



Labour's feeble plan to tackle Channel crossing asylum seekers

Illegal Immigration: MW 516

4 October 2023

Summary

1. During 2022, more than 880,000 first-time asylum seekers applied for international protection in the EU, up by an remarkable 64% compared with 2021.

2. 'Meanwhile, more than 45,700 migrants crossed the English Channel to come to the UK by dinghy last year and, so far this year, more than 24,800 people have travelled here via this illegal route.² A new 'returns deal' aimed with the European Union (EU) as envisaged by the Labour Party – said to be aimed at tackling Channel boat crossings – could well mean the UK having to take in far more irregular migrants from the Continent than would be removed back to EU states.

3. This conclusion is based upon analysis of earlier iterations of the bloc's asylum policy – known as the Dublin Rules. Between 2015 and 2020, the UK took in than twice as many irregular non-EU migrants **from** European countries (nearly 4,000) as were removed **to** the Continent (just under 1,800). Given that this occurred when the UK was still a member of the EU, we are unlikely to be treated any more favourably as a non-EU state.

4. The Labour Party has indicated that those with family connections to the UK would be prioritised for transfer to the UK – a number that could run into many thousands. The party seems to be planning a scheme under which migrants could apply to come to the UK at our embassies overseas; this would be a recipe for chaos.

Context: Labour plans for a returns agreement

Illegal arrivals to the EU so far this year have topped 250,000 people, mostly from the Middle East, Africa and South Asia.³ Well over four million people have been recorded as illegally arriving in Europe since 2008, just under three million coming via different routes across the Mediterranean. The second most heavily used single route (after the Eastern Mediterranean) has been the Western Balkan route by which 1.2 million people have come.

The ongoing migration crisis in the EU is unfolding as the UK grapples with its own crisis of continuing large numbers of arrivals by small boat across the English Channel.

In addition to recent changes to immigration and asylum legislation here in the UK, one proposal made by the government for reducing the number of arrivals was a possible returns agreement with the EU. However, in August 2023, the EU rejected a proposed agreement which Ministers had hoped would allow the UK to return Channel boat migrants to European countries in which they had previously claimed asylum.⁴

Meanwhile, Labour Party leader Sir Keir Starmer has also stated that he would seek an EU-wide returns agreement should his party win power in the upcoming General Election.

EU discussions on a bloc-wide migration deal

Contemporaneously, in the midst of the ongoing high numbers of people arriving by boat across the Mediterranean and via land borders in the Balkans, EU member states are negotiating a new bloc-wide migration policy that would decide how migrants could be redistributed across the bloc. This would include an effective quota on how many people that initial recipient states would take in before requesting EU assistance.

Under this so-called 'solidarity mechanism', states would be required to take in a total of asylum seekers per annum proportionate to their population and economic size. Each member state would be required to accept a share of a minimum annual quota of 30,000 people across the bloc as a whole or pay €20,000 (£17,200) for each person they do not accept.⁵

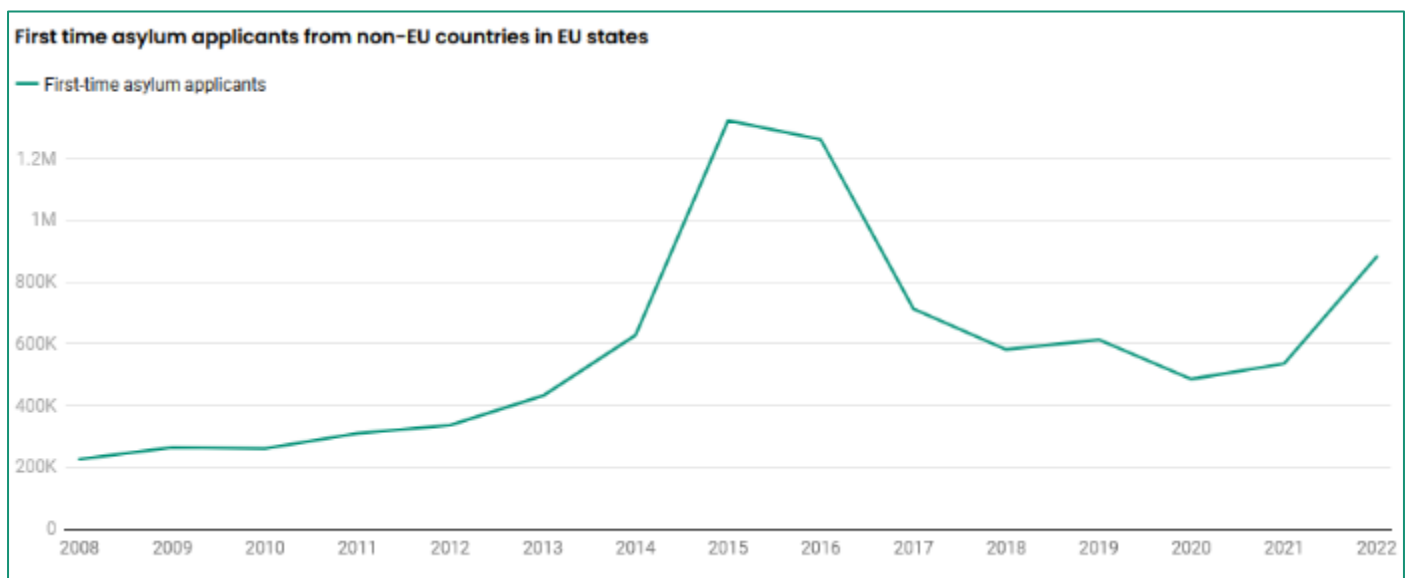
The EU says the 30,000 minimum could rise in the future and would be reviewed on a regular basis. The agreement explicitly states 'the Commission may identify a higher number for relocations' if required. Therefore, it is entirely possible that considerably more than 30,000 migrants may be redistributed around the EU each year – with no clear indication of any upper ceiling.

Such a scheme could amount to something of an evolution of the previous Dublin Agreement that governed the allocation of irregular arrivals prior to the UK's departure from the EU in 2020. Indeed, as the below paragraphs detail, the operation of this scheme during the five years following the height of the migration crisis in 2014/15 provides an instructive and perhaps best-case example of how the UK would be treated by the EU in the operation of a future returns deal.

Operation of the EU's Dublin rules by the UK, 2015–2020

During the last years of the UK's membership of the EU, the bloc experienced a migration crisis unprecedented in its scale as people from Africa, South Asia and the Middle East made their way to the continent by illegal boat and land journeys via the Mediterranean and Balkans. The peak of this crisis was in 2015 when the EU received more than a million asylum applications. Application numbers since 2017 have averaged 380,000 per year.

Figure 1: First time asylum applicants from non-EU countries in EU states – Eurostat.⁶



Between 2015 and 2020, a period which also coincided with the final years of the UK's EU membership, migrants who arrived illegally in the UK via boat or lorry and went onto claim asylum could be removed to another part of Europe under the Dublin regulation (EU No.604/2013 or 'Dublin III').⁷

This agreement, the first version of which was agreed in the 1990s, established the criteria and mechanisms for determining which state was responsible for examining an application for international protection (an asylum claim). The Dublin III Regulation applied to all 28 EU member states when Britain was a member, as well as Iceland, Norway, Liechtenstein and Switzerland.

A key criterion for the removal of asylum claimants to what were then fellow EU member states was for it to be shown that the country to which the migrant was being sent was that of their first arrival in Europe. First arrival in a country was often verified by fingerprint via the Eurodac database, which the UK has now lost access to following Brexit.

However, the Dublin rules also meant that migrants from other parts of the EU could be sent **to** the UK from other European countries. This was because family rules contained in the regulation – allowing minor asylum seekers to come and join family here in the UK – took priority to those which mandated that asylum seekers should have their asylum claim processed in the *first safe country of arrival*.

Indeed, many Britons were shocked in 2016 when migrants camped in Calais who were clearly adults were brought to the UK under the auspices of the Dublin rules as 'unaccompanied minors'⁸ Subsequent statistics released by the Home Office showed that as many as two in three people who claimed to be children and whose age was checked were found to be adults.⁹

As Table 1 and Figure 2 below show, the Dublin rules were used to transfer more than twice as many migrants here than were removed during the final years of EU membership.

Table 1: Transfers of asylum seekers into and out of the UK under the EU’s Dublin rules following the height of the EU migration crisis.¹⁰

Year	Transfers of migrants from the rest of EU TO the UK	Transfers of migrants from the UK to the rest of EU
2015	131	510
2016	558	362
2017	461	314
2018	1215	209
2019	714	263
2020	882	105
Total	3961	1763

Figure 2: Transfers of asylum seekers into and out of the UK under the EU’s Dublin rules following the height of the EU migration crisis.

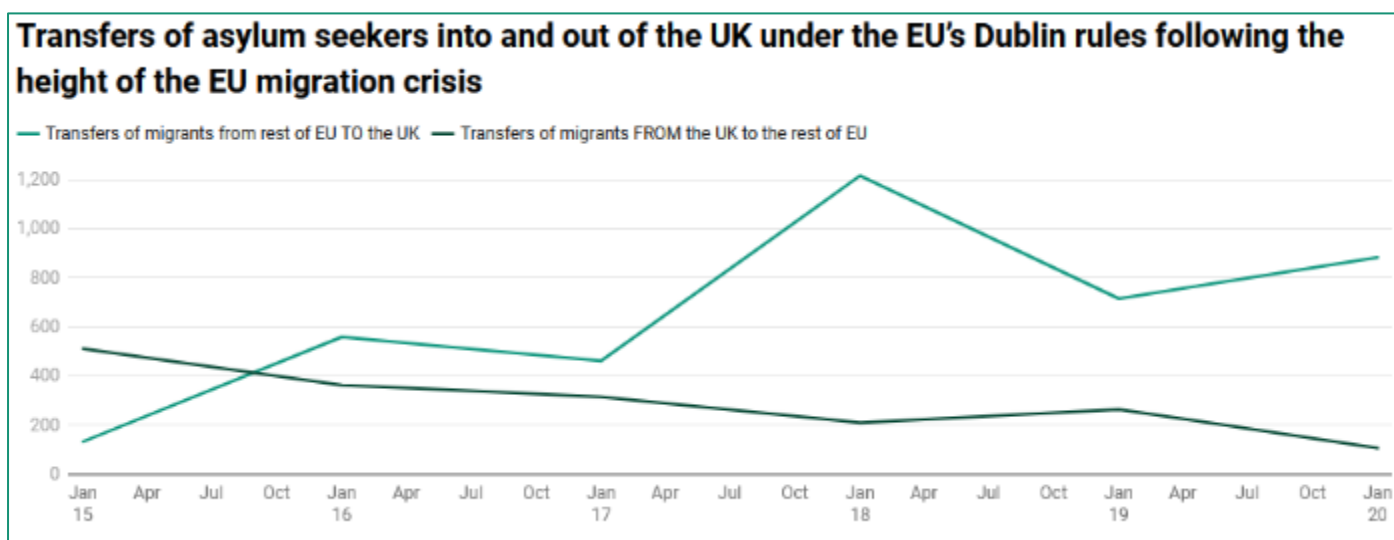


Table 2 and Figure 3 below show that more than three times as many migrants were moved from France **to** the UK between 2017 and 2020 as were removed **from** the UK to France.

Table 2: Transfers of migrants to France from the UK and vice versa under Dublin Rules, 2017–20. Home Office statistics.

Year	Transfers of migrants from France TO the UK	Transfers of migrants FROM the UK to France
2017	91	10
2018	92	51
2019	90	53
2020	219	25
Total	492	139

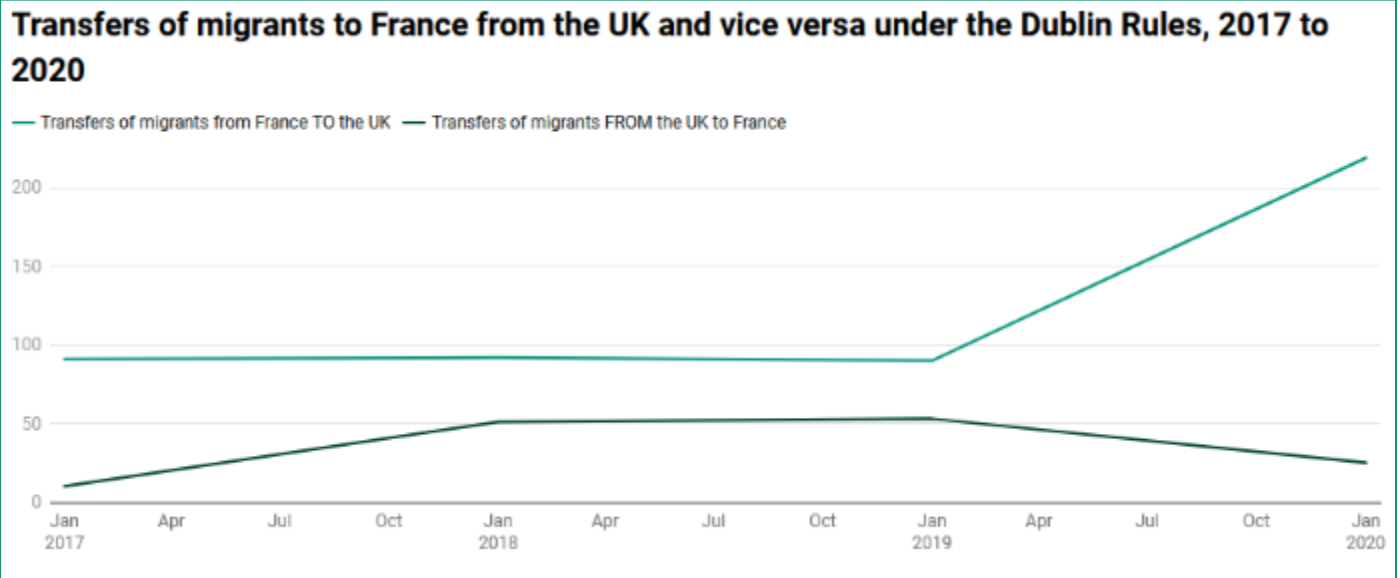


Figure 3: Transfers of migrants to France from the UK and vice versa under the Dublin Rules, 2017 to 2020.

The Dublin process was a complex procedure that came to be weighted against the UK following the EU referendum of 2016 after which relations with the EU became fraught. Labour’s plan to negotiate a returns agreement could well result in something very similar to the Dublin rules but updated and expanded to accommodate perhaps some of the backlog of hundreds of thousands of migrants who have claimed asylum in the EU. Given the record of the Dublin rules, especially in the post-Referendum context, it is highly likely that any new returns agreement would be used to send many more migrants here than are removed.

How might Labour’s returns agreement work?

The quota system that the EU is presently negotiating is something akin to a successor to the Dublin rules and represents a significant evolution of the bloc’s asylum policy in the face of hundreds of thousands of asylum applications by irregular migrants each year.

Labour has explicitly denied it would join an EU quota scheme, with Sir Keir telling Sky News on 17 September 2023: “There is obviously an EU quota system for EU members. Well, it’s obvious we are not an EU member... we will not be part of that.”¹¹

Meanwhile, the Conservatives have estimated that under EU rules Labour’s envisaged deal would require the UK to take a share of the bloc’s migrant quota.

The Conservatives calculate that since the UK’s population of approximately 67 million accounts for 12.9% of the combined population of the EU and the UK, Labour’s approach would mean that in 2022 the UK would have had to accept a “mandatory fair share” of 12.9% of the 966,000 asylum applications registered in 2022, or “124,600 illegal migrants”.¹²

However, it should be noted that under the EU’s own solidarity mechanism it would not be compulsory for EU member states to take in migrants—they can choose between accepting arrivals or paying

€20,000 per person that they choose not to take in.

Media reports have suggested that Labour envisages that any returns agreement would be “quid pro quo” meaning that the UK would accept people from the EU in return for sending back some people who have arrived illegally in the UK. Such a scheme could reportedly operate by means of applications at UK embassies in Europe, and prioritise migrants who have relatives in the UK.¹³

If these were the arrangements, they would result in UK Embassies being deluged with queues of applicants. Such activities by UK Embassies have to be approved by their host countries, but this might not be forthcoming.

Labour’s envisaged returns deal appears to have strong similarities to the Dublin Rules outlined above. For example, on 17 September 2023, the party’s elections coordinator Pat McFadden was asked how many non-EU migrants Labour would envisage taking in from the EU. He would not specify a number, adding: “We’re talking about individual cases where a child may have strong family links here. It’s not ‘we will take this many, you take that many.’ That’s not the kind of negotiation we want to have.”

In another interview, pressed on the question of numbers he said: “I don’t think you can predict what the numbers will be when they’re growing the way they have been in recent years.”¹⁴ Elsewhere however, the party has confirmed it could accept a quota of migrants from the EU under a returns agreement.¹⁵ Statements by a Labour Party immigration adviser seem to confirm that the Dublin mechanism is the model that the party has in mind for a possible returns agreement.¹⁶

Given the strong asymmetrical bargaining power that the 27-member EU would have vis-à-vis the UK, any returns agreement could well operate in a manner at least as detrimental to the UK’s interests as Dublin, if not worse.

An alternative way forward

Given our experience with the Dublin arrangements, it would be much better to avoid going down any road that mirrors them. Instead, a new Labour government should focus on the enforcement of UK laws that now exist. This policy approach could include:

- Tough penalties for illegal entrants
- Prohibition of employment unless and until asylum is granted
- Ending of all asylum hotel accommodation
- Stepping up action against document destruction
- Cancellation of fast stream asylum treatment for certain nationalities. This risks rapid increases in numbers from half a dozen countries
- Seeking stronger return arrangements with relatively safe countries of origin such as India, Tunisia, Morocco and Bangladesh.

Some of these measures could be controversial but firm action is needed lest a continuing and probably growing inflow undermines public confidence in the efficacy of the government concerned.

Notes

1. Eurostat, Asylum Statistics for 2022, URL: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Annual_asylum_statistics#:~:text=In%202022%2C%20310%20400%20asylum,humanitarian%20reasons%20\(10%20%25\).](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Annual_asylum_statistics#:~:text=In%202022%2C%20310%20400%20asylum,humanitarian%20reasons%20(10%20%25).)
2. For more information on the numbers crossing the Channel illegally, see our Channel Tracker, URL: <https://www.migrationwatchuk.org/channel-crossings-tracker>
3. Migratory Map, Frontex, URL: <https://www.frontex.europa.eu/what-we-do/monitoring-and-risk-analysis/migratory-map/>
4. *The Times*, 15 August 2023, URL: <https://www.thetimes.co.uk/article/eu-rejects-new-deal-for-return-of-migrants-7scbvsw7>
5. European Council press release, 8 June 2023, URL: <https://www.consilium.europa.eu/en/press/press-releases/2023/06/08/migration-policy-council-reaches-agreement-on-key-asylum-and-migration-laws/>
6. Eurostat, Annual Asylum Statistics, URL: [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Annual_asylum_statistics#:~:text=In%202022%2C%20310%20400%20asylum,humanitarian%20reasons%20\(10%20%25\).](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Annual_asylum_statistics#:~:text=In%202022%2C%20310%20400%20asylum,humanitarian%20reasons%20(10%20%25).)
7. Also see our 2019 paper on the operation of the Dublin rules, URL: <https://www.migrationwatchuk.org/briefing-paper/444/transfers-of-asylum-seekers-from-the-uk-under-the-dublin-system>
8. *Daily Mail*, October 2016, URL: <https://www.dailymail.co.uk/news/article-3849646/Mature-years-fears-real-age-child-migrants-arriving-Calais.html>
9. See our paper, 'Asylum abuse by adults claiming to be children', December 2021, URL: <https://www.migrationwatchuk.org/briefing-paper/500/asylum-abuse-by-adults-claiming-to-be-children>
10. Home Office statistics, 2015-2020, URL: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962018/dublin-regulation-datasets-mar-2020.xlsx
11. Sky News, 17 September 2023, URL: <https://news.sky.com/story/keir-starmer-rejects-nonsense-claims-that-labour-immigration-plans-would-increase-asylum-seeker-numbers-12962891>
12. Full Fact, 20 September 2023, URL: <https://fullfact.org/immigration/labour-forced-to-accept-100000-migrants/>
13. *The Guardian*, 13 September 2023, URL: <https://www.theguardian.com/politics/2023/sep/13/starmer-on-tour-solutions-migration-crisis>
14. *The Guardian*, 17 September 2023, URL: <https://mail.google.com/mail/u/0/#inbox/QgrcJHsHkxJtHLcsPstpfrhBwTNDKZVwNDB>
15. Sky News, 14 September, 2023, URL: <https://news.sky.com/story/labour-confirms-it-would-seek-eu-returns-deal-for-migrants-crossing-channel-sparking-tory-criticism-12960740>
16. *The Guardian*, 27 September 2023, URL: <https://www.theguardian.com/commentisfree/2023/sep/27/starmer-plan-stop-the-boats-why-labour-policy-will-work>