European Stability Initiative
BERLIN - BRUSSELS - ISTANBUL

Statement on Migration agreements with *safe third countries*

Gerald Knaus

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Arrivals in Greece by sea, 2014-2018 (UNHCR)

Month	2014	2015	2016	2017	2018
Jan	955	1,694	67,415	1,393	1,633
Feb	1,001	2,873	57,066	1,089	1,256
Mar	1,501	7,874	26,971	1,526	2,441
Apr	1,257	13,556	3,650	1,156	3,032
May	1,703	17,889	1,721	2,110	2,916
Jun	3,198	31,318	1,554	2,012	2,439
Jul	3,927	54,899	1,920	2,249	2,545
Aug	6,742	107,84	3,447	3,584	3,197
Sep	7,454	147,12	3,080	4,886	3,960
Oct	7,432	211,66	2,970	4,134	4,073
Nov	3,812	151,24	1,991	3,215	2,075
Dec	2,056	108,74	1,665	2,364	2,927
	41,038	**856,72**	**173,45**	**29,718**	**32,494**

Question: "Can the protection status of refugees also be determined in transit or third countries in the future, in compliance with the Geneva Refugee Convention and the European Convention on Human Rights?"

Answer: "Yes."

Prerequisites

This is a moment when illegal pushbacks at borders are becoming increasingly normalised around the world, including in the EU. Radical parties promise to reduce migration by ignoring and suspending basic human rights of asylum seekers and migrants by force. This statement describes an alternative strategy for the EU's external border, which has been the world's deadliest for years, to enable centrist parties to counter extremists. It is neither about sacrificing the promise to reduce irregular migration nor about sacrificing the valid human rights conventions, the rule of law and the asylum system in place since 1949.

It takes more than rhetoric. It takes more than empathy. It needs a strategy that can be implemented by a majority. Safe third countries are *the* key to humane control of life-threatening external borders. They can help to drastically reduce irregular migration. They can save thousands of lives. But this is only possible if it is clear what this strategy can and cannot achieve and what prerequisites and preparations are necessary. As every step in this fundamental paradigm shift requires time and effort, the necessary steps should be taken as quickly as possible. At the centre of concrete planning must be the idea of rapid deportations from EU border states to safe third countries *after a cut-off date* to effectively *discourage future* irregular migration with the strong interests of all parties involved in a *long-term* successful implementation.

The success of such agreements requires: 1. safe third countries that are able and willing to fulfil the legal standards; and 2. EU states that are able to decide quickly and lawfully *who* can be deported to a third country.

Fast and sustainable results are possible

How much would the number of people who come to the EU irregularly or die on the way to the EU decrease if there were successful agreements with safe third countries? The most important and so far only example of such an EU agreement was the EU-Turkey Statement, which was adopted at the end of March 2016. The aim was to reduce irregular migration and the number of deaths in the Aegean Sea.

An initial aim of the EU-Turkey declaration was to reduce the number of people arriving in Greece irregularly in boats from Turkey. This was achieved immediately.

Arrivals in the Aegean 2016-17

Period	People
2016 January, February, March	**151,000**
2016 May, June, July	5,200
2017 January, February, March	**4,000**

In the first three months of 2016 (in winter), **151,000** people arrived. As it warmed up and conditions for crossings improved (and in every other year the number of crossings increased in spring), these fell to just **5,200** in 2016.

In the first three months of 2017 (again in winter), they fell further to **4,000**, a decrease of **around 3 per cent** from the beginning of 2016 to the beginning of 2017.

A second goal of the EU-Turkey declaration was to reduce the number of people who lost their lives in the Aegean Sea. This was also achieved immediately.

Deaths in the Aegean 2016-17[1]

Period	Deaths
2016 January, February, March	**366**
2016 May, June, July	7
2017 January, February, March	**13**

In the first three months of 2016 (in winter), **366** people arrived. In the three months of May, June and July 2016, there were 7. In the first three months of 2017 (again in winter), there were 13. This is a decrease of **around 4 per cent (from the beginning of 2016 to the beginning of 2017)**.

Let's call it the **THREE / FOUR PERCENT TARGET** for safe third country agreements. What would a similar effect mean elsewhere in the Mediterranean? If a similar reduction in irregular migration and in the number of deaths could have been achieved on other migration routes in the Mediterranean in 2023?

Let's look at irregular migration from Africa to Spain.

> In 2023, 58,000 arrived in Spain, most of them by sea.
> According to the IOM, 1,400 people lost their lives in the western Mediterranean or the Atlantic in 2023.

Let's look at irregular migration across the Mediterranean to Italy.

> In 2023, 158,000 arrived in Italy, most of them via the central Mediterranean.
> In 2023, 2,500 people lost their lives en route from North Africa and Turkey to Italy.

If there had already been two migration agreements with a similar effect to the EU-Turkey declaration in 2023 and the number of arrivals had fallen to three per cent, as in the Aegean Sea in 2016, and the number of deaths to four per cent, the following picture would have emerged:

1 IOM/Missing Migrant Project, Mediterranean.

*Spain, Italy and the **three/four per cent target for** 2023*

2023	**Real**	**3% / 4%**
Migration to Spain	58,000	1,700
Dead	1,400	40
Migration to Italy	158,000	5,000
Dead	2,500	100

If there had been agreements for the migration routes to Spain and Italy in 2023 *with an effect similar to the EU-Turkey Statement*, the number of people arriving irregularly in these two countries would not have been 216,000 but 6,700. And the number of deaths would not have been 3,900, but 140. **Effective Safe Third Country Agreements could have saved more than 3,700 lives on these two routes alone in 2023. It is a *moral imperative to* work vigorously on such agreements.**

Because this calculation only looked at one year. If there had been similarly effective agreements in the *five* years from 2019 to 2023, instead of more than 10,000 people fewer than 400 would have died on these two routes.

It is sometimes said that safe third country agreements are complex and expensive. These figures – which are reminiscent of a war – make it clear that this is not a good argument against them.

Concrete example: Australia 2001

> Twice since 2000, the number of irregular migrants crossing the sea to Australia has been reduced to zero. This happened for the first time after Prime Minister John Howard introduced this policy in August 2001: The number of people arriving irregularly in boats fell from more than 12,000 in three years to less than 300 in six years.

"Pacific solution "

Year	**Arrivals**
1998	200
1999	3,721
2000	2,939
2001	5,516
2002	1
2003	53
2004	15
2005	11
2006	60
2007	148

Where are the safe third countries?

The first prerequisite for this policy is the existence of states that are willing and able to fulfil the **criteria** laid down by human rights conventions and international law for the lawful deportation of an asylum seeker.

The criteria for safe third countries are well known. UNHCR describes them in its publications. EU law also lists these criteria. There are many relevant judgements from courts throughout Europe (ECJ, ECHR, the highest courts in the UK). These define when transfers are generally legal and when they are illegal. *If* a safe third country fulfils these criteria, then the transfer of an asylum seeker there *does not* violate international law.

UNHCR has repeatedly welcomed safe third country agreements in the past. In recent years, however, Filippo Grandi, the United Nations High Commissioner for Refugees, has repeatedly publicly claimed: "Relocating asylum seekers to third countries violates international law." (See: Spiegel December 2023). That is wrong.

A second common argument is just as misleading: that there are no countries in the world that are *willing* to offer themselves as safe third countries. The last few years have shown that this is also wrong.

In fact, it is more likely that as soon as there are functioning safe third country agreements that are obviously in the interests of both sides, there will be more states that want to cooperate. This should indeed be a goal of such a strategy from the outset.

Very different countries have offered themselves as third countries since 2000: small islands (such as Nauru, 10,000 inhabitants, even twice: 2001 and 2012) and large countries (such as Turkey in 2016), countries as diverse as Malaysia (2011), Papua New Guinea (2001 and 2012), the USA (as a safe third country for Canada) and Rwanda (2019 and again in 2022). These countries have often approached others on their own initiative with the offer to have asylum procedures carried out in their country. The offer is then the starting point for negotiations. As in all negotiations, success then depends on what partners expect from each other and what they offer each other.

Specific example for negotiations in 2024

Let's assume that the starting point for negotiations is that a state offers to take in a few thousand asylum seekers very quickly from a cut-off date in return for hundreds of millions (Rwanda) / several billion (Turkey, for refugees staying in Turkey) euros in financial aid, plus easier travel for its own citizens up to and including possible visa liberalisation (Turkey), possibly also quotas of legal labour migration and, where relevant, refugee admission through resettlement. With such an offer, why should it not be possible to find partner countries that are willing to negotiate?

There has only been one such concrete negotiation in the history of the European Union: with Turkey, after it made such an offer of its own accord in March 2016. This also led to a quick agreement at the time.

Specific example of a breakthrough in 2024: the English Channel

A group of EU countries already committed to safe third country solutions should immediately make a concrete offer to the UK after the general election in July 2024 as an alternative strategy to end the irregular crossing of the English Channel *without transfers to Rwanda* in a humane and legal way.

> The proposal that London should then negotiate with Copenhagen, Berlin and Rome: All people who cross the English Channel after an agreed deadline will be quickly sent back to these EU countries. These countries are undoubtedly safe. That would quickly stop all crossings. In return, the UK should agree to resettle an initial 20,000 refugees or asylum seekers currently in these European partner countries each year for the next few years. Last year, 29,000 people crossed the English Channel. An agreement with EU-countries would also put an end to the fatal accidents in the English Channel. It would also show other countries that safe third-country agreements do not always have to be concluded between rich countries in Europe and poorer countries in Africa.

Irregular migration across the English Channel[2]

Year	Arrivals
2018	299
2019	1,843
2020	8,462
2021	28,526
2022	45,755
2023	29,437
Total	114,327

The goal of finding (some) states that would be willing to accept asylum seekers as safe third countries is obviously realistic, but it also requires serious negotiations and attractive offers. In the past, successful negotiations have taken place at the highest level of government.

So, what about the ability of potential partner countries to fulfil the criteria for safe third countries? This is crucial for any implementation: anyone who ignores the actual circumstances in the partner countries must expect that European courts would rightly stop transfers of asylum seekers.

Again, there are those who advise giving up immediately. Some claim that it would be almost unthinkable in the foreseeable future to expect even willing partner states, for example in Africa, to fulfil the necessary criteria. Therefore, the argument goes, the concept of safe third countries is either a castle in the air or even a cynical pretext for *abolishing* the right to asylum procedures by outsourcing them.

This position is threefold contradictory.

Firstly, it suggests that the aim of transfers to safe third countries is *to deny* refugees *access to asylum*. However, deportations to third countries are only authorised by European courts, see the United Kingdom 2023, if the necessary standards for granting protection to each individual person to be transferred are met. **In the case of safe third country agreements, both sides therefore have a vested interest in fulfilling these standards. If they do not, transfers will not take place and cooperation will fail.** This is a strong incentive to fulfil the necessary standards together with willing states.

Secondly, this position is Eurocentric. In Europe, where European courts (the ECJ, the ECHR, German administrative courts) have repeatedly prevented the transfer of asylum seekers and even recognised refugees to other European countries, the only sensible response is *not* to

[2] Home Office, Migrants detected crossing the English Channel in small boats, accessed 18 March 2024

accept this as unalterable, but to work to ensure that all EU countries meet the necessary standards. The basic assumption is that it is a question of political will and the interests of those in power. The question then arises: why should we assume that the political will of Europeans is important, but not that of African countries? Why should we a priori deny that they have this will?

Brutality against refugees has always existed in Europe. The world is horrified by the images of Europe's deadly and inhumane borders. Humane conditions for the reception of refugees and access to protection have also existed and continue to exist in African countries. Here as there, **the political will** of those in power is always decisive.

The key question is, of course, whether such specific conditions can be met. This concerns access to a functioning asylum system, reception and integration prospects and the risk of persecution or serious human rights violations in the country itself.

Those who are in favour of *global* refugee protection cannot accept that its future lies in the fact that some refugees worldwide somehow manage to reach a small number of (mostly) Central and Northern European countries or North America irregularly on often life-threatening routes. We must succeed in expanding effective refugee protection worldwide. In the interests of human rights and refugee protection, it is therefore important to work towards ensuring that there are *more* safe countries worldwide for asylum procedures and the reception of refugees. International organisations are currently failing to do this, especially in Asia, where almost half of the world's population lives.

It should be a core task of international organisations, especially the UNHCR, to develop proposals and strategies for a world with *more* states that declare their willingness to be safe third countries (such as Rwanda today) and to *support* them in this. If this also leads to a transfer of funds from richer to poorer countries (for meaningful projects) and, in return for co-operation, legal travel is made easier for citizens of the partner countries, this is an additional advantage.

Rwanda 2024 as a concrete example

> Since 2019, Rwanda has been working with the UNHCR to bring asylum seekers from Libya to Rwanda, where they are safe and where their asylum procedures take place. The UNHCR carries out these procedures in Rwanda. The African Union co-initiated this project in 2019 and praises it. It has been running successfully for five years. UNHCR also regularly praises Rwanda for being a life-saving refuge for asylum seekers, now UNHCR's most important partner in Africa.
>
> Let us now assume that Rwanda would agree to take in more asylum seekers directly from Libya's camps with the support of Western partners. Rwanda also offers to take in those who set off irregularly on boats from Libya towards the EU from a certain date and are rescued and picked up by European ships.
>
> The aim is to ensure that those who are in Libya *before* a defined deadline and *do not board boats* bound for Europe have a real chance of getting out of Libya and being resettled if they need protection. However, those who arrive in Libya or board boats there after the deadline will be taken to Rwanda in order to receive protection there if necessary ... under conditions that fulfil the standards of the ECHR.

> In return, a coalition of European states promises to bring refugees who are currently being held in camps in inhumane conditions in Libya and who need protection to Rwanda even more quickly and to take them in more quickly from there through resettlement. This would achieve several humanitarian goals: the terrible camps in Libya would quickly become emptier. There are legal and organised routes from Libya via Rwanda to Europe for those who need protection. At the same time, it sends a signal to others: Don't make your way to Libya after the deadline. If you get on a boat from there, you will end up in Rwanda and not in Europe. If you need protection, you will get it in Rwanda.
>
> If Rwanda receives improvements in legal mobility for its own citizens, as well as several hundred million euros in financial aid for the national innovative plan to reduce extreme poverty through cash transfers to the poorest (a project that has already started in cooperation with *Give Directly* but needs further funding), this would be a double benefit.

A role for the UNHCR in safe third country agreements

Let's start with an obstacle and the obvious way to overcome it. Currently, EU law requires a link between a person and a safe third country to which they are to be transferred. This is not part of international law and is not based on the ECHR. Neither the UK nor Denmark are bound by it. A majority of EU member states are calling for this connection criterion to be abolished. Germany would be increasingly isolated if it continued to reject it.

UNHCR has often made it clear in the past that what matters is the protection of human dignity, access to effective protection and the standards of the Geneva Refugee Convention. On the connection criterion, UNHCR 2018 – Legal considerations regarding access to protection and a connection between the refugee and the third country in the context of return or transfer to safe third countries, April 2018:

> "The requirement of a link between the refugee or asylum seeker and the third country is **not mandatory** under international law. The person may well be returned to a country through which they have travelled on their journey, or they may be **transferred to** a **country to which they have never been** but which has agreed to assume responsibility in a formal agreement."

Given the movement in the debate in Europe, it is probably a matter of time before the connection criterion is dropped. What remains are high human rights standards, as we saw in the judgements of the British courts on Rwanda in 2023.

Specifically: UNHCR's offer to Australia in 2011

> In 2011, UNHCR was asked by a Labor Party government in Australia to actively support a Safe Third Country Agreement under which Australia would bring all arriving asylum seekers to Malaysia *from a cut-off date.* The agreement stipulated the following: Malaysia would take boat people back from Australia and provide them with *asylum procedures conducted* there *by the UNHCR*. In return, Australia would take in a larger number of people in need of protection directly from Malaysia.

On 25 July 2011, the government presented the new "Agreement between the Government of Australia and the Government of Malaysia on the Transfer and Resettlement of Refugees." It was short:

"The Government of Australia will transfer to Malaysia certain persons seeking international protection for refugee status determination in exchange for the Government of Australia accepting certain persons who have been categorised as refugees by the United Nations High Commissioner for Refugees (UNHCR) in Malaysia. This agreement is subject to the UNHCR and the International Organisation for Migration (IOM) being able to carry out ... the tasks and functions envisaged. Under the agreement, Malaysia will accept the transfer of up to 800 asylum seekers from Australia. In return, Australia will resettle 4000 recognised refugees from Malaysia over a period of four years."

The Labor government said: "Don't underestimate the determination of this government ... We don't want people doing business with human misery. We want to remove the incentive for people to get on boats." The agreement stipulated that the Australian government would cover all costs for the asylum process in Malaysia, medical care and schooling. John Menadue, then head of the Australian Immigration Department, called the agreement a "rare chance to end the cruel treatment [of refugees]." The UNHCR had decades of experience with this kind of co-operation in Southeast Asia and welcomed the agreement on the same day:

"UNHCR hopes that the agreement will, in time, lead to greater protection in both countries and the region as a whole. It also welcomes the fact that a further 4,000 refugees from Malaysia will be provided with a durable solution through resettlement to Australia.

The potential to work towards safe and humane options beyond dangerous boat journeys is also a positive aspect of this Convention. The Convention and its implementing directives contain important safeguards, including respect for the principle of non-refoulement, the right to asylum, the principle of family reunification and the best interests of the child, humane reception conditions including protection from arbitrary detention, lawful status to remain in Malaysia until a durable solution is found, and the opportunity to receive education, access to healthcare and a right to employment."

UNHCR should proactively offer similar support for possible third country agreements for the Central Mediterranean route from North Africa and the deadly route to the Spanish Canary Islands and Spain from North and West Africa. This is about nothing less than saving thousands of lives a year and replacing the policy of pushbacks and pullbacks. The UNHCR's most important supporters – which, alongside the USA and Sweden, have included Germany for years – should get involved in order to develop such a strategy for the global refugee system in a timely manner.

The most important countries supporting the UNHCR, USD, 2023[3]

State	Contribution
United States	1,902,377,494
Germany	**436,039,681**
Japan	150,768,958
Sweden	137,342,838
France	130,830537

[3] UNHCR, Donor Ranking, 2023, accessed 9 April 2024. Germany contributes in addition to the European Commission's contribution, which was USD 261,450,071 in 2023.

Summary

In 2024, Germany and a group of interested EU states should set themselves the concrete goal of concluding and implementing at least **four safe third country agreements** by 2028 in order to drastically reduce irregular migration across the entire Mediterranean and the Atlantic to the Canary Islands without violating the ECHR and the Charter of Fundamental Rights. This is a historic challenge, all the more so if Donald Trump is re-elected in the USA and does away with the right of asylum there.

It is important that the first agreements that are implemented are very well prepared and also visibly in the interests of *all* parties involved; and that all parties involved continue to have a long-term interest in sticking to the implementation.

For Germany and other countries that are not on Europe's external borders, this means starting to negotiate agreements with the Mediterranean states now, in order to bring those arriving irregularly to EU countries with external borders to safe third countries after an individual admissibility check. In addition, the aim should be to expand legal pathways for the admission of refugees.

The aim is always to drastically reduce *future* irregular migration through well-prepared transfers of the vast majority of migrants arriving after a deadline. Clear communication is crucial here. It is not about deterrence – because there must be no policy of terror (no human rights violations) even after the transfer to third countries. It is about discouragement, because irregular crossings should become pointless. Any agreement of this kind therefore also benefits enormously if alternative legal routes are offered at the same time.

It can therefore never be about bringing "hundreds of thousands" to safe third countries. No third country would accept this. No EU country would be able to do this. This also means that it would not be expedient to bring people *directly from Germany* to third countries in order to reduce irregular migration. This would be doomed to failure.

Safe third country agreements are about reducing *irregular migration to the EU as a whole.* This is in Germany's interest. In the last decade from 2014 to 2023, a total of 7.6 million asylum applications were submitted in the EU, and 3 million positive decisions granting protection were made in the first instance. During this period, Germany alone accounted for *46 per cent of all positive asylum decisions in the entire EU*. Together with Austria (which granted even more protection per capita), the two neighbours accounted for more than half (51%) of all positive protection decisions in this decade.

Asylum in Europe – First instance (Eurostat)[4]

2014-2023	Asylum applications	Decisions	of which protection granted
EU total	7,605,655	6,372,845	3,041,340
Germany	2,637,080	2,511,375	1,409,310
Austria	412,655	272,035	158,930

Asylum in Europe – First instance (Eurostat)

2014-2023	Asylum applications	Decisions	of which protection granted
EU total	100 %	100 %	100 %
Germany	35 %	39 %	46 %
Austria	5 %	4 %	5 %

The vast majority of these positive decisions relate to life-threatening irregular migration. In contrast, the number of *legal resettlements* of refugees in Germany has recently been only a few thousand per year, and in Austria it has been zero in recent years.

A paradigm shift in which Germany and other EU states grant protection to refugees, where in the future those arriving, do so through reception programmes, ensuring an organised manner which safeguards lives, is in Germany's particular interest.

For years, Germany has been one of the most important pillars of global refugee protection worldwide. It is of global importance that a broad political and democratic consensus in favour of the values of the Refugee Convention and the European Convention on Human Rights is maintained in Germany in the future. This is increasingly jeopardised by the status quo in the EU and in Germany.

A paradigm shift towards functioning agreements with safe third countries and humane controls is therefore of enormous importance, especially for Germany.

[4] Eurostat, Asylum applicants by type, citizenship, age and sex - annual aggregated data, Applicant Type: First Time Applicant; First Instance Decisions on Applications by type of decision, citizenship, age and sex - annual aggregated data, Total (Genev. Convention, Human. Status, Subsidiary Protection, Rejected); First Instance Decisions on Applications by type of decision, citizenship, age and sex - annual aggregated data, Total Positive Decisions (Genev. Convention, Human. Status, Subsidiary Protection) accessed 18 June 2024

Annex A – The improved UK-Rwanda agreement 2023

On 5 December 2023, the recently appointed British Home Secretary James Cleverly signed the "Treaty between the United Kingdom and Rwanda: Establishing an Asylum Partnership" with the Rwandan Foreign Minister Vincent Biruta.[5]

The treaty remedied the shortcomings identified by the Supreme Court in its ruling of 15 November 2023, in which it blocked transfers to Rwanda under the agreement on the grounds that people sent to Rwanda risked being sent back to countries where they would face persecution. Rwanda's nascent asylum system was considered inadequate. The Supreme Court was concerned that asylum seekers were at risk of being wrongly rejected and sent back to their countries of origin where they would face persecution (a violation of the principle of non-refoulement).

The treaty includes a commitment not to send anyone transferred from the UK to any other country. This means that no one will be sent anywhere against their will, regardless of the outcome of an asylum procedure. Article 10(3) states:

> "No resettled person (even if they do not apply for asylum or humanitarian protection or regardless of the outcome of their application) shall be removed from Rwanda except to the United Kingdom in accordance with Article 11(1). The Parties shall co-operate to agree an effective system to ensure that no removal contrary to this obligation occurs, including systems (with the consent of the resettled person, where appropriate) for return to the United Kingdom and the identification and regular monitoring of the location of the resettled person."

The agreement also contains the provision that the Rwandan authorities undertake to grant regular status to all persons who remain in Rwanda. Article 10(4) states:

> "For resettled persons not covered by Articles 10(1) and 10(2), Rwanda shall:
>
> a. regulate the immigration status of these persons in Rwanda in order to guarantee them a right to remain in Rwanda in the form of a permanent residence permit;
>
> b. provide adequate support and accommodation for the health and safety of the relocated person in accordance with Annex A, Part 1, from the time of arrival in Rwanda until such time as his or her status is regularised in accordance with Article 10(4)(a);
>
> c. after regularisation of their status, to grant the rights and treatment set out in Annex A Part 2;
>
> d. grant any child forming a family with that relocated person the same status, rights and treatment as the relocated person."

The treaty contains provisions intended to improve the quality and guarantees of the asylum procedure in Rwanda. One of these is Rwanda's obligation to set up an "appeals body" for asylum issues, which includes international judges. To this end, a new Asylum Appeals Tribunal with international judges has been established. This obligation is set out in Article 4.2 of Annex B of the treaty:

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5 "Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Rwanda on the establishment of an asylum partnership to strengthen joint international obligations for the protection of refugees and migrants."

"4.2 Rwanda establishes the Appeals Tribunal, which:

4.2.1 has, for the first five (5) years following ratification of this Agreement (renewable by agreement between the Parties), one Rwandan and one other Commonwealth national with asylum/humanitarian protection experience as Co-Presidents;

4.2.2 is composed of judges of different nationalities, selected and duly appointed by the Co-Presidents;

4.2.3 decides on all appeals originating from the first instance;

4.2.4 receive and consider an opinion of an independent expert on asylum and humanitarian protection during the first 12 (twelve) months after ratification of this Convention (the period may be extended by agreement between the Parties) before deciding on an appeal against a first instance decision;

4.2.5 shall sit in a panel of 3 (three) judges, one of whom must be one of the co-chairs, when hearing appeals;

4.2.6 shall be responsible for re-hearing the claim in order to conduct a full re-examination of the factual and legal merits of the relocated person's claim; the Co-Chairs shall determine the procedure they deem appropriate for this purpose;

4.2.7 shall be responsible for hearing an appeal against a decision relating to a material change in the status of a resettled person under this Agreement, for example as a result of a decision to cancel refugee status or to grant humanitarian protection following such a grant.

Michael Clements, who was President of the Immigration and Asylum Chamber in the United Kingdom for eleven years until November 2022, was appointed Co-President of the Court of Appeal, where he led a national court of over 470 judges.

The treaty contains numerous strict provisions on the reception of asylum seekers in Rwanda. They concern access to accommodation, food, health, legal assistance, transport, interpreters and freedom of movement. Successful applicants receive language training, vocational training programmes and integration programmes, while unsuccessful applicants also "enjoy equivalent rights in terms of employment and self-employment, public assistance, labour law and social security, and administrative support."

Annex B – Valid standards for transfers

2009 The EU Charter of Fundamental Rights enters into force in December

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

2011 ECtHR in Strasbourg: MMS judgement against Belgium and Greece

The Strasbourg judges have clarified in many judgements what is meant by "inhumane treatment" that prohibits deportation.

M. S. S. was an Afghan citizen. We don't know his full name, let's call him Munir. Munir explained that he had narrowly escaped an assassination attempt by the Taliban in his

country. It was in retaliation for his work as an interpreter for the international armed forces in Kabul. After the attack, he fled to Greece via Iran and Turkey and then on to Belgium, where he applied for asylum in February 2009. However, according to EU law, Greece was responsible for examining his asylum application, as he had been registered there for the first time.

In June 2009, he was returned to Greece by Belgium. In 2011, the ECtHR ruled against both Belgium and Greece. The judgement describes the situation Munir found himself in in Athens: "Immediately after his arrival, he was placed in a building next to the airport where, according to him, he was locked in a small room with 20 other people, had access to the toilets only at certain times and no access to fresh air, was given little to eat and had to sleep either on dirty mattresses or on the bare floor. He was released on 18 June 2009 and received an asylum seeker's pass. Since then, he has lived on the streets without any means of subsistence."

The court declared that these living conditions constituted inhuman and degrading treatment. The ECtHR also stated that Belgium should have examined whether asylum procedures in Greece offered protection against arbitrary deportations. There is no guarantee of this in Greece, as asylum laws are not implemented. There is a lack of interpreters and legal aid. Furthermore, the UNHCR informed the court that "almost all first-instance decisions in Greece are negative and stereotypical." Appeals before the Supreme Administrative Court take longer than five years on average. According to the ECtHR, the Belgian authorities transferred Munir "in full knowledge of the inadequacies" of the Greek asylum procedure. And thus violated his human dignity.

2012 ECtHR in Strasbourg: Hirsi judgement against Italy

In February 2012, the ECtHR declared in a further judgement (Hirsi) that every state under whose control a person is located is also obliged to apply the Convention on Human Rights on its ships. This judgement concerned a group of Somalis and Eritreans who were stopped by an Italian coastguard vessel in 2009 and returned to Libya.

At a press conference in 2009, the Italian Minister of the Interior at the time described the procedure as historic. The ECtHR disagreed and condemned Italy. The risk of inhumane treatment in Libya was so high that the deportations were diametrically opposed to all principles of the Convention on Human Rights. Following the judgement in the "Hirsi case" (named after Hirsi Jamaa, one of the Somalis who was sent back to Libya), Italy stopped the repatriations by its navy. However, there were officials in Rome who would later recall that fewer people reached Italy from North Africa in 2009 than in any other year in the previous two decades.

2019 ECJ responds to the Administrative Court in Baden-Württemberg

In 2012, Gambian Abubaccar Jawo left his small West African country, one of the poorest in the world, which was ruled by an unpredictable dictator at the time. In August 2012, he announced mass executions of prisoners. Jawo managed to reach Italy via Libya, where he applied for asylum in 2014. He then travelled on to Germany and submitted another asylum application. The Federal Office for Migration and Refugees (BAMF) refused to process it, as Italy was responsible for this under the EU's Dublin rules. It ordered Jawo's deportation to Italy.

The case went to court in Baden-Württemberg. In March 2017, the administrative court there referred the following question to the ECJ in Luxembourg: Can Germany transfer an asylum seeker to Italy if they are "exposed to a serious risk" of being treated in a degrading manner even if they are recognised as a refugee "in view of the living conditions to be expected [in Italy]"? This was about the living conditions of recognised refugees. The

ECJ's answer in March 2019 was clear: as the Charter of Fundamental Rights "prohibits, without exception, any form of inhuman or degrading treatment and is therefore of fundamental importance and of a general and absolute nature", this must be examined.

When, shortly afterwards, a German court in Magdeburg misinterpreted this ECJ judgement in a ruling on the deportation of an Afghan to Greece, the Federal Constitutional Court in Karlsruhe sharply criticised the judgement in April 2019: the Magdeburg judges had "obviously not taken into account a relevant standard", had "blatantly misunderstood" it and their judgement was "untenable" and "no longer comprehensible."