

19 January 2024

By email: public.enquiries@homeoffice.gov.uk

Sir Matthew Rycroft KCMG CBE
Permanent Secretary
Home Office
2 Marsham Street
London SW1P 4DF

Dear Permanent Secretary

Re: Asylum Policy and the Government's Rwanda Strategy

We write in the wake of (a) the publication of the Government's Treaty with Rwanda on 5 December 2023 ("the Treaty"), (b) the introduction of the Safety of Rwanda (Asylum and Immigration) Bill on 7 December 2023 ("the Bill"), (c) your letter to the Chairs of the Home Affairs and Public Accounts Committee of 7 December 2023, (d) the publication of material in support of the Bill including the policy statement, equalities impact assessment and economic note on 12 December 2023, (e) the evidence of the Home Secretary and Dan Hobbs to the International Agreements Committee on 18 December 2023, and (f) the Home Office announcement on 2 January 2024 concerning the 'legacy backlog' and related matters ("*Legacy backlog cleared as plan to stop the boats delivers*") ("the announcement").

As you will know, Amnesty International has long taken a keen interest in the treatment of refugees and people seeking asylum across the world, including in the UK and in the UK's asylum system. As regards the latter, we have expressed increasing alarm at UK asylum policy since the announcement of an inadmissibility regime first introduced by immigration rules from the moment the UK completed its transitional departure from the EU (and the EU arrangements for allocating responsibility for asylum claims made on the territory of the Member States). For example, we wrote to the then Minister for Immigration Compliance and the Courts on 17 December 2020 before those rules took effect and to yourself on 22 April 2022 in the wake of the previous Memorandum of Understanding reached with Rwanda. We are grateful to the Minister and to you for replies to our letters.

That policy based on inadmissibility ("the policy") has since been adopted by statute (the Nationality and Borders Act 2022) and prepared to be made a permanent and inflexible legal obligation upon the Home Secretary (under the Illegal Migration Act 2023 if and when fully commenced). We understand the ambition of this policy to be to deter anyone from seeking asylum in the UK by any journey to this country that is not permitted in advance



("the aim"); and that the only formal arrangement for implementing this policy remains that with Rwanda.

We would be grateful for your response to the following numbered questions so that we can better understand the relevant policy, aim and strategy that is being pursued – i.e., to implement the policy by transporting people to Rwanda ("the strategy") – and the impact of the policy, aim and strategy. Our questions appear below under discrete subheadings, accompanied by some brief context to them.

Responsibility-sharing

We remain, in principle, opposed to any policy of simply casting off the UK's asylum responsibilities onto other countries (or attempting to do so) notwithstanding your previous assurance, in response to our 22 April 2022 letter, that the arrangement with Rwanda in particular is not an exercise in abdicating responsibility on the part of the UK. As regards the Treaty, we note the explicit reference to responsibility-sharing in its Preamble.

In this regard, please would you:

- (1) Explain how the Home Office understands it to be an exercise in responsibility-sharing for the UK – a relatively rich country – to transport people seeking asylum on its territory to Rwanda – a significantly poorer country – which is already hosting a disproportionately large refugee population?**
- (2) Explain how the Home Office understands it to be an exercise in responsibility-sharing for the UK to pursue a policy of transferring responsibility for the claims of people seeking asylum in the UK to Rwanda in circumstances where that country, on the one hand, does not currently have an effective asylum system and, on the other, hosts a population of people seeking asylum on its territory (as distinct from the vastly higher population of refugees it hosts) that according to UNHCR data had in 2023 risen to over 9,000 people from a range of between 393 and 493 people over the immediately preceding years?**
- (3) Explain the Home Office's assessment of the current and prospective impact of the policy and strategy upon the commitment of other nations to fulfil their obligations under international asylum law, including to share responsibility?**
- (4) Explain how pursuing the policy and strategy is consistent with fulfilment by the UK Government of its duty to co-operate with the Office of the UN High Commissioner for Refugees, under Article 35 of the Refugee Convention?**

**Direct and Indirect Financial Costs:**

Amnesty International UK is concerned with people's human rights. However, we acknowledge that this cannot be divorced from matters of financial cost, especially in circumstances where wasteful expenditure is exacerbating the human cost and misery of non-compliance with human rights.

In this regard, we note your confirmation, by letter of 7 December 2023, to the Chairs of the Home Affairs and the Public Accounts Committee that ever since April 2022, the strategy to implement the policy by relocating people from the UK to Rwanda ("the strategy") has been pursued under a Ministerial Direction in view of the department's assessment that:

"...sufficient evidence [cannot] be obtained to demonstrate that the [strategy] will have a deterrent effect significant enough to make [it] value for money."

The basis for the Ministerial Direction remains, as we understand it, that set out by the then Home Secretary in her letter to you of 13 April 2022:

"...without action, costs will continue to rise, lives will continue to be lost, and that together we have introduced safeguards into our agreement to protect taxpayer funding. And while accepting the constraints of the accounting officer framework set out by HM Treasury, I also think there are credible invest-to-save arguments in the long term..."

"It would therefore be imprudent in my view, as Home Secretary, to allow the absence of quantifiable and dynamic modelling – which is inevitable when developing a response to global crises influenced by so many geopolitical factors such as climate change, war and conflict – to delay delivery of a policy that we believe will reduce illegal migration, save lives, and ultimately break the business model of the smuggling gangs. I am therefore formally directing you as Accounting Officer to take forward this [strategy] with immediate effect, managing the identified risks as best you can."

In these circumstances, please would you:

- (5) Confirm whether the above rationale remains the basis for the Ministerial Direction under which the Home Office continues to pursue this strategy. If the rationale has changed, please explain what the rationale currently is?**

- (6) Confirm whether the Ministerial Direction applies solely to the strategy (i.e. to implement the policy by relocating people to Rwanda) or whether it applies to the inadmissibility policy more generally. If it does not apply to that policy more generally, have you determined that policy more generally to be value for money or have you received a Ministerial Direction in relation to it (and if so, please provide a copy of that)?**



- (7) Confirm whether any assessment has been made, and if so what that is, of the impact of (i) the policy since December 2020 and (ii) the strategy since April 2022 upon each of the factors identified in the Ministerial Direction.

In particular, please provide, so far as is possible, information: (i) as to the comparative cost of the UK asylum system as at December 2020, April 2022 and now (taking into account the impact of both the policy and the strategy); (ii) concerning the number of lives known to have been lost on journeys to the UK and the number of lives known to have been lost in the asylum system for the years 2020, 2021, 2022 and 2023; (iii) concerning the impact on health and wellbeing of people seeking asylum in the UK of the policy and the strategy (including any assessment of the cost of that impact); and (iv) the impact on organised crime and other exploitation of people making journeys to the UK and in the UK of the policy and the strategy (including any assessment of any changes in routes and methods entry to the UK controlled and used by people smugglers and human traffickers over this period).

Is it the Home Office's assessment that the relevant financial, human and wider societal costs have thus far been reduced or increased by the policy and the strategy? Please explain that assessment.

- (8) Confirm whether the Home Office is satisfied that it has managed "*the identified risks as best*" as could be?
- (9) Confirm whether the Home Office has at any point since April 2022 made any further assessment of what the Ministerial Direction refers to as "*credible invest-to-save arguments in the long term*". If so, when were these made and what was/were the assessment(s)?
- (10) Confirm what, if any, circumstances the Home Office understand or considers would require it to revise, withdraw and/or reconsider the policy. In this regard, we note the Economic Note (HOEN 0036) confirms that the only options considered at this time have been to either do nothing or pursue the strategy by enacting the Safety of Rwanda (Asylum and Immigration) Bill 2023.

Does the Home Office recognise that there are other options available to the UK Government, including directing its resources to fairly and efficiently determining the asylum claims it receives (as it expects of other countries) – or doing so alongside seeking arrangements with other countries to share responsibility including by facilitating safe journeys to the UK of people wishing to seek asylum here – rather than adopting the current strategy (or searching for another) to maintain the policy of



refusing to admit, process and determine people's claims? Why did it not consider and assess such options at this time?

- (11) We note what is described as 'the Safety of Rwanda (Asylum and Immigration) Bill 2023: legal position' ("the legal position") published on 11 December 2023, which states that if current circumstances continue "*...the costs of asylum accommodation alone could increase to £32 million per day by 2026 – equivalent to £11 billion per year.*" What was the equivalent daily and annual cost immediately prior to the implementation of the policy in December 2020 and the strategy in April 2022? What is the department's assessment of what the equivalent costs would have been by 2026 had the policy not been introduced? Finally, why does the Economic Note provide "*no monetised costs or benefits*" and therefore "*no value for money metrics*" even though the legal position identifies an estimation of projected costs?

Asylum statistics

We note the announcement of 2 January 2024 that 112,138 asylum claims received an "initial decision" in the period 1 January 2023 to 28 December 2023 (inclusive). Of these 112,138 'decisions', 35,119 (31%) are described as 'non-substantive'. The announcement also records that among a total of 31,766 initial 'decisions', 13,093 (41%) 'non-substantive' decisions were made in the period 1 January 2022 to 31 December 2022 (inclusive). In considering these figures we have had regard to the most recent immigration system statistics quarterly release (as updated on 7 December 2023).

Regarding the figures, please would you:

- (12) Explain the variance (+7,149) between the figure given for withdrawn cases among the initial decisions given by the Asylum initial decisions and resettlement dataset Asy_D02 for 2022 (5,944) and the figure given for non-substantive decisions for 2022 in the data accompanying the announcement of 2 January 2024 (13,093).
- (13) Confirm whether the Home Office has – in relation to the 48,212 non-substantive decisions made during 2022 and 2023 – made any assessment of these decisions, the people to whom they relate and the impact of making these decisions.

In particular, (i) what has caused such a large increase in the volume of claims receiving a non-substantive decision, (ii) how many of the people whose claims have been subject to a non-substantive decision are known to remain in the UK, how many of them does the Home Office estimate to remain in the UK and how many of them are known to have left the UK, (iii) how many of the people whose claim has been subject to a non-substantive decision remain in Home Office accommodation or otherwise



in contact with the Home Office, (iv) how many of these non-substantive decisions is it expected will require a new decision by the Home Office and how many have done so already, (v) will the Home Office be maintaining a record of the number of these non-substantive decisions that do require a new decision by the Home Office, and (vi) what is estimated will be the ultimate cost to the Home Office of making such a large number of non-substantive decisions?

We acknowledge that we have, by this letter, sought a significant degree of detail. Nonetheless, we anticipate that these various matters ought to be known to the Home Office given the centrality of the subject matter to current and longstanding policy and it all relating directly to the various announcements and publications from December 2023 that we have outlined at the beginning of the letter.

Finally, we must take this opportunity to strongly encourage the Home Office to reconsider its current policy, aim and strategy (as discussed in this letter). The UK is obligated, as are all States, to share in the responsibility of securing the right to seek and enjoy asylum. The policy, aim and strategy are each antagonistic to that obligation. Even were there good reason to suggest that the policy, aim and strategy could significantly reduce the power of organised crime and other abusers over, or the fatal and other harms suffered by, people seeking asylum (whether on journeys to the UK, in the UK or more widely), that would not legitimate that antagonism. However, there is no good reason to suggest this, let alone evidence to support it. On the other hand, there is every reason to conclude that the policy, aim and strategy are making ever more people ever more vulnerable to exploitation, deprivation and harm (on journeys to the UK, in the UK and elsewhere). Moreover, the longer the policy, aim and strategy are pursued, the more difficult it will surely be to undo any of their impact in the UK and beyond.

We would, of course, be willing to meet with you or your colleagues to discuss any of these matters if you consider that would be of any assistance to you.

We look forward to your response.

Sincerely,

Steve Valdez-Symonds
Refugee and Migrant Rights Programme Director
Amnesty International UK