



Office of the  
Advocate General  
for Scotland

The Right Honourable  
Lord Stewart of Dirleton KC

Advocate General for  
Scotland

**Lord Kerr of Kinlochard**

House of Lords  
London  
SW1A 0PW

04 March 2024

Dear Lord Kerr

**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 three of Committee (Official Report, 19 February 2024, volume 416) regarding the safety of Rwanda for the purposes of relocating individuals under the Migration and Economic Development Partnership (MEDP) between the UK and Rwanda.

You asked what changes have been made to the Rwandan asylum system to implement in practice the provisions set out in the UK: Rwanda Treaty: Provision of an asylum partnership ('the treaty') and to protect against the risk of refoulement, and when Parliament will see evidence of these changes.

As you will be aware, in reaching its conclusion on the legality of the Rwanda partnership, the Supreme Court could only consider evidence submitted to the Courts up to summer 2022. The Court consequently could not consider subsequent and ongoing work that has been undertaken by the UK and Rwanda since the Partnership was announced to prepare for the operationalisation of the MEDP and, later, to address the findings of the Court of Appeal.

This had included work to strengthen Rwanda's current asylum system in terms of both decision making and processing by delivering new operational training to asylum decision-makers, establishing clear Standard Operating Procedures which capture new processes and guidance in the asylum system. More detail is set out in Country Information Note Rwanda: Asylum system and its accompanying Annex 1: Government of Rwanda Evidence.

The Supreme Court accepted that while structural changes and capacity building needed to eliminate the risk of refoulement were not shown to be in place as of summer 2022, when the lawfulness of this policy had to be considered under those legal proceedings, they *may* be delivered in future. This is precisely what we have done. The Government's published Policy

Statement clearly sets out how the new treaty with Rwanda, in addition to the ongoing capacity building work with the Government of Rwanda to improve the Rwandan asylum system, addresses the Court's findings regarding the risk of refoulement and supports our conclusion that Rwanda is a safe country for the purposes of the MEDP.

The treaty contains, amongst other provisions, a definitive undertaking from the Government of Rwanda that they will not remove any person relocated under the MEDP except to the UK in accordance with Article 11(1). Under the treaty, individuals not granted asylum or humanitarian protection status will also all get permanent residence and equivalent treatment, for example, in respect of employment and self-employment; public relief; labour legislation; and social security. This confirms that no individual relocated under the scheme is at risk of refoulement from Rwanda, whether or not their claim is successful; directly addressing the Supreme Court's conclusions.

The treaty also enhances the role of the independent Monitoring Committee, which was already established under the initial Memorandum of Understanding, to provide comprehensive, real-time monitoring. This will ensure compliance in practice with the terms agreed under the treaty and will prevent refoulement, or other harm, before it has a chance to occur.

In order to implement the treaty, the Government of Rwanda will pass a new Rwandan asylum law which will strengthen and streamline key aspects of the end-to-end asylum system, in particular decision-making processes and associated appeals processes. These changes address the Supreme Court's conclusions as to the system's capacity, which was a key factor in the Court's determination that there was a risk of refoulement.

Under the new system, asylum and humanitarian claims will be decided initially by case workers in a new First Instance Body. To support the implementation and delivery of this enhanced model, for at least the first 6 months the First Instance Body will, before making a decision to refuse a claim, seek and consider advice from a seconded independent expert (see Part 2 of Annex B, paragraph 3.3.3 of the treaty). This, plus the wider assurances around training and process, will ensure quality of decision-making and build capability to respond to UNHCR's concerns about weaknesses in Rwanda's asylum system.

The new Rwandan asylum law will also address the Supreme Court's conclusions about judicial independence in Rwanda. There will be a new Appeal Body to hear appeals arising from the First Instance Body. The Appeal Body will be led by two specially appointed judges, one Rwandan and one other Commonwealth nationality, who will act as co-presidents of the new Appeal Body for at least the first 5 years. The new Appeal Body will consist of judges of a mix of nationalities. Each appeal will be heard by a panel of three judges: including one of the co-presidents. It will embed subject matter experts at the heart of the appeal process, drawing on independent expertise: for at least the first 12 months, the Appeal Body will also receive and take into account an opinion from an independent expert in asylum and humanitarian protection law before determining any appeal of a decision by the First Instance Body. This will further address the Supreme Court's findings by ensuring that the final determination of a protection claim will be independent and objective.

The UK and Rwandan governments will continue to work closely to deliver these changes so the partnership can be operationalised, and removals can commence. Rwanda is a sovereign nation, and it would not be appropriate for the UK to dictate timeframes for the introduction of their domestic legislation. Nevertheless, Rwanda has made progress in respect of the necessary legislation required to implement the treaty and I can assure you that the provisions will be operational prior to relocations beginning.

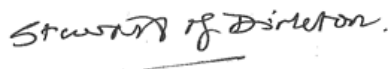
I would also like to point out that improvements to the Rwandan asylum system have already been implemented in practice. In addition to the training delivered by UK officials, an MEDP Coordination Unit has already been established within the Government of Rwanda and is now responsible for managing reception and accommodation arrangements for Relocated Individuals in Rwanda, for facilitating medical, psychosocial, and integration support, and for arranging translation, interpretation and legal services. The Government of Rwanda has agreed Standard Operating Procedures (linked above) on Medical Care, Reception and Accommodation Facilities and Identifying and Safeguarding Vulnerability, which provide detailed guidance on the standards to be met by service providers and Government of Rwanda officials. The MEDP Coordination Unit is responsible in the first instance for overseeing and ensuring compliance with the standards set out in the Standard Operating Procedures for reception and accommodation arrangements, and for addressing issues at the point they are raised. This, in addition to the work of the independent Monitoring Committee will ensure in practice that no one relocated is refouled contrary to the terms of the treaty and in contravention of their rights under the Refugee Convention 1951 and Article 3 of the European Convention on Human Rights.

The UK and Rwanda remain committed to delivering the partnership as soon as we can so we can provide safety and security in Rwanda to those in need whilst also preventing dangerous and unnecessary journeys across the Channel, disrupting the business model of smuggling gangs and, ultimately, stopping the boats.

I am copying this letter to Baroness Chakrabarti, Baroness Hale of Richmond, The Lord Bishop of Chichester, Baroness Lister of Burtersett, Lord Purvis of Tweed, Lord Deben, Baroness Whitaker, Lord Coaker, Baroness Wheatcroft, Lord Hannay of Chiswick, Lord Falconer of Thoroton., Lord Ponsonby of Shulbrede.

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

Yours sincerely,

A handwritten signature in cursive script that reads "Stewart of Dirleton". The signature is written in black ink and is positioned above a short horizontal line.

**RT HON LORD STEWART OF DIRLETON KC**