

**Mandates of the Special Rapporteur on the human rights of migrants; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; 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**

Ref.: AL GBR 2/2023  
(Please use this reference in your reply)

13 February 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; 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 43/6, 43/36, 43/22, 51/15 and 44/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning missing unaccompanied asylum-seeking children, who are placed in hotels, and their vulnerability to the serious human rights violation and serious crime of trafficking in children.

According to the information received:

After 14 June 2021, following an earlier statement by Kent County Council that it would no longer be able to accept statutory responsibility for migrant children and young people arriving in the county to seek asylum in the UK, the Home Office decided to house those unaccompanied, asylum-seeking children in hotels, pending the arrangements of local authority placements and transfers under the National Transfer Scheme. Six hotels were identified by the Home Office to temporarily host unaccompanied children seeking asylum in Kent and nearby counties, pending such transfers. Four of these six hotels currently remain in use, which are located in Hythe and Folkstone in Kent County, Hove in Sussex County, and Eastbourne in East Sussex County.

We understand that the Home Office intended the use of hotels to be an interim emergency measure. However, there is concern that this practice has continued and, that there is a lack of clarity as to which State entity has statutory responsibility for these children while they are accommodated in hotels pending transfers. Moreover, there is concern that this practice places asylum-seeking children outside the statutory child protection system provided by local authorities, thereby failing to ensure adequate protection of these children, including from risks of trafficking in persons for all purposes of exploitation including contemporary forms of slavery. The average length of stay at the hotels is 18.23 days.

Over 4,600 children have been accommodated in hotels since this practice was initiated in 2021, and that there have been reports of 440 children going missing from these accommodations. As of 23 January 2023, 200 children remain missing, the majority of whom are Albanian nationals. It is reported that the missing children are aged between 13 and 16 years. The practice of housing unaccompanied asylum-seeking children and young people in hotels has been developed in a climate of increasing hostility toward migrants, asylum seekers and victims of trafficking. Several Members of Parliament have made misleading and discriminatory public statements, which vilify those seeking protection under the Modern Slavery Act and National Referral Mechanism as criminals seeking to abuse provisions in place. Some of such statements have specifically targeted those of Albanian nationality.

On 19 October 2022, a report of the Independent Chief Inspector of Borders and Immigration's (ICIBI) on the use of hotels for housing unaccompanied asylum-seeking children found significant failings, particularly concerning safeguarding arrangements. The Report strongly recommended that the practice of accommodating unaccompanied asylum-seeking children in hotels should be discontinued within six months and a longer-term plan with proper safeguards be put in place.

The ICIBI report stated that the Home Office had, "not assumed this [Children Act 1989] statutory responsibility," and was, not operating as the 'corporate parent', thereby placing unaccompanied children in a legal limbo. We note also the concerns expressed by the Children's Commissioner, and by civil society organisations, indicating that the Government may have been aware, or ought to have been aware, of circumstances giving rise to a credible suspicion of risks of unaccompanied asylum-seeking children accommodated in hotels becoming victims of trafficking and contemporary forms of slavery.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our concern that the current policy and practice may fail to comply with the State's obligations arising under international law, to prevent trafficking of children, and to ensure effective assistance and protection of children at risk of trafficking. The current policy of placing unaccompanied asylum-seeking children in hotels, places some of them outside of the child protection system for unaccompanied asylum-seeking children and fails to comply with the obligation of under international law to uphold and respect non-discrimination, and the best interests of the child. In this regard, we would like to stress that unaccompanied asylum-seeking children should have access to the same mainstream child-care system as national children and enjoy all relevant safeguards with regard to the protection of children.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide additional information about the decision of the Home Office to start placing unaccompanied asylum-seeking children in hotel accommodation. Please include information about why Kent County Council was not able to continue to uphold its statutory responsibilities to provide child protection services and the exact dates of the council's suspension of its full duties. Please also elaborate on whether the best interests of the child, and your Excellency's Government broader responsibilities under international law, were considered when taking the decision.
3. Please provide information related to the 200 unaccompanied asylum-seeking children missing from Home Office designated hotel accommodations as of 23 January 2023, and whose transfer to local authorities remained pending.
4. Please provide information on what steps have been taken to investigate these disappearances of unaccompanied asylum-seeking children, including through international cooperation, and please provide information on the progress of investigations and measures taken to ensure that investigations are child-friendly, gender sensitive and trauma informed. Please include detail about which State Entity is responsible for these investigations.
5. Please also provide information as to what measures, if any, have been taken to prevent trafficking of children from temporary hotel accommodations, to ensure a protective environment for unaccompanied asylum-seeking children, and to ensure that their best interests are protected, without discrimination.
6. Please provide information as to measures taken in accordance with international law, to protect unaccompanied and separated migrant children, including those seeking asylum, who are victims of trafficking or at risk of trafficking, and to ensure their best interests without discrimination.
7. Please provide information as to the type of child-centred training which has been provided to staff in the temporary accommodations, including security officers, team leaders, nurses and social workers, and maintenance staff.
8. Please provide details on steps envisaged or already undertaken by the Home Office or other relevant entities within your Excellency's

Government to ensure that the practice of accommodating unaccompanied asylum-seeking children in temporary hotel accommodation will be discontinued. Please provide information of any plans envisaged to find a viable solution as to a timeframe of phasing out such practice and implementation of revised temporary protocols and viable, long-term alternatives, in line with international obligations for the protection of unaccompanied children seeking asylum.

9. Please outline the preventive measures taken to combat the risks of abuse, sale and sexual exploitation of children, which may have been exacerbated due to their status of being unaccompanied. Please outline the measures envisaged to ensure adequate child protection, including for the access to rehabilitative services for the child victims and survivors.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Felipe González Morales  
Special Rapporteur on the human rights of migrants

K.P. Ashwini  
Special Rapporteur on contemporary forms of racism, racial discrimination,  
xenophobia and related intolerance

Mama Fatima Singhateh  
Special Rapporteur on the sale and sexual exploitation of children, including child  
prostitution, child pornography and other child sexual abuse material

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

Siobhán Mullally  
Special Rapporteur on trafficking in persons, especially women and children

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to bring to your Excellency's attention to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), adopted on 15 November 2000, and ratified by the United Kingdom of Great Britain in February 2006, which aims to (i) prevent and combat trafficking in persons, paying particular attention to women and children; (ii) protect and assist the victims of such trafficking, with full respect for their human rights; (iii) promote cooperation among States Parties in order to meet those objectives (article 2).

Article 6(4) of the Protocol requires State parties to take into account the special needs of children, including appropriate housing, education and care and according to article 6(5) to endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territories.

Further, we highlight the obligation arising under the Palermo Protocol, to ensure that measures adopted under the Protocol are consistent with internationally recognized principles of non-discrimination (article 14(2)).

We would like to bring to your Excellency's attention article 35 of the Convention on the Rights of the Child (CRC), adopted by your Excellency's Government on 20 November 1989 and ratified by the United Kingdom of Great Britain in 1991, whereby State Parties have the obligation to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale or traffic in children for any purpose or in any form.

We highlight the obligation of the State to, "respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's [...] race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (article 2 CRC). Further we highlight the obligation to ensure that in all actions regarding children, the State is required to ensure that the best interests of the child shall be a primary consideration (article 3 CRC).

Bearing in mind the particular vulnerability of unaccompanied or separated asylum seeking children outside of their country of origin to exploitation and abuse, State parties are obligated to protect the child from all forms of sexual exploitation and sexual abuse, trafficking and all other forms of exploitation, in accordance with articles 34 to 36 of the Convention. We highlight the obligations arising under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was ratified by the United Kingdom in February 2009.

Additionally, the 2005 general comment no. 6 of the Committee on the Rights of the Child on the treatment of unaccompanied and separated children outside their country of origin, applies to children irrespective of their residence status (consistent with article 7 of the Convention). The principle of non-discrimination of the Convention (article 2) applies to separated and unaccompanied children and prohibits any discrimination on the basis of the status of the child as unaccompanied, or as being a refugee, asylum-seeker or migrant.

According to articles 18(2) and 20(1) of the Convention, State Parties should appoint a guardian or adviser and legal representative as soon as the unaccompanied child is identified. States have the obligation pursuant to article 20 of the CRC, to provide special protection and assistance to unaccompanied or separated children and ensure alternative care in accordance with their national laws and ensure that they receive appropriate protection and humanitarian assistance, pursuant to article 22 of the Convention. States Parties are required to take all measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child (article 19 CRC).

As is noted in the joint general comment no. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and no. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, States must ensure the, “primacy of the rights of the child in the context of international migration” (CMW/C/GC/3-CRC/C/GC/22, para. 13). States are required to ensure that the best interests of the child are taken fully into consideration in immigration law, planning, implementation and assessment of migration policies and decision-making on individual cases, and to undertake best interests assessments and determination procedures: “as part of, or to inform, migration related and other decisions that affect migrant children” (CMW/C/GC/3-CRC/C/GC/22, para. 31). We are concerned that there is no recognition of the primacy of the rights of the child, or of the State’s obligation to ensure the protection of asylum-seeking child victims of trafficking and contemporary forms of slavery, including through the implementation of best interests assessments and determination procedures in migration related decisions.

We highlight the obligations arising under the International Covenant on Civil and Political Rights, ratified by your Excellency’s Government on 20 May 1976 to ensure that, “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor.” (Article 24(1)).

We highlight the peremptory norm of international law prohibiting racial discrimination and the obligation arising under article 2(1) of the Convention on the Elimination of Racial Discrimination (ICERD), ratified by your Excellency’s Government on 7 March 1969 to, “condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms”. We would draw your attention to CERD general

recommendation no. 30 on discrimination against non-citizens, which explicates the responsibility of States to “ensure that immigration policies do not have the effect of discriminating against persons on the basis of race, colour, descent, or national or ethnic origin”.

We would also highlight relevant findings of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteur has warned against the harmful application of ethno-nationalist ideologies in immigration policies and practices (A/HRC/38/52). She has also highlighted the potential for the “adultification” of certain children, relying on harmful and baseless stereotypes that those from ethnic and racial groups are older than they are and/or are less innocent than others of the same age, often at the expense of their protection.

According to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, States have an international obligation to identify victims of trafficking. It is highlighted that a failure to identify a trafficked person correctly is likely to result in a further denial of rights.

Principle 10 notes “Children who are victims of trafficking shall be identified as such. Their best interests shall be considered paramount at all times. Child victims of trafficking shall be provided with appropriate assistance and protection. Full account shall be taken of their special vulnerabilities, rights and needs”.

We also would like to refer to principle 13 of these recommended Principles and Guidelines, which provide that “States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors”. We highlight, in particular, principle 1(2) specifically that: “States have a responsibility under international law to act with due diligence to prevent trafficking”, and guideline 8 on “Special measures for the protection and support of child victims of trafficking” which requests States “ensure that procedures are in place for the rapid identification of child victims of trafficking.”

We would also like to refer to your Excellency’s attention to the Committee against Torture’s concluding observations in 2019 on the United Kingdom’s sixth periodic report in which the Committee stated that it, “remains concerned about reports that law enforcement officers are not adequately trained in identifying victims of trafficking, that the specialist care and support for trafficked children provided for in the Modern Slavery Act 2015 has not been put into place in practice; that potential victims of trafficking are not provided with adequate subsistence support, rendering them vulnerable to revictimization; and that victims of trafficking are unable to obtain remedies, including compensation, in practice (arts. 2 and 16).” (CAT/C/GBR/CO/6, at paragraph 58).

We would also like to draw your Excellency’s attention to the Concluding observations of the Committee on the Rights of the Child in 2016, on the United Kingdom’s fifth periodic report (CRC/C/GBR/CO/5), and its concerns that: “Not all unaccompanied children have access to an independent guardian or legal advice in the



course of immigration and asylum procedures” (paragraph 76(b); and further that: “Asylum-seeking, refugee and migrant children and their families face difficulty in gaining access to basic services, such as education and health care, and are at high risk of destitution” (paragraph 76(f)).

Further, we highlight the obligations arising under the Council of Europe Convention on Action against Trafficking in Human Beings ratified by your Excellency’s Government on 17 December 2008, to, “take specific measures to reduce children’s vulnerability to trafficking, notably by creating a protective environment for them,” (article 5(5)), and to reinforce cooperation in the search for missing people, in particular for missing children (article 33(2)). We highlight the concerns raised by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) in 2021, specifically with regard to unaccompanied and trafficked children going missing from care. We also highlight the recommendation to: “(f)urther improve the identification of victims of human trafficking, including by ensuring that the identification process has a reasonable duration, by providing appropriate funding for the recruitment of new staff and making the process more efficient”.

Further, we highlight the obligation to undertake effective investigations and to provide protection for children at risk of trafficking, arising under article 4 of the European Convention on Human Rights (ECHR), ratified by your Excellency’s Government on 8 March 1951.

We highlight the judgment of the European Court of Human Rights in *V.C.L and A.N. v the United Kingdom*, on 16 February 2021, and the Court’s statement that: “[...] as children are particularly vulnerable, the measures applied by the State to protect them against acts of violence falling within the scope of articles 3 and 8 should be effective and include both reasonable steps to prevent ill-treatment of which the authorities had, or ought to have had, knowledge, and effective deterrence against such serious breaches of personal integrity [...] Such measures must be aimed at ensuring respect for human dignity and protecting the best interests of the child [...] Since trafficking threatens the human dignity and fundamental freedoms of its victims [...] the same is also true of measures to protect against acts falling within the scope of article 4 of the Convention.”

We would like to bring to the attention of your Excellency’s Government, the statutory role of local authorities, which under sections 17 and 20 of the Children Act (1989) imposes: (i) a general duty to safeguard and promote the welfare of children within their area who are in need, by providing a range and level of services appropriate to their needs and; (ii) a duty to provide accommodation for children for any child in need within their area (s.20(1)). Furthermore, section 1(1) of the Children and Social Work Act of 2017 sets out the corporate parenting principles, which apply to local authorities, and requires them to act in the best interests and promote the physical and mental health and well-being of children, “who are looked after by a local authority, within the meaning given by section 22(1) of the Children Act 1989”.

Finally, we would like to recall the Human Rights Council resolution *A/HRC/RES/47/12* , which addresses the issue of the human rights of migrants,

“deeply concerned about the large and growing number of migrants, especially women and children, including children who are unaccompanied or are separated from their parents, who have lost their lives, have been injured or have gone missing in their attempt to cross international borders, including at sea, and recognizing the obligations that States have to protect and respect the human rights of those migrants, regardless of their migration status, and reaffirming the commitment to take action to avoid the loss of life of migrants, including by preventing human rights violations resulting from pushback practices, in particular collective expulsions and refoulement”.