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INTENSIFYING PARTNERSHIPS, EXPLORING NEW MODELS

Saila Heinikoski



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## INTENSIFYING PARTNERSHIPS, EXPLORING NEW MODELS

- After years of negotiations, the EU has adopted the Pact on Migration and Asylum, and recently concluded migration partnerships with Tunisia, Mauritania and Egypt.
- While the Pact addresses internal migration rules within the Union, in practice the focus seems to be shifting towards the external dimension of migration.
- The security situation in Europe reinforces the need to build stronger partnerships. The aim is not to push the countries from which people most often migrate to Europe into partnerships with countries that may ally themselves against Europe, for example by instrumentalising migration.
- Even before the European Parliament elections, EU member states and political groups started to push the idea of transferring the asylum procedure to third countries. This was notably stated in a letter sent to the Commission in May 2024, signed by 15 member states.
- Examples of the externalisation of asylum procedures include the outsourced Rwanda model eventually abandoned by the UK, the offshoring model being implemented in Albania by Italy, and the proposed return hub model, whereby rejected asylum-seekers would be transferred to a third country if they cannot be directly returned to their countries of origin.



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# EU MIGRATION POLICY AND CALLS FOR THE EXTERNALISATION OF ASYLUM

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### INTRODUCTION

While the EU is currently in the process of implementing the newly approved rules for the internal management of migration, adopted with the new Pact on Migration and Asylum, member states and political groups in the European Parliament (EP) have already started to push the idea of transferring the asylum procedure to third countries. In a letter to the European Commission in May 2024, 15 member states called for new solutions to address irregular migration to Europe. In addition, the Commission President's mission letter to the Commissioner-designate for Internal Affairs and Migration, Austrian Magnus Brunner, states that he "will steer further reflections on innovative operational solutions to counter irregular migration".<sup>1</sup> Innovative solutions as a code word for the externalisation of asylum procedures suggests that there may be some room for debate in the next institutional cycle.

Although the debate often focuses on asylum policy, asylum-seeking is only a small part of the overall migration picture. In 2023–2024 alone, the EU concluded migration partnerships with Tunisia, Mauritania and Egypt, all of which aim to prevent people from migrating towards Europe. However, support packages do not eliminate the demand for emigration. The EU Talent Partnerships being developed with Tunisia and Egypt, among others, signal a move towards mutually beneficial arrangements. However, it is up to the EU member states to decide whether they wish to take part in the scheme and for which sectors they want to recruit. Talent Partnerships are still far from providing a solution to the fact that asylum-seekers are forced to rely on smugglers and to take life-threatening routes in order to reach Europe.

This Briefing Paper outlines the state of play of the external dimension of the EU's migration policy. It also presents alternatives for the externalisation of the EU's asylum procedures and considers future visions of the external dimension of migration. The purpose of

this Briefing Paper is not to discuss the legal or ethical plausibility of the externalisation models, but rather to shed some light on the different models that have appeared in political debates and what they would entail.

### CURRENT AND POSSIBLE MIGRATION PARTNERSHIPS WITH THIRD COUNTRIES

The EU has placed increasing emphasis on migration partnerships with third countries during the past year. It concluded a comprehensive Memorandum of Understanding (MoU) with Tunisia in July 2023, after which departures from Tunisia towards Europe have decreased. The MoU aimed to restore the macroeconomic stability of Tunisia, whilst migration only constituted one of the five pillars of the agreement (alongside macroeconomic stability, economy and trade, green energy transition and people-to-people contacts).

According to Frontex, border crossings on the Central Mediterranean route dropped by 64% between January and July 2024 compared to the same period in 2023.<sup>2</sup> This does not necessarily imply better migration management. Tunisia is mainly a transit country and there have been reports of the country both trapping migrants and expelling them to neighbouring countries. In summer 2024, Tunisian authorities started to expel migrants to the Algerian border, with reports of several other anti-migrant measures.<sup>3</sup> The hostile atmosphere, coupled with poor economic opportunities, especially for young people, suggests that the root causes of migration have not disappeared.

After concluding the MoU with Tunisia, the EU agreed on a joint declaration launching an EU-Mauritania migration partnership in March 2024. Unlike the Tunisian MoU, the partnership with Mauritania focuses solely on migration. Although a small country, Mauritania is both a country of origin and a transit

1 Mission letter to the Commissioner-designate for Internal Affairs and Migration, 17 September 2024. [https://commission.europa.eu/document/download/ea79c47b-22f8-4390-a119-5115dc40fc3e\\_en?filename=Mission%20letter%20-%20BRUNNER.pdf](https://commission.europa.eu/document/download/ea79c47b-22f8-4390-a119-5115dc40fc3e_en?filename=Mission%20letter%20-%20BRUNNER.pdf). It should also be noted that the current Austrian government has lauded the subsequently abandoned UK-Rwanda scheme and even signed an agreement with the UK to develop a similar model.

2 "EU external borders: Irregular border crossings fall nearly 40% this year". Frontex, 13 August 2024. <https://www.frontex.europa.eu/media-centre/news/news-release/eu-external-borders-irregular-border-crossings-fall-nearly-40-this-year-ZXxDJD>.

3 "En Tunisie, des migrants camerounais interceptés en mer et abandonnés à la frontière algérienne". *Le Monde*, 21 May 2024. [https://www.lemonde.fr/afrique/article/2024/05/21/en-tunisie-des-migrants-camerounais-interceptes-en-mer-et-abandonnes-a-la-frontiere-algerienne\\_6234479\\_3212.html](https://www.lemonde.fr/afrique/article/2024/05/21/en-tunisie-des-migrants-camerounais-interceptes-en-mer-et-abandonnes-a-la-frontiere-algerienne_6234479_3212.html).

## Number of irregular border crossings from January to July 2024

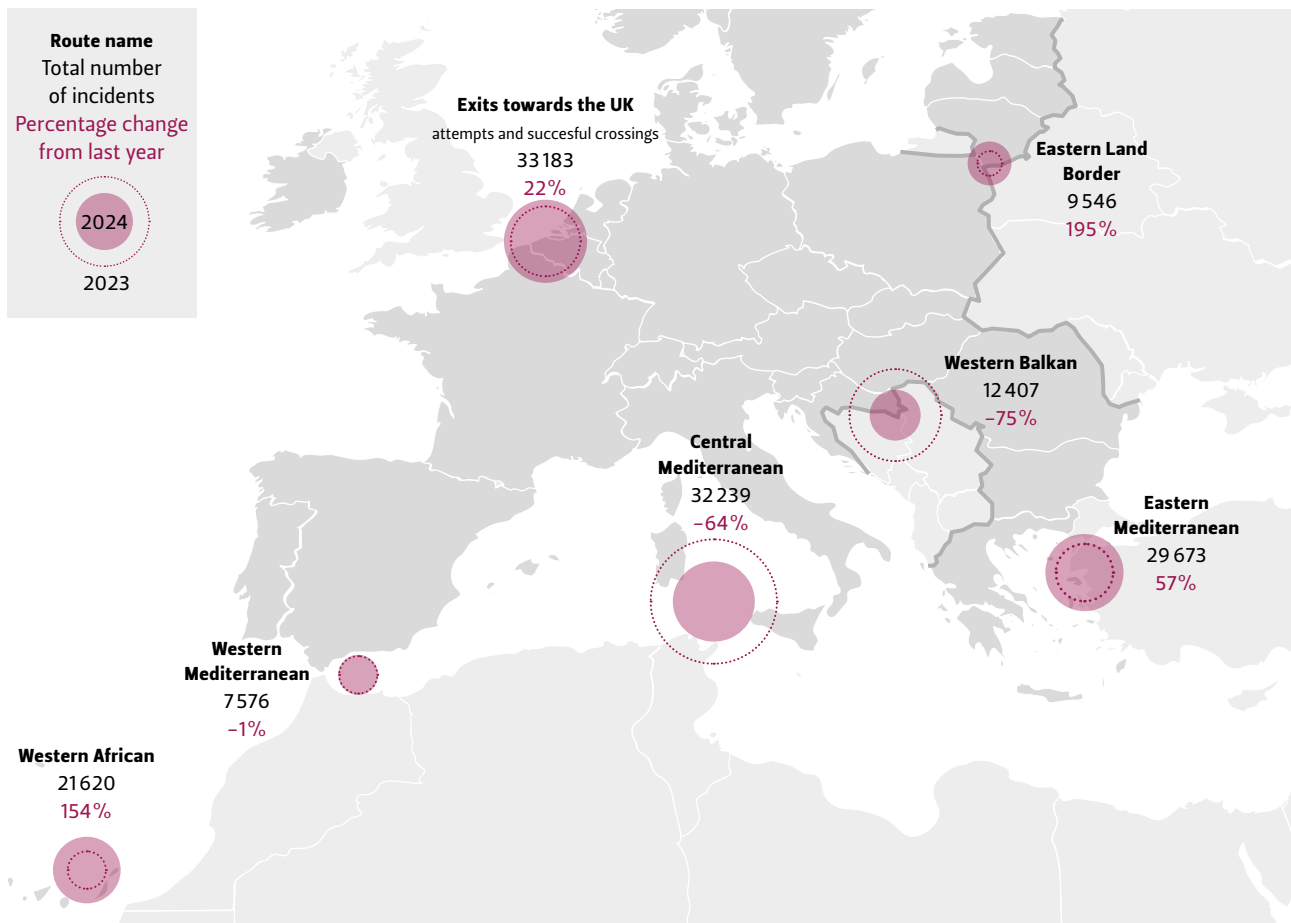


Figure 1. Number of irregular border crossings to the EU from January to July 2024 compared to previous year  
Source: Frontex 2024

country for many migrants heading to Europe, especially those entering the EU via the Canary Islands. In contrast to the Tunisian route, the West African route from Mauritania to the Canary Islands, for example, has still seen record numbers of migrants in 2024. As a result, Spain has started making bilateral agreements with Western African countries, signing agreements with Mauritania, the Gambia, and Senegal in August.<sup>4</sup>

The EU's latest partnership is with Egypt. This agreement was also concluded in March 2024 and covers not only migration but also other support, including financial assistance. Egypt continues to be one of the main countries of origin in EU asylum statistics, while simultaneously hosting more than 670,000 registered refugees and asylum seekers, according to the UN Refugee Agency (UNHCR). This makes Egypt a

key actor in managing migration towards the EU. This year, Egypt is also chairing the Khartoum Process – a cooperation platform for migration issues including all EU member states and African countries along the migration route between the Horn of Africa and Europe – which could encourage the country to increase its agency in migration affairs.

Partnerships are obviously crucial in migration management. However, it is less evident whether these types of partnerships actually contribute to achieving the EU's objectives, such as decreasing departures towards the EU. The concrete impact of the agreements with both Mauritania and Egypt remains to be seen, and even the one-year-old MoU with Tunisia has suffered from implementation challenges and may have even exacerbated the migrant-hostile atmosphere in the country. The 2016 EU-Turkey deal left the EU vulnerable to harmful Turkish influence – even the instrumentalisation of migrants – and the return mechanism included

4 “El Gobierno firma acuerdos con Mauritania, Gambia y Senegal para reforzar vías seguras y regulares de migración y proteger los derechos de los trabajadores” La Moncloa (Government of Spain), 29 August 2024. <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/inclusion/paginas/2024/290824-saiz-acuerdos-africa.aspx>.

in the deal has not worked very well. Nevertheless, EU leaders are probably pleased with the lower number of border crossings from Turkey, which seemed to be the original objective.

Political leaders in Europe have generally applauded the various partnerships and called for more and deeper cooperation with third countries. In the EU elections, the largest group, the European People’s Party (EPP), as well as Identity and Democracy (ID) and the European Conservatives and Reformists (ECR), even called for the asylum process to be transferred to third countries. The new Commission will probably have to start looking into different alternatives. Ursula von der Leyen, elected for a second term at the helm of the Commission, stated in her letter to the member states in June that such ideas deserved the Commission’s attention during the next institutional cycle. In addition, von der Leyen’s political guidelines for the next Commission, published in July, outline that the Commission will continue to reflect on new ways to counter irregular migration, while also mentioning respect for international law.

Different types of alternatives have been discussed with regard to the pursuit of externalisation of asylum and return policy, as shown in Table 1. The UK’s “Rwanda model” is often cited, referring to an outsourcing model whereby both the asylum process and the provision of international protection take place in a third country. The model was approved after legal and political twists and turns in the UK in spring 2024, but no asylum seekers had been transferred before the Labour Party won the July 2024 election and announced the closure of the scheme.

Another externalisation model could be the offshoring approach being implemented by Italy with Albania. Under this model, the asylum applications are processed in Albania in accordance with Italian

legislation, and those granted international protection are transferred to Italy, whilst rejected asylum-seekers are returned to their countries of origin from Albania. The Albania model was even lauded by von der Leyen as welcome out-of-the-box thinking in a letter to member states ahead of the European Council in December 2023. The model is also less complicated legally, as it is conducted in accordance with the legislation of the transferring country. Different types of return hubs have also been proposed, notably in a letter from 15 EU member states to the Commission, suggesting that individuals who are requested to leave a member state but who cannot yet be returned to their home country could instead be transferred to locations outside of Europe.

Political discourses around asylum policy have become tougher in several member states. At the same time, some member states have taken exceptional measures against the instrumentalisation of migration at their borders, which have often been tacitly approved. For example, Poland has reportedly continued its pushback practices at the Belarusian border since autumn 2021. Such actions contribute to the normalisation of asylum policies that conflict with human rights, further reinforced by national emergency legislation in instrumentalisation situations. Examples from the UK’s and Italy’s externalisation models have also provided inspiration for leaders in other European countries. Scientific evidence, however, suggests that such policies designed to deter migrants have little effect on the overall scale of migration, although they could potentially impact its form.<sup>5</sup>

5 Rosina, M. (2022) *The Criminalisation of Irregular Migration in Europe: Globalisation, Deterrence, and Vicious Cycles*. Switzerland: Springer International Publishing.

Table 1. Three models that have appeared as different externalisation models.

Model	Asylum-seekers transferred to a third country	Asylum procedure in accordance with EU legislation	International protection provided in the EU	Rejected asylum-seekers returned home from outside the EU
Outsourcing model	X			X
Offshoring model	X	X	X	X
Return hub model		X	X	X

## OUTSOURCING AND OFFSHORING ASYLUM SEEKERS

### The Rwanda model

The outsourcing model appears to be a highly challenging one, not least since the EU would have to find a third country that would fulfil human rights requirements and be willing to receive transferred asylum-seekers. As the UK has shown, the Rwanda model was far from easy to implement. In autumn 2023, the UK Supreme Court ruled that the arrangement was unlawful due to the fact that Rwanda could not be considered to meet the non-refoulement requirement.<sup>6</sup> The UK government, in turn, responded to this by concluding a new agreement with Rwanda and drafting a new act declaring Rwanda safe.<sup>7</sup> This manoeuvre received plenty of criticism, as politicians were effectively tying the hands of judges in their attempt to find solutions to the changed migration context, while simultaneously attempting to maintain commitments to international law and human rights agreements.

The Rwanda model cost the UK hundreds of millions of pounds, without a single asylum-seeker being transferred to the country. The former government had claimed that it would become economically viable in the long term, but many calculations suggested that this was unlikely.<sup>8</sup> Although costs are being discussed to justify either more stringent or more lenient migration policies, the deeper issue in the Rwanda model is hardly about money. It is about the existence of political support for a model that would transfer asylum-seekers out of the country for good. The acceptability of the model was a key issue in the UK General Election in July, after which the winning Labour Party announced that it would withdraw the scheme. Despite abandoning the outsourcing model, the current Prime Minister, Keir Starmer, has shown interest in the Italy-Albania offshoring model. Following the UK's rejection of the outsourcing model, the scheme might also be less acceptable to EU member states, not least because of its human rights challenges.

### The Albania model

The offshoring model of asylum-seeking could be brought more into line with EU legislation, judging by the agreement concluded between Italy and Albania. After several delays, the two centres for the reception and removal of asylum-seekers in Albania were supposed to be operational in August 2024, but the opening date is still unknown. The centres will operate in accordance with Italian legislation and, if international protection is granted, the person will be transferred to Italian soil. Rejected asylum-seekers, in turn, will be returned to their countries of origin from Albania.

The Albania model only applies to people who are rescued at sea by the Italian authorities, and only to individuals coming from countries that Italy has defined as “safe countries of origin”, a list that was extended from 16 to 22 in May 2024.<sup>9</sup> Coming from a safe country of origin means that the applicant's claims can be processed in an accelerated manner and the possible return is also usually easier, as Italy has bilateral readmission agreements with many of these countries.<sup>10</sup> The scheme could potentially apply to tens of thousands of people per year. The facilities in Albania will initially host up to 3,000 people in the two centres constructed by Italy, one for the reception and the other for the pre-removal of rejected asylum-seekers.

The model has received cautious support from both the European Commission and the majority of EU member states in their letter to the Commission. The legal contours of the Albania model are softened by the fact that the migrants have not yet reached Italian soil when they are being transferred to Albania, but are rescued at sea by the Italian Coast Guard. In addition, the asylum system of the host country is not relevant in the selection of the partner country, as the system operates in accordance with the legislation of the transferring country. Cases are decided by the authorities in Rome and appeals are also handled by the Italian courts.

Albanian Prime Minister Edi Rama stated that the country would not replicate the arrangement with other EU countries, as it is based on the special relationship that Albania has with Italy. At the same time,

6 Judgment of the UK Supreme Court, 15 November 2023. <https://www.supremecourt.uk/cases/docs/uksc-2023-0093-etc-judgment.pdf>.

7 Safety of Rwanda (Asylum and Immigration) Act 2024. 25 April 2024. <https://www.legislation.gov.uk/ukpga/2024/8>.

8 Walsh, P. W. & Sumption, M. (2024) “The uncertain financial implications of the UK's Rwanda policy”. The Migration Observatory, 26 April 2024. <https://migrationobservatory.ox.ac.uk/resources/commentaries/the-uncertain-financial-implications-of-the-uks-rwanda-policy/>.

9 Decreto 7 maggio 2024. Aggiornamento della lista dei Paesi di origine sicuri prevista dall'articolo 2-bis del decreto legislativo 28 gennaio 2008, n. 25. (24A02369) (GU Serie Generale n.105 del 07-05-2024). The safe countries include Albania, Algeria, Bangladesh, Bosnia-Herzegovina, Cameroon, Capo Verde, Columbia, Côte d'Ivoire, Egypt, Gambia, Georgia, Ghana, Kosovo, North Macedonia, Morocco, Montenegro, Nigeria, Peru, Senegal, Serbia, Sri Lanka and Tunisia.

10 Rosina M. and Fontana I. (2024) The external dimension of Italian migration policy in the wider Mediterranean. *Mediterranean Politics*, DOI: 10.1080/13629395.2024.2355033.

Albania is an EU candidate country and hopes that Italy will support its accession process to the Union. The EU might seek similar arrangements with other Balkan countries aspiring to EU membership, as they would have an incentive to cooperate with the Union in the hope of a smoother accession process.

In 2023, Italy received 136,000 asylum applications, and the possibility of transferring a few thousand to Albania would obviously not have a major practical impact. In the end, this arrangement also seems to be pursuing a “deterrent effect” that would limit the number of people trying to reach Italy in the first place, rather than making a big difference to the Italian reception situation. As reported by Frontex, the number of arrivals by sea in Italy decreased in the first half of 2024, while those in Spain and Greece increased, but it is difficult to ascertain whether this is due to the actions of the Libyan and Tunisian governments or to the fear of being transferred to Albania. At the EU level, there have always been fluctuations in terms of the popularity of migration routes, and redirecting migrants from one deadly route to another is obviously not a sustainable solution.

#### **RETURN HUBS: REJECTED ASYLUM-SEEKERS TRANSFERRED OUTSIDE THE EU**

The letter sent by 15 member states to the European Commission in May also mentions the possibility of introducing return hub mechanisms, which would allow returnees to be transferred to a third country while awaiting their final removal. In this regard, they also call on the Commission to explore possible models under EU law.

The possibility of transferring rejected asylum-seekers is related to the concept of a safe third country, which was omitted from the Pact on Migration and Asylum agreed in May 2024. The Asylum Procedures Regulation (2024/1348) states that the Commission will review the concept of a safe third country by June 2025 and may propose targeted amendments. In this review, the concept of safe third countries can be reassessed. This might mean, for example, that applicants could be returned to countries other than those where their family is present or those in which the applicant has settled or stayed. The revision of the concept could also make it easier to establish some sort of return hub mechanism.

Another way of creating return hubs could be to reform the Return Directive to allow the transfer of rejected asylum-seekers to safe third countries to which

they have no connection. The reform of the Return Directive was left out of the Migration Pact, but von der Leyen’s guidelines for the new Commission pledge to put forward “a new legislative framework to speed up and simplify the process”.

The return hubs would not necessarily have any effect on the asylum procedure, and would only apply to rejected applicants. Not all countries are willing to readmit their own nationals, which can make return to these countries difficult. The idea of return hubs was conceived to tackle this problem, as awareness of the difficulties involved in returning people to certain countries may incentivise people to reside in the Union irregularly.

As with the other externalisation alternatives, the return hubs would require finding a third country that would be willing to host the returnees. Being aware of the return difficulties, the country in question would have to be prepared to host people for an indeterminate period.

The idea of return hubs also resembles the original proposal for the Asylum and Migration Management Regulation, whereby the Commission suggested that member states could provide solidarity with “return sponsorship”. This would have meant that another member state would take responsibility for the return processes of certain individuals. If the return did not succeed, the returnee would be transferred to the member state providing the return sponsorship. However, this idea was excluded during the negotiations and is not included in the approved regulation, perhaps due to the recognised difficulties in return policy.

In addition to the practical challenges of finding a location for the return hubs, there are also legal challenges in ensuring the principle of non-refoulement. The return processes can be lengthy, and the situations in countries of origin may change during the process. The same problem obviously also applies to the offshoring model, where people are returned from a third country, albeit under EU law. In the absence of comparable models, the examination of the alternative would also need to consider whether returnees would be allowed to work while awaiting their return, and whether their mobility would be restricted.

#### **CONCLUSIONS**

In the European Parliament elections, groups supporting new ideas in EU migration policy won more seats, and the same ideas have been put forward by many national governments making decisions in the Council.

The new EU Commissioner responsible for migration is therefore under varying degrees of pressure to issue proposals on new measures in the external dimension of migration.

Whereas legislative work on migration affairs typically takes years – considering the nearly eight years it took to adopt some files as part of the Migration Pact in May 2024 – the Union can act more swiftly in external affairs. The Commission can enter into agreements with third countries without major formal procedures, as it has done in the past year or so with Tunisia, Mauritania and Egypt. The transfer of asylum-seekers to third countries would obviously require more arrangements. However, the Italy–Albania arrangement, whereby the asylum procedure takes place under EU rules and protection is provided in the EU, will become operational in less than a year after the first declaration. Such a pace is of course only possible if one or more third countries willing to take part in the scheme can be found.

The general political approach to asylum policy in Europe seems to have become more stringent in a relatively short period of time. This may have been influenced by the instrumentalisation of migrants at the Belarusian and Russian borders with the Union. Whereas externalisation strategies appear to try to surreptitiously extend sovereignty beyond the Union’s territory, the protection of sovereignty in the context of other countries using migrants for instrumentalisation is vociferously called out. This also contributes to the normalisation of policies conflicting with human rights.

For years, the EU has been criticised for not being able to achieve unity in its migration policy. Not only has it now been able to adopt a comprehensive migration pact, but there is also a relatively large group of countries openly supporting EU-level externalisation measures. From the EU policy perspective, it can be considered positive that the ideas are mainly being promoted as a European solution, rather than each country developing its own arrangements, which would only lead to migrants finding new routes to Europe. At the same time, reaching consensus on such a sensitive issue is not assured. For example, Germany and France were not among the 15 member states calling for externalisation models, although government politicians in these countries have shown interest in such arrangements in the national context.<sup>11</sup>

There are no signs of “Fortress Europe” disappearing, quite the contrary. Although the EU’s migration pact seeks to create uniform procedures at all external borders of the Union, what actually defines the EU migration situation is the relationship with the countries of origin and transit. Mutually beneficial partnerships and close relations are the key to decreasing the demand for perilous journeys and to attracting workers to the ageing continent. The economic benefits or deterrent effects of any externalisation models remain doubtful, while a blow to the EU’s external agency as a human rights enforcer is inevitable. /

<sup>11</sup> For example, see “German official suggests Rwanda scheme using UK facilities”. BBC, 6 September 2024. <https://www.bbc.com/news/articles/cly15p2zd500>.