

Calais and Dunkirk: Giving Advice

Alex Goodman


The Project



- Many people in France without any legal advice at all, many without advice on UK law
 - Original plan to partner a French legal NGO at Grande-Synthe camp in Dunkirk, now more mobile
 - Aim to work with small NGOs who identify clients and filter cases
 - Pro bono advice
 - Possible assistance with UK side evidence
 - Not restricted to children and vulnerable adults
 - Charity to possibly assist with eg. travel costs, medical evidence etc. where no funding.
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Taking instructions in order to advise

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- Interpreter
 - Simple explanations
 - Aim to make a safe and comfortable environment
 - BSB model client letter- explain for public access advice
 - Take time to read back and confirm instructions.
 - What does client in France/EEA state want?
 - Is it best to pursue an application for transfer to UK or to make an application in France or elsewhere (default is France if transfer fails)?
 - What family in UK/what reason to want to cross?
 - Family elsewhere in Europe?
 - Application already made elsewhere in Europe?
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Instructions from Client

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- Name, age nationality and evidence
 - Information/evidence of family members
 - Any application elsewhere in Europe
 - Why want to go to UK?
 - Experience in home country (reasons for leaving etc. relevant to seeking protection)
 - Summary of route taken from home country and experiences
 - Circumstances in EEA state including any difficulties
 - Welfare- any concerns
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Instructions from UK Family



- What are instructions of UK family?
- If client is a minor relying on Dublin III, family need to understand they will be responsible for taking care
- Can the family members visit France?
- Understand member state will process application if transfer request unsuccessful
- Identity information and evidence? Immigration status in UK?
- What did they say about France relative in their immigration process?



Home Office Guidance: Evidence of Relationship



Home Office Internal Guidance: *Dublin III Regulation: Adult Provisions* (quoted at paragraph 25 in **AM and OA v SSHD [2017]** UKUT 00262), grammar as per original:

“In cases with UK reps we tend to get sent a lot of witness statements from app and relative provided as evidence relationship. There is also a trend of psychological reports recommending that the minor is transferred to join family in the best interests of their health. We do not accept either of these alone. We would still require documents or another form of verification least to accept relationship for transfer.”



Evidence of Relationship Regulation 118/2014- proof



- **Article 22 of Dublin Regulation** distinguishes “proof” and “circumstantial evidence”
- **Commission Implementing Regulation 118/2014**, Annex II, List A lists 9 types of fact that might need to be proved and under heading “**Means of proof**” sets out probative and circumstantial. See full details in the reg, but probative eg:
 - Written confirmation of the information from the other member state
 - Extracts from registers
 - Residence permits issued to the family member
 - Evidence that the persons are related if available; failing this and if necessary, a DNA or blood test(Note positive evidence gathering duties on SSHD – *MK and IK* [[2016] UKUT 00231 (IAC) (paras 35-48)

Commission Implementing Regulation 118/2014 Circumstantial Evidence



- “Circumstantial Evidence” (see the regulation for full details)
 - List B
 - Depends what is to be proved, but Indicative evidence eg:
 - verifiable information from the applicant;
 - statements by the family members concerned;
 - reports/confirmation of the information by an international organisation, such as UNHCR.

Instructions/Evidence from Relations

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- To establish relationship:
 - Passport, birth certificates, marriage certificates etc. (translated where necessary; NB authenticity and expert verification)
 - Documents related to family's status- appeal decisions etc.
 - Witness statements confirming relationship and if necessary willingness to care for child/vulnerable adult; evidence of available accommodation
 - Photographs
 - Phone records
 - DNA where 'necessary'

What documentary proof of relationship is accepted in EEA state?

Medical Evidence

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- Health issues (physical/mental)
 - Evidence of dependency if case being made on discretion (Art 17) and possibly under Dubs
 - Can be relevant to urgency and remedy- see *ZAT*
 - Evidence might address causes of any trauma or mental illness in travel; separation from family
 - Might cover prognosis in event of staying separated; delay in reunification; swift reunification
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Solicitor Evidence

Eg.

- Convey instructions;
 - Circumstances in which instructions taken;
 - Situation of client in member state;
 - Steps taken in member state
 - Urgency
 - Consider evidence from NGOs or solicitors in member state if helpful (see eg. ZAT)
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