

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Special Rapporteur on trafficking in persons, especially women and children**

REFERENCE:  
AL GBR 14/2018

3 January 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on contemporary forms of slavery, including its causes and consequences and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 34/5, 33/1 and 35/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **what appears to be an inadequate implementation of the Modern Slavery Act; in particular the ineffective and insufficient consultation with civil society organisations on a statutory guidance on trafficking in persons.**

According to the information received:

On 8 November 2018, the High Court of England and Wales issued a judgment in the Case of AM and K v SSHD, in which it ruled that the March 2018 decision of the Home Office, to cut weekly benefits to asylum-seeking victims of trafficking, was unlawful. The amount of income provided to trafficking victims who were seeking asylum in the United Kingdom had been decreased from £65 per week to £37.75 per week because of this cut. The Home Office is now under an obligation to reverse the decrease.

In the same judgment, the court also held the Home Office responsible for failing to issue statutory guidance on the support that should be provided to victims of trafficking and slavery, despite being required to do so by the 2015 Modern Slavery Act. Reportedly, while the authorities are now working on the development of a statutory guidance, human trafficking specialists and civil society organisations providing support to trafficked persons have not been consulted, despite international standards pertaining to trafficking in persons requesting States to ensure partnership and cooperation with relevant stakeholders, as per the "5Ps" in anti-trafficking responses. On 20 November 2018, in response to a parliamentary question about the plans of the Government in relation to consultation with stakeholders in the development of that statutory guidance, the Parliamentary Under-Secretary of State at the Home Office pointed out that the authorities have "no duty to consult", but suggested that unspecified stakeholders had already been involved.

Concern is expressed at what appears to be an inadequate implementation of the Modern Slavery Act. In particular, concern is expressed at the reported ineffective and insufficient consultation with civil society organisations and trafficking specialists in the development of the statutory guidance, which in turn might be detrimental to address the needs and the rights of victims of human trafficking.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned claims.
2. Please provide details on the content of the aforementioned guidance and on the efforts deployed by your Excellency's Government to ensure that the provisions of the statutory guidance are in compliance with the State's obligations under international human rights law and standards, particularly with regard to the rights of victims of trafficking in persons and of contemporary forms of slavery.
3. Please indicate what consultations have thus far taken place with relevant stakeholders, with which stakeholders, and what have the outcome been.
4. Please indicate whether the Government intends to hold consultations with relevant civil society actors, and what measures will be taken to ensure that their viewpoints will be taken into account to ensure an effective implementation of the Modern Slavery Act.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure the participation of civil society organisations in this important process.

Please accept, Excellency, the assurances of our highest consideration.

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Urmila Bhoola

Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Maria Grazia Giammarinaro

Special Rapporteur on trafficking in persons, especially women and children

**Annex**  
**Reference to international human rights law**

Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which your Excellency's Government has ratified on 9 February 2006, states that each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

As a general principle drawn from OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, States shall ensure that trafficked persons are protected from further exploitation and harm and have access to adequate physical and psychological care. Such protection and care shall not be made conditional upon the capacity or willingness of the trafficked person to cooperate in legal proceedings.

In a previous report, the mandate of the Special Rapporteur on trafficking in persons, especially women and girls, explained that international, regional and national strategies for combating trafficking rest on the following "5 P's"; "3 R's" and "3 C's": 5 Ps: Protection, Prosecution, Punishment, Prevention, Promoting international cooperation and partnership including public and private partnership; 3R's : Redress, Recovery (Rehabilitation) and Re-integration; and 3 C's: Capacity, Cooperation and Coordination (A/HRC/10/16, page 25).

Article 35 of the Council of Europe Convention on Action against Trafficking in Human Beings, which Your Excellency's Government ratified on 17 December 2008, also requests State parties to "encourage state authorities and public officials, to cooperate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention."

In this context, we also refer your Excellency's Government to Article 12 (1) of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which states that "[e]veryone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms."

We also refer to the report of the Special Rapporteur on the situation of human rights defenders A/HRC/25/55, in which the Special Rapporteur recommended that States "[e]nsure that public policies, including development policies and projects, are developed and implemented in an open and participatory manner, and that defenders and communities affected are able to actively, freely and meaningfully participate" (para. 131 (h)).