



ASSEDEL, L'Association européenne pour la défense des droits et des libertés

9, Place de l'Esplanade, 67000 Strasbourg, FRANCE, [info@assedel.org](mailto:info@assedel.org)

---

ASSEDEL (L'Association européenne pour la défense des droits et des libertés) is a non-profit organisation, governed by its statutes. Our objective is to disseminate, promote and defend human rights and fundamental freedoms in the spirit of the European Convention on Human Rights, both within the Council of Europe system and at the local, national, and international levels.

We are honoured to share our opinion on the ongoing discussion about the UK Home Office's plan to send asylum seekers to Rwanda. In this opinion statement, we aim to address this issue, which has vital importance for human rights law in the United Kingdom, from different angles.

On April 2022, UK Home Secretary Priti Patel announced a new immigration plan to send people seeking asylum in the UK to the Republic of Rwanda. The idea has been explained basically under the pretext of the aim to stop smugglers from creating an industry by endangering people's lives. The government says the measures would reduce numbers crossing the English Channel. Patel's plan has been motivated also by financial considerations<sup>1</sup>, even though the plan does not seem to be beneficial financially for the UK.

The UN High Commissioner for Refugees is one of the authorities which have strongly opposed this new regulation. Many concerns have been expressed about Rwanda's capacity to deal properly with asylum seekers sent there. The plan has been found unlawful by UN officials as it would violate the legal obligations of the Convention Relating to the Status of Refugees<sup>2</sup>. UNHCR affirms its regrets that the British government's proposals for a new approach to asylum that undermines established international refugee protection laws and practices have been approved.

Article 31§1 of the Geneva Convention establishes the principle of immunity from prosecution for asylum seekers, thus explicitly recognising that most of them have no choice but to arrive irregularly<sup>3</sup>. It is a violation of this principle to rule the asylum claim of a refugee who has arrived in the country irregularly as inadmissible. Furthermore, the regulation may also violate the principle of non-refoulement as defined in article 33§1 of the Geneva Convention and article 3 of the ECHR. While the agreement states that asylum claims of transferees will be processed in Rwanda following the Geneva Convention and international law, it should be noted that the principle of non-refoulement applies not only to a person's country of origin but also to third countries such as Rwanda.

---

<sup>1</sup> <https://www.bbc.co.uk/news/uk-61808120>

<sup>2</sup> <https://www.ohchr.org/en/press-releases/2022/06/un-expert-urges-uk-halt-transfer-asylum-seekers-rwanda>

<sup>3</sup> <https://www.vuesdeurope.eu/laccord-entre-le-royaume-uni-et-le-rwanda-et-son-incompatibilite-avec-le-droit-international/>

Priti Patel had announced that the first deportation flight to Rwanda carrying people who arrived in the UK without authorization was scheduled to take off on June 14<sup>4</sup>. On 14 June, in the judgment on permission to appeal the decision of the Court of Appeal, the Supreme Court of the UK refused to grant individual or general interim relief to stay the removal of asylum-seekers on a charter flight to Rwanda pending the substantive hearing of the claim for judicial review in July 2022<sup>5</sup>.

In a last-ditch attempt to stop the plane from taking off that night less than two hours before departure, a legal team representing a group of asylum seekers applied to the European Court of Human Rights (ECtHR) for an urgent interim measure to stop their clients from being flown to Rwanda that night. The ECtHR granted urgent interim measure, under Rule 39 of the Rules of Court. As a result, the flight did not take off. The Court stated that asylum-seekers transferred from the United Kingdom to Rwanda will not have access to fair and efficient procedures for the determination of refugee status as well as finding by the High Court that the question of whether the decision to treat Rwanda as a safe third country was irrational or based on insufficient enquiry gave rise to “serious triable issues”<sup>6</sup>.

The first thing to remember in this topic is that if a person risks her/his life on the road, she/he has no choice. The Government's data shows that two-thirds of men, women and children who reached the English Channel in small boats come from countries where they have been forced to flee their homes because of war or/and persecution. In this case, humanitarian responsibility under international law should not be shirked. They quit their own countries where they are born and live because of the risk of persecution. No one would risk their lives or the lives of their families if there were no dangers in their home countries more serious than those they face on these journeys. There is no doubt that for refugees, as for any human being, security is of primary importance. The Universal Declaration of Human Rights defines the right to asylum as follows: "Everyone has the right to seek asylum in other countries and to be treated in those countries as free from persecution" (14§1).

Secondly, there are many concerns about Rwanda's security. We would like to point out that many NGOs and UK media establishments have criticized Rwanda for not investigating human rights abuses. The UK ambassador for international human rights, Rita French, expressed her "regret" that Rwanda had not conducted "transparent, credible and independent investigations into allegations of human rights abuses, including deaths in custody and torture"<sup>7</sup>. In other countries where such plans have been implemented, they have only led to high levels of self-harm and mental health problems and have even resulted in people falling back into the hands of traffickers. Additionally, it is not known to what extent measures have been taken to protect asylum seekers sent to Rwanda from malaria.

When we look at the country of Rwanda in the light of official data, it is found that there is strong evidence to support the concerns of civil society. In February 2020, the National Commission for Human Rights published the findings of its investigation into the February

---

<sup>4</sup> <https://www.theguardian.com/uk-news/2022/may/31/first-rwanda-deportation-flight-leave-uk-14-june-priti-patel>

<sup>5</sup> <https://www.supremecourt.uk/news/rwanda-permission-to-appeal-application-refused.html>

<sup>6</sup> <https://hudoc.echr.coe.int/eng-press?i=003-7359967-10054452>

<sup>7</sup> <https://www.gov.uk/government/speeches/un-human-rights-council-universal-periodic-review-adoption-rwanda>

2018 killing of at least 12 people, when police fired live ammunition on refugees from the Democratic Republic of Congo. According to the 2020 report of Human Rights Watch: "Arbitrary detention, ill-treatment, and torture in official and unofficial detention facilities continued, according to credible sources."<sup>8</sup> Human Rights Watch learned that between October 2018 and September 2019, 35 refugees were sentenced to between 3 months to 15 years; 22 were released, and at least 4 others were still on trial at the time of writing. The fact that Rwanda has a poor human rights record has been approved by several senior officials, including the British High Commissioner in Rwanda. It is obvious that Rwanda still strives to recover the wounds of genocide and struggles with the establishment and internalisation of human rights law.

In a letter to Home Secretary Priti Patel, Matthew Rycroft, Permanent Secretary at the Home Office, said that due to uncertainty over its "deterrent effect", the government cannot prove that its program provides value for money spent. Rycroft said the evidence on the deterrent effect is highly uncertain and cannot be measured with sufficient certainty to provide the necessary level of assurance on value for money spent. "I do not believe that sufficient evidence can be obtained to show that the policy will have a significant enough deterrent effect to demonstrate value for money."<sup>9</sup> In her response to Rycroft, Patel said she was confident that the government's plan on Rwanda would have a "chilling effect". The cost of maintaining the UK asylum system is over £1.5 billion a year, Patel adding that "costs will continue to rise if action is not taken"<sup>10</sup>. It is important to highlight that the right to live humanely, which is a value that cannot be paid with money, cannot be discussed in terms of financial data. However, even if you think about it, the cost of this policy is not sufficiently rationalised according to the given numbers. On top of the £120 million up-front payment to the Rwandan government, the UK will also foot the bill for an additional £12,000 per asylum seeker, forced removals (£15,000 per individual) and flights (£9,700 per individual), as well as the fees for any prior screenings and detention<sup>11</sup>. There is not sufficient evidence that this policy is cost-effective for the UK.

On the other hand, the financial benefits are an obvious attraction for Rwanda. The reported cost to the UK would in theory provides a huge boost to the country's economy. Those who are granted asylum would not be able to return to Britain and would remain in Rwanda. There is no doubt that Rwanda is motivated by financial considerations and a desire to enhance its reputation in the international arena.

Former prime minister Boris Johnson said that the UK will continue to provide "safe and legal routes" for asylum seekers. He explained, on many occasions, that the government wants to crack down on criminal gangs which engage in the "barbaric trade" of taking migrants across the English Channel. However, the data shows that this is not the case. As of August 22, more than 15,500 people have crossed the English Channel since the policy has been introduced. According to Border Force union officials, the total number of migrants crossing the English

---

<sup>8</sup> <https://www.hrw.org/world-report/2020/country-chapters/rwanda>

<sup>9</sup> <https://www.gov.uk/government/publications/migration-and-economic-development-partnership-ministerial-direction/letter-from-matthew-rycroft-to-rt-hon-priti-patel-accessible>

<sup>10</sup> <https://www.gov.uk/government/publications/migration-and-economic-development-partnership-ministerial-direction/response-from-rt-hon-priti-patel-to-matthew-rycroft-accessible>

<sup>11</sup> <https://odi.org/en/insights/the-ukrwanda-deal-is-a-crisis-of-responsibility-not-a-crisis-of-migration/#:~:text=On%20top%20of%20the%20C2%A3,any%20prior%20screenings%20and%20detention.>

Channel in 2022 is expected to reach 60,000. In 2021, 28,526 people are known to have crossed. In 2020, the number was just 8,404<sup>12</sup>.

More than 4,850 people have arrived in the UK by small boat from April 14 to June 2. This is more than two and a half times the number of arrivals in the same period last year and maintains the rate of increase seen since the beginning of the year. It seems that people continue to follow a route that they feel compelled to take at the risk of their lives. The number of asylum seekers has not decreased but contrarily increased. There is no indication that the new asylum policy deters asylum seekers and smugglers that facilitate their entry into the country. As indicated by the figures, the number of asylum seekers has increased, not decreased.

We think the focus should be on the operation of an orderly, humane, and fair asylum system, and the development of safe routes such as humanitarian visas that value human rights.

Larry Bottinick, UNHCR's representative in the UK, said "We are concerned that they [the British] are calling on all their European counterparts to do the same. From their point of view, I can understand why they are doing it - if others do the same, it will give more legitimacy to such agreements.<sup>13</sup>" This statement highlights a very important global impact that needs to be taken into account. There is a reasonable concern that if these policies increase worldwide, there will be a de facto change in the limits of the legal rights of asylum seekers.

Liz Truss, who resigned as prime minister on October 20, had remained steadfast throughout her six weeks in power regarding her support for the migrant plan. The current conservative candidates to replace her — Rishi Sunak, Mr Johnson, and Penny Mordaunt — have taken similarly tough stances on immigration issues<sup>14</sup>. "Any incoming prime minister who thinks that they are going to get this scheme off the ground is delusional," Ms Sceats, the chief executive of Freedom from Torture, said. Lastly, a charter airline contracted by the British government to transport asylum seekers to Rwanda has pulled out of the deal following outside pressure. It has become another blow to Britain's hard-line immigration plan to send asylum seekers to the small African nation.

We hope that this plan will be revised in line with international law and a human rights-based approach. None of the above-mentioned facts makes it right to send people to a third-world country for exercising their right to asylum protected by international law. It is a heartless disrespect for human life that everyone should oppose. If the goal is to stop human trafficking, it is not an efficient way to proceed. There is no doubt that there are other ways to target criminal gangs and deal with the migration problem. Therefore, we share Ms Sceats's opinion on this matter "I think this is a real moment for the Conservative Party leadership, whoever takes on that mantle, to reflect on whether it's worth it."

ASSEDEL, L'Association européenne pour la défense des droits et des libertés

assedel.org | info@assedel.org

---

<sup>12</sup> <https://committees.parliament.uk/publications/23102/documents/169178/default/>

<sup>13</sup> <http://www.infomigrants.net/en/post/40392/first-legal-challenge-against-ukrwanda-asylum-plan>

<sup>14</sup> <https://www.nytimes.com/2022/10/22/world/europe/uk-rwanda-asylum-charter-airline.html>