



Office of the
Advocate General
for Scotland

The Right Honourable
Lord Stewart of Dirleton KC

Advocate General for
Scotland

Lord Scriven
House of Lords
London
SW1A 0PW

04 March 2024

Dear Lord Scriven

**SAFETY OF RWANDA (ASYLUM AND IMMIGRATION) BILL: HOUSE OF LORDS
COMMITTEE STAGE**

I am writing to follow up on the debate in the Lords on day one of Committee (Official Report, 12 February, [column 23 40 and 74]) regarding the current situation in Rwanda.

You asked what progress is being made in Rwanda towards operationalisation of the Migration and Economic Development Partnership (MEDP) between the UK and Rwanda. You also asked a question in reference to the points Baroness Hamwee made regarding the incompatibility between Rwanda and the laws of this land, and the obligations and treaties that have been signed. In particular, you asked how refugees' claims will be assessed in Rwanda and exactly how any contradictions between the laws or obligations of Rwanda will be dealt with.

Progress towards operationalisation

Significant work has taken place to strengthen the Rwandan asylum system and build capacity. A key strand of this work is the training we have delivered in Rwanda. For example, Home Office technical experts delivered a training package to Rwandan officials, members of the judiciary and the Rwandan Bar Association. This course focused on cementing knowledge of the Refugee Convention and other relevant international and domestic law and how to apply that in asylum interviews and decision making. This is in addition to ongoing training and capacity building for Rwandan officials within the refugee status determination process. Going forward, the Home Office will continue to work with Government of Rwanda in the development of further training and its subsequent roll out. For example, we are examining how the Home Office's Safeguarding

Advice and Children's Champion Team can develop and deliver specialised safeguarding training to relevant Government of Rwanda officials.

The UK-Rwanda treaty strengthens Rwanda's asylum system through the creation of a new First Instance Body to make initial decisions on asylum claims, which will be assisted by independent experts for at least the first 6 months, and a new Appeal Body to hear cases afresh. The Appeal Body will include Rwandan and Commonwealth co-presidents, who will be responsible for selecting judges from a mix of nationalities to sit in panels of three. One of the co-presidents will always be in the panel hearing appeals. This means that an experienced judge with asylum and humanitarian protection experience will always be involved in any appeal. There will be an independent (independent from the Government of Rwanda) expert in asylum and humanitarian protection law providing advice to the panel before any appeal is determined (for the first 12 months). This expert opinion will be published, and the Appeal Body will take the expert's opinion into account when coming to a decision.

The UK and Rwandan governments will continue to work closely together to implement all the measures under the treaty and prepare to operationalise the partnership. We have assurances from the Government of Rwanda that the implementation of all measures within the treaty will be expedited. The legislation required for Rwanda to ratify the treaty passed the lower house of the Rwandan Parliament on 28 February; it now has to go to the upper house. This is a key success. Once ratified, the treaty will become law in Rwanda.

Oversight arrangements

We have also strengthened procedural oversight of the operation of the partnership in Rwanda. The treaty enhances the role of the independent Monitoring Committee. They will ensure obligations under the treaty are adhered to in practice. This will include an initial period of enhanced, real-time monitoring and will be able to take steps to prevent errors quickly. The Monitoring Committee will have the power to set its own priority areas for monitoring and have unfettered access for the purposes of completing assessments and reports. It will enable relocated individuals and legal representatives to lodge confidential complaints with it directly and will monitor the entire relocation process from the beginning, including initial screening, to relocation and settlement in Rwanda.

'Incompatibility' between Rwandan and UK laws

We do not agree that the respective asylum systems of the UK or Rwanda are incompatible for the purposes of this partnership. Both countries are signatories to the Refugee Convention and are fully committed to their obligations under the treaty. The process through which Rwanda will make decisions is transparent and detailed in the treaty and the agreed Standard Operating Procedures, which are published on gov.uk. We do not, therefore, foresee any contradictions arising. The treaty lays out how the UK and Rwanda agree transfers of individuals. Article 5(5) of the treaty provides that *"nothing in this Agreement obliges Rwanda to approve the transfer of a Relocated Individual"*. Annex B to the treaty sets out how asylum and humanitarian protection

claims will be decided for those relocated to Rwanda. Article 22 covers the broader issue of any disputes which may arise relating to the treaty.

The suggestions made that Rwanda is incapable of making sound decisions or honouring its obligations under this partnership are unfounded. Rwanda currently hosts more than 135,000 people seeking safety and protection and has a track record of providing that protection and supporting people in thriving in their country. Rwanda has worked closely with the UNHCR and other NGOs on the Emergency Transit Mechanism, helping thousands more fleeing Libya find safety. This affirms its commitment to protecting those in need. Rwanda has a genuine desire to see this partnership fulfilled so that, together, we can help stop the boats and save lives.

Rwandan decision-making and provision of care for all relocated individuals

Once any relocated individual is in Rwanda, the treaty ensures under Article 10(2) that they will receive the same treatment regardless of the eventual outcome of any claim for asylum and will be able to stay in Rwanda and receive the same rights and treatment as set out in Part 2 of Annex A to the treaty.

This means that once their status is recognised or otherwise regularised, they will receive the rights and treatment set out in Part 2 of Annex A for up to 5 years from the date of their arrival, in addition to any other specific support they may be entitled to as per elsewhere in the treaty. At all times, Rwanda will ensure that those recognised as refugees benefit from the rights set out in the Refugee Convention and those not deemed a refugee shall benefit from equivalent rights (paragraph 13 of Annex A).

For those who are not recognised as refugees, Rwanda shall consider whether the Relocated Individual has another humanitarian protection need, such that return to their country of origin would result in a real risk of their being subject to inhuman, degrading treatment or torture or a real risk to their life. Where such a protection need exists, Rwanda shall provide treatment consistent with that offered to those recognised as refugees (as set out in Article 10(1)) and permission to remain in Rwanda. For those relocated individuals who meet neither criterion, Rwanda shall regularise that person's immigration status in Rwanda, to ensure a right to remain in Rwanda in the form of a permanent residence permit. They will be able to live and work in Rwanda past the five-year period.

I am copying this letter to Baroness Chakrabarti, Lord Howard of Lympde, Lord Kerr of Kinlochard, Baroness Meacher, Lord Murray of Blidworth, Baroness Meacher, Baroness Hamwee, Baroness Helic, The Lord Bishop of Southwark, Lord Hannay of Chiswick, Viscount Hailsham, Lord Garnier, Lord Anderson of Ipswich, Lord Tugendhat, Lord Falconer of Thoroton, Baroness Jones of Moulsecoomb, Lord Alton of Liverpool, Baroness Ritchie of Downpatrick, Lord Horam, Lord Green of Deddington, Lord German, Lord Coaker, Baroness Butler-Sloss, Lord Paddick, Lord Garnier, Lord Coaker, Lord Ponsonby of Shulbrede.

I will also place a copy of this letter in the library of the House.

Yours sincerely,

Stewart of Dirleton.

RT HON LORD STEWART OF DIRLETON KC