



Home Office

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The Rt Hon the Lord Goldsmith KC
Chair, House of Lords International Agreements Committee
House of Lords
London
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BY EMAIL ONLY

11 January 2024

Dear Lord Goldsmith,

Thank you for your letter of 20 December and for the opportunity to give evidence to your Committee during the session of 19 December. I would like to provide the following information in response to your letter:

Non-refoulement

Article 10.3: Please clarify the nature of the further measures to be agreed between the parties to ensure that non refoulement does not take place. Will these measures be published?

The Treaty ensures that no one relocated to Rwanda under the Partnership would be removed from Rwanda except to the UK, removing the risk of refoulement. Returns to the UK would only take place in exceptional circumstances.

As with all elements of the operation of the Treaty, there will be mechanisms in place to ensure compliance in practice with this requirement of the Treaty. In particular, the UK and Rwanda are required to put in place systems to regularly monitor the location of those relocated to Rwanda and feed this intelligence into the Monitoring Committee and Joint Committee. This mechanism will go live as soon as the process for the first removals to Rwanda starts.

The Treaty requires the Monitoring Committee to monitor ongoing compliance of both parties' obligations including that of non-refoulement. Pre-flight monitoring includes but is not limited to the identification of individuals under consideration for relocation and the sharing of information with Rwanda. The Monitoring Committee will implement a real-time monitoring and reporting process during the initial three months, starting from the date removal decisions commence in the UK. This may be extended. In the initial phase, the Monitoring Committee will place particular emphasis on monitoring asylum procedures, asylum case assessments, and any asylum decisions made in this timeframe.

Article 10.4: Will there be any material difference between the rights of Relocated Individuals who are recognised as refugees or granted humanitarian protection in Rwanda compared to those who do not qualify for that status?

Everyone relocated to Rwanda will receive the same treatment under the provisions of the Treaty regardless of the outcome of any claim for asylum. Those with either refugee status, a humanitarian protection need or without that status/need will be able to stay in Rwanda and receive the same rights and treatment as set out in Annex A to the Treaty. Under Annex A to the Treaty, this means that once their status is recognised or otherwise regularised, all those relocated 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. This includes continuing to receive the accommodation and support set out in Part 1 of Annex A (accommodation, food, health, interpretation, education) and the additional support in Part 2 (language training, professional development and integration programmes). 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).

Trafficking

Article 13: What provision will Rwanda make for the special needs of Relocated Individuals who are victims of modern slavery or human trafficking?

Article 13 in the Treaty ensures that Rwanda will have information provided to them about a Relocated Individual relating to any special needs that may arise as a result of them being a victim of modern slavery or human trafficking, and they shall take all necessary steps to ensure that these needs are accommodated.

Rwandan officials will have due regard to the psychological and physical signs of vulnerability of all relocated persons at any stage of the status determination and integration process. Interpreters will be available as required to ensure relocated individuals can make their needs known and all interviews will be conducted with sensitivity for the individual's wellbeing. The Government of Rwanda has plans in place to safeguard relocated individuals with a range of vulnerabilities, including but not limited to those concerning mental health, gender-based violence, and addiction. The UK is also providing additional expertise to support the development of Rwanda's capacity to safeguard vulnerable persons. All relocated individuals will receive appropriate protection and assistance according to their needs including referral to specialist services, as appropriate, to protect their welfare.

Monitoring Committee (MC)

(i) What powers will the Monitoring Committee have in Rwanda to ensure its members and support team have "unfettered access" to the Rwandan asylum system?

In accordance with Articles 14 and 15 of the Treaty, the Monitoring Committee has unfettered access for the purposes of carrying out their functions, including completing their assessments and reports. This includes the ability to make unannounced visits to accommodation, asylum processing centres and any other locations where documents or information relating to Relocated Individuals, or their claims and appeals is held.

The Monitoring Committee will also be able to observe interviews by the First Instance Body with the express consent of the individual being interviewed. The Monitoring Committee will also be able to observe hearings before the Appeal Body. The Monitoring Committee will report on its findings to the Joint Committee and, following notification to the Joint Committee, it may publish its reports as it sees fit.

(ii) How large will the MC support team be, and will it have members based in both the UK and Rwanda?

The support team will be independent of the governments of the United Kingdom or Rwanda and will not be individuals who are employees of either government.

It will be for the Monitoring Committee to recommend to the Joint Committee, based on the Monitoring Committee's assessment of capacity needed, the size and composition of the support team including in which country support team members should be based. This could be the UK or Rwanda or both. This work is already under way and more information will be released in due course.

(iii) Are the costs of the Monitoring Committee and its support team covered by the funding provided to the Government of Rwanda or are these costs additional? If they are additional, what are the estimated costs of the MC and is the UK liable for them?

The Joint Committee will allocate to the Monitoring Committee an annual budget. This is separate from and in addition to the funding provided to Rwanda under the ETIF and operational processing costs and ultimately comes from the Home Office budget.

Asylum process

(i) What provision is being made for the appointment of interpreters who are fluent in the languages of Relocated Individuals to ensure that all asylum-seekers transferred to Rwanda can receive legal advice in a language they can understand?

All relocated individuals will be afforded free interpretation and legal assistance as concerns their status determination, including through any appeals process. In particular, any interview of a Relocated Individual by the First Instance Body will be conducted in the presence of an interpreter (paragraph 3.5.2.3 of Annex B to the Treaty), any decision of the First Instance Body will, if needed, be translated in writing (paragraph 3.11 of Annex B to the Treaty) and an interpreter will be made available at any appeal hearing (paragraph 4.1.4 of Annex B to the Treaty). The Treaty underscores these specific rights by providing that, if a Relocated Individual requires it at any stage of the asylum decision-making process, an interpreter will be provided free of charge (paragraph 7.1 of Annex B to the Treaty). All written correspondence and information that a Relocated Individual receives concerning their claim and the ensuing process shall be translated for the individual by an appropriate interpreter if they require it to understand (paragraph 7.2 of Annex B to the Treaty). Relocated Individuals can also be assisted by an interpreter in understanding any interview transcript (paragraph 7.3 of Annex B to the Treaty).

(ii) Annex B paragraph 4.2: How many international judges will be recruited to the Appeal Body in addition to the Commonwealth co-president? Will it be a requirement that every panel hearing an asylum appeal should include at least one international judge?

The Appeal Body will have a Rwandan and other Commonwealth national judge as co-presidents. The process for selecting the co-presidents is being developed by the UK and Rwandan Governments and we will set this out in due course. Once the co-presidents are appointed, they will be responsible for selecting the other judges who will be of a mix of nationalities. The precise number of judges (and precise mix of nationalities) is being considered by the UK and Rwandan Governments and will be considered further with the co-presidents when they are appointed.

In terms of the constitution of the Appeal Body panel for any appeal, the Treaty stipulates that the panel be three judges, one of which must be one of the co-presidents. This means that each panel will include one of the judicial leaders of the Appeal Body. It will be a matter for the Appeal Body itself to set out in due course how the other judges will be identified for any appeal, but the Treaty does not require an international judge on every appeal.

(iii) Annex B, paragraph 4.6: What would happen if the Appeal Body maintained its view on an asylum claim if its initial decision is overturned by the Rwandan courts?

Under the Treaty, onward appeals will progress through the Rwandan judicial system in accordance with the Rwandan constitution. If the onward appeal court overturns the decision of the Appeal Body, the onward appeal court will not itself make a decision on the asylum claim. The matter instead will be remitted to the Appeal Body where it will again conduct a full rehearing of the claim. This means that, on appeal, the only body able to make a decision on whether a Relocated Individual has refugee status, or another humanitarian protection need is the (first instance) Appeal Body.

(iv) Annex B, paragraphs 5.4 and 6.3: How will the Government satisfy itself that there is a sufficient number of appropriately trained legal advisers in Rwanda to meet the needs of Relocated Individuals? What steps would the Government take if it is not satisfied?

The paragraphs cited are the obligations on Rwanda under the Treaty to take all reasonable steps to ensure there is sufficient legal capacity and on the UK and Rwanda to cooperate to ensure such capacity is available in all cases. As noted in the Policy Statement, the Rwandan Ministry of Justice has signed an agreement with the Rwanda Bar Association to provide legal assistance to asylum seekers relocated under the MEDP at all appeal stages of their asylum claims. The UK and Rwanda will continue to work together to meet their obligations for legal assistance and representation under the Treaty.

Effect of termination of the Agreement

Article 21: If the Agreement is terminated under Article 23, does Article 21 require the UK and Rwanda to maintain, in relation to Relocated Individuals transferred to Rwanda prior to termination, the operation of:

(a) the Joint Committee

(b) the Monitoring Committee and arrangements set out in Article 16

(c) the asylum procedures set out in Annex B including international judges and experts

(d) the dispute settlement mechanism in Article 22?

If not, how will Rwanda's compliance with its obligations in relation to Relocated Individuals be monitored and enforced following termination?

The UK and Rwanda look forward to the successful ongoing operation of the Treaty. Even in the event that the Treaty ceases to have effect, Article 21 is clear that in respect of those Relocated Individuals relocated to Rwanda, the UK and Rwanda will continue to comply with their obligations under domestic and international law and the Treaty.

Dispute settlement

Article 22: What is the purpose of allowing “third parties with an appropriate interest” to participate in arbitration proceedings as provided in Article 22.3? What type of third parties does the Government envisage being allowed to participate? Would it cover UNHCR, for example? And what would be the nature of their participation?

Article 22 of the Treaty makes provision for the resolution of disputes. In the event of a dispute arising out of or relating to the Treaty, the dispute will be referred to the Joint Committee which will meet within 14 working days to consult and seek to resolve the matter.

If the dispute is not settled within 21 working days after that point, the parties will seek to settle the dispute at the political level. The final stage if still not resolved will be arbitration according to the rules of the Permanent Court of Arbitration, an intergovernmental organisation providing a variety of dispute resolution services to the international community. The arbitrators will comprise nominated qualified experts – one nominated by each party as well as a chairperson agreed by the parties, with the Secretary-General of the Permanent Court of Arbitration acting as a backstop appointing authority.

Other interested third parties may be invited to participate in the arbitration, with the agreement of both parties. This provision in the Treaty is in general terms and is included as a contingency in the event that there is in fact a third party with an appropriate interest in the dispute. The precise identity of any third party will therefore depend very much on the facts in an individual dispute.

Theoretically, there could be rare cases where a Party to the Treaty has international obligations with another State which are relevant to the arbitration; for example, a country with which the UK or Rwanda has an extradition agreement. The addition of a third party to arbitration proceedings allows for any issues to be resolved between all relevant entities.

The outcome of the arbitration process will be binding in accordance with the Permanent Court of Arbitration's Rules.

Role of United Nations High Commissioner For Refugees (UNHCR)

In his evidence to the Committee on 19 December, the Home Secretary noted that UNCHR had flown 160 asylum seekers to Rwanda the day after the Supreme Court judgement and suggested that an inference could be drawn from this about UNHCR's views. Can the Home Office confirm that this flight was connected with the transit mechanism referred to by the Supreme Court at paragraph 77 of its judgement: "Rwanda has also supported the UNHCR emergency transport mechanism for asylum seekers from Libya. Once in Rwanda, their claims are processed by UNHCR, and the claimants have been resettled by UNHCR in third countries".

The UNHCR Emergency Transit Mechanism, established in 2019, is separate from the UK's Partnership with Rwanda. However, UNHCR's track record of working with the Government of Rwanda is indicative of Rwanda's track record as a safe country, providing protection to asylum seekers and refugees.

UNHCR data releases here <https://data.unhcr.org/en/country/rwa> show that since the inception of the ETM, 1,906 people were evacuated from Libya in 15 evacuation flights to Rwanda as of November 2023. These people came from 10 countries: Eritrea, Sudan, South Sudan, Somalia, Ethiopia, Nigeria, Chad, Cameroon, Guinea and Mali.

Since the ETM's inception, as of November 2023 a total of 1,340 individuals had departed Rwanda through resettlement and complementary pathways to eight resettlement countries (Finland (161), Belgium (26), France (141), Norway (193), Canada (350), Sweden (254), Netherlands (52), and the USA (163)).

609 people were awaiting status determination at the ETM as of November 2023.

134,930 other refugees and asylum seekers were in Rwanda as of 30 November 2023, comprising mostly those who had fled Rwanda's neighbours. 6,908 refugees were submitted for resettlement in Rwanda in 2023.

Your request for documents referred to in the Policy Statement.

The following documents were previously provided to Parliament as part of the evidence pack accompanying the Safety of Rwanda (Asylum and Immigration) Bill:

- Policy Statement from the Home Office, which has been revised to reflect today's release and is attached to this letter
- The Treaty between the UK and Rwanda

The Government has published additional documents today as part of the evidence pack supporting the Safety of Rwanda Bill. These documents are available here:

<https://www.gov.uk/government/collections/the-safety-of-rwanda-asylum-and-immigration-bill>

The package of evidence accompanying the Bill now also comprises:

Country Information Notes (CINs) on the Rwandan Asylum System and Rwandan Human Rights

These CINs contain an objective and impartial assessment of relevant, publicly available or disclosable country of origin information (COI) about Rwanda. The COI has been carefully selected in accordance with the general principles of COI research used in all EU+ states, as well as Canada, US, Australia and New Zealand. This is set out in the Common EU Guidelines for Processing Country of Origin Information and the Austrian Centre for Country of Origin & Asylum Research and Documentation Training Manual.

Wherever possible, multiple sources are used, and the COI compared and contrasted to ensure accuracy and balance to provide a comprehensive and up-to-date picture of the relevant issues at the time of publication. We have considered the COI's relevance, reliability, currency, transparency and traceability. The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

There are three annexes included with the CINs:

Annex 1 (Government of Rwanda (GoR) evidence) provides evidence from the GoR including the agreed Standard Operating Procedures (SOPs) which will be followed in the status determination process, the provision of medical care and accommodation facilities, and guidance on the standards to be met by service providers and Rwandan Government officials when identifying and safeguarding relocated individuals with vulnerabilities. These SOPs are live documents and will be continually updated to ensure practical understanding of compliance.

Annex 2 (UNHCR evidence) includes notes of meetings between the UNHCR and Home Office officials, witness statements and UNHCR's submissions to the courts for the Judicial Review.

Annex 3 (Other material) includes notes from meetings and interviews which took place in 2022 between Home Office officials, GoR representatives, NGOs, Rwandan officials and others.

The Institute of Legal Practice and Development (ILPD) training manual details refugee law and refugee status determination process. This has been as part of operational training delivered to Rwandan decision makers (officials and judiciary) and legal advisers by Home Office experts. This is in collaboration with the ILPD to consolidate knowledge of refugee law and its application when conducting interviews and making effective asylum decisions, including through identifying vulnerabilities such as victims of trafficking. This is in addition to the SOPs to which Rwanda will adhere, as detailed within other annexes.

The Monitoring Committee's Terms of Reference and the Monitoring Committee's Enhanced Monitoring Plan

The Monitoring Committee, which will have unfettered access to monitor the entire relocation process from initial screening in the UK to settlement in Rwanda, has agreed Terms of Reference and a detailed Monitoring Plan. The Monitoring Plan has been devised to support compliance with the Treaty. Along with the enhancements in the Treaty, these provide practical assurance of the role to be undertaken by this Committee.

In addition to the above evidence, we have published a factsheet explaining how our new measures and the evidence herein addresses the Supreme Court's conclusions. These factsheets are available here: <https://www.gov.uk/government/collections/the-safety-of-rwanda-asylum-and-immigration-bill>

Parliament now has the time to consider these documents as the Bill proceeds through the House.

Yours ever,

A handwritten signature in blue ink, appearing to read 'James Cleverly', written in a cursive style.

**RT HON JAMES CLEVERLY MP
HOME SECRETARY**