights.” Corporate Watch reported that all major airlines are involved in such deportations, specifically identifying British Airways, Kenya Airways, EasyJet, Qatar Airways, Turkish Airlines, Ethiopian Airlines, Air France and Royal Jordanian. It also doubts that Virgin Airlines, which in 2018 announced it would not participate in deportations anymore, holds up to this promise. Other companies involved in the deportation process are Carlson Wagonlit Travel (bookings and contracting charter flights) and Mitie (security guards). Other deportations are done by charter flights, flights with only deportees to particular destinations, with heavy security. Companies contracted for these in 2020 include Titan Airways, which has a longstanding relationship with the Home Office in this regard, Hi Fly (Portugal), Evelop (Spain), multinational TUI, Air Tanker (UK) and Privilege Style (Spain).

To cite the Home Office’s statement: “the majority of returns take place on commercial scheduled flights.”

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53 https://questions-statements.parliament.uk/written-questions/detail/2020-10-09/h18963 (accessed 13 January 2021)
54 Charles Hymas, Priti Patel seeks French backing for plan to return Channel migrants to France to end people trafficking, The Telegraph, 6 May 2020. Available at: https://www.telegraph.co.uk/politics/2020/05/06/pritipatel-seeks-french-backing-plan-return-channel-migrants/ (accessed 13 January 2021)
57 https://twitter.com/priti Patel/status/130159025936953346 (accessed 13 January 2021)
63 Other companies involved in the deportation process are Carlson Wagonlit Travel (bookings and contracting charter flights) and Mitie (security guards). Other deportations are done by charter flights, flights with only deportees to particular destinations, with heavy security. Companies contracted for these in 2020 include Titan Airways, which has a longstanding relationship with the Home Office in this regard, Hi Fly (Portugal), Evelop (Spain), multinational TUI, Air Tanker (UK) and Privilege Style (Spain).
Throughout this briefing, the consequences of Brexit have sprung up, for example in the attempts to speed up deportations because of the end of the UK’s participation in the Dublin system. Migration was not a part of the deal to define new (trade) relations between the UK and the EU, which was finally concluded at the end of 2020, and is one of the subjects of new rounds of negotiations.

The UK government has often stated that leaving the EU will give the country back control of its borders and the possibility to negotiate stricter and broader return agreements with the EU and individual EU member states. However, in spite of UK pressure, in August 2020 EU officials told the press that the EU wasn’t in a rush to get a post-Brexit deal on migration with the UK, believing that it was more important to the UK than to any of the remaining member states. For now, this has left the UK with no possibilities to deport refugees to other EU countries, unless agreed upon a case-by-case basis.

In Calais, with juxtaposed UK border controls and UK funded French border security, a deal with the EU is of less importance. Most of the cooperation is based on purely bilateral agreements, with the Sandhurst Treaty of 2018 already factoring in Brexit. It is highly likely that the security cooperation will continue as before and will be stepped up resulting in ever more harsh security measures and border militarisation. A trend that has been going on for years and is welcomed by the military and security industry, which sees continual new profit opportunities arise. To illustrate this expectation Home Secretary Patel opened a new command centre to stop migrant boats at a secret location in Dover at the start of January 2021. The centre is led by CCTC O’Mahoney and aims to cooperate with French authorities to increase land, sea and air surveillance.

One immediate effect of Brexit is long delays at border points, with lorries queuing up because of extra inspections with new paperwork required, and longer waiting times. In the first days of January this was somewhat concealed, because of truck drivers avoiding Calais due to fear of this, but the Road Haulage Association expects to see volumes of freight movement going up again soon, leading to more significant disruption. Any relaxation or end of Covid-19 restrictions will probably give rise to another increase in freight traffic sometime in the coming months.

This all leads to miles-long lines of lorries waiting to go to the UK, providing opportunities for refugees to try to climb aboard. However, this also comes with all the risks involved in such dangerous journeys and will probably be used as an excuse to further intensify and expand security measures.
CONCLUSION

A September 2020 report from the House of Commons Home Affairs Committee found that the Home Office “based policy decisions not on evidence, but rather “anecdote, assumption and prejudice” against migrants.” Even more scathing was a November 2019 report by the Foreign Affairs Committee, of which Patel herself was a member prior to being appointed as Home Secretary. The Committee found that “in the absence of robust and accessible legal routes for seeking asylum in the UK, those with a claim are left with little choice but to make dangerous journeys by land and sea”. Regarding the situation in northern France it said that “focusing on increasing border security without improving conditions in the region may have the counterproductive effect of forcing migrants to make desperate journeys across the Channel.” In general it concluded that “a policy that focuses exclusively on closing borders will drive migrants to take more dangerous routes, and push them into the hands of criminal groups” and advised that “the UK should address the wider, interlinked factors driving irregular migration—including climate change, conflict, repressive governance and corruption—rather than focusing narrowly on reducing the numbers reaching Europe’s borders in the short term.”

Sound conclusions and advice, which has been completely ignored. The UK government is focused almost exclusively on introducing new legislation and measures to keep or get refugees out of the country. It continuously steps up efforts to stop migrants from crossing from France, in an escalation of policies and practices described in our report ‘Hunted. Detained. Deported.’ of January 2020. It explores all kinds of draconian measures, which are often at odds with international law. Yet, the Home Office had to acknowledge that “many of these people are desperate”, and according to CCTC O’Mahoney “the vast majority – very close to all – of small boats arrivals claim asylum when they arrive in the UK.”


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### APPENDIX

**Calais and Dunkirk refugee survey**

| Since Brexit (31 December) is easier or harder to cross to the UK? |
|------------------------|--------|------------------|
| a) Easier              | 8%     | 14%              | 12% |
| b) Harder              | 87%    | 73%              | 79% |
| c) About the same      | 5%     | 13%              | 9%  |

<table>
<thead>
<tr>
<th>Do you plan to cross by boat or lorry?</th>
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<tbody>
<tr>
<td>a) Boat</td>
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<td>b) Lorry</td>
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<td>c) Either</td>
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<tr>
<th>Which is easier, boat or lorry?</th>
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<tbody>
<tr>
<td>a) Boat</td>
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<tr>
<td>b) Lorry</td>
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<tr>
<td>c) Neither</td>
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<tr>
<th>How safe do you feel in Calais since Brexit (31 December)?</th>
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<tbody>
<tr>
<td>a) More safe</td>
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<tr>
<td>b) Less safe</td>
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<tr>
<td>c) About the same</td>
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<tr>
<th>Do you think you have a good chance of getting asylum in the UK since Brexit?</th>
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<tbody>
<tr>
<td>a) A better chance</td>
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<td>b) A worse chance</td>
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<tr>
<td>c) About the same</td>
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<tr>
<th>Why do you want to go to the UK? (Pick all that apply)</th>
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<tr>
<td>a) I have family or friends there</td>
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<td>b) I speak English</td>
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<td>c) I like the UK culture</td>
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<td>d) The UK respects refugee rights</td>
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<th>Where are you from?</th>
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<tr>
<td>a) Sudan</td>
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<td>b) Eritrea</td>
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<td>c) Afghanistan</td>
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<td>d) Iran</td>
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<tr>
<td>e) Syria</td>
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<td>f) Iraq</td>
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<td>g) Other (including Pakistan, Palestine, Egypt)</td>
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<th>How long have you been in Calais/Dunkirk?</th>
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<tr>
<td>a) Less than a month</td>
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<td>b) 1-3 months</td>
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<tr>
<td>c) 3-6 months</td>
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<tr>
<td>d) More than 6 months</td>
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Over 17-18 January 2021, we surveyed 139 refugees across Calais and Dunkirk.