



House of Commons

House of Lords

Joint Committee on Human  
Rights

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# **Safety of Rwanda (Asylum and Immigration) Bill: Government Response to the Committee's Second Report**

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**First Special Report of Session  
2023–24**

*Ordered by the House of Commons  
to be printed 13 March 2024*

## Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

### Current membership

#### House of Commons

[Joanna Cherry KC MP](#) (*Scottish National Party, Edinburgh South West*) (Chair)

[Harriet Harman KC MP](#) (*Labour, Camberwell and Peckham*)

[Miss Sarah Dines MP](#) (*Conservative, Derbyshire Dales*)

[Dr Caroline Johnson MP](#) (*Conservative, Sleaford and North Hykeham*)

[Bell Ribeiro-Addy MP](#) (*Labour, Streatham*)

[Jill Mortimer MP](#) (*Conservative, Guildford*)

#### House of Lords

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[Baroness Kennedy of the Shaws KC](#) (*Labour*)

[Baroness Lawrence of Clarendon](#) (*Labour*)

[Baroness Meyer](#) (*Conservative*)

[Lord Murray of Blidworth](#) (*Conservative*)

### Powers

The Committee has the power to require the submission of written evidence and documents, to examine witnesses, to meet at any time (except when Parliament is prorogued or dissolved), to adjourn from place to place, to appoint specialist advisers, and to make Reports to both Houses. The Lords Committee has power to agree with the Commons in the appointment of a Chairman.

### Publication

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Committee reports are published on the [Committee's website](#) by Order of the two Houses.

### Committee staff

The current staff of the Committee are Amna Bokhari (Commons Second Clerk), Glenn Chapman (Committee Operations Officer), Alyssa Curry (Deputy Counsel), Thiago Simoes Froio (Committee Specialist), Alexander Gask (Deputy Counsel), Rhiannon Hollis (Commons Clerk), Eleanor Hourigan (Counsel), Alasdair Love (Lords Clerk), Niamh McEvoy (Committee Specialist), George Perry (Media Officer) and Hafsa Saeed (Committee Operations Manager)

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You can follow the Committee on X (formerly Twitter) using [@HumanRightsCtte](#)

# First Special Report

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The Joint Committee on Human Rights published its Second Report of Session 2023–24, Safety of Rwanda (Asylum and Immigration) Bill (HC 435/HL Paper 62), on 12 February 2024. The Government response was received on 12 March 2024 and is appended below.

## Appendix: Government Response

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### Safety of Rwanda (Asylum and Immigration) Bill

Thank you for your report following the Committee's scrutiny of the provisions of the Safety of Rwanda (Asylum and Immigration) Bill. The Government has carefully considered the Committee's findings and our response is set out below.

### Asylum and human rights

#### *The Committee's findings*

**The principle that individuals cannot be removed from a country to face a real risk of persecution, torture, inhuman or degrading treatment or death is a core principle of international law, to which the UK has committed itself on numerous occasions over the past 70 years. The Committee welcomes the Government's continued recognition of the binding nature of its international obligations and its commitment to respecting them. It is nevertheless disappointing to see, for the second time in the past year, the introduction of a Bill that the Government cannot say is more likely than not to comply with its international obligations under the ECHR. (Paragraph 36)**

**We consider that our concerns about the compatibility of this Bill with rights and international law relate to the Bill as a whole. We have not provided amendments designed to render the Bill compatible because any such amendment would inevitably be inconsistent with the Bill's central purpose. (Paragraph 121)**

#### *Government Response*

The use of a section 19(1)(b) statement does not mean that the Bill is incompatible with the European Convention on Human Rights. There is nothing improper or unprecedented about pursuing bills with a section 19(1)(b) statement. It does not mean the Bill is unlawful or that the Government will necessarily lose any legal challenges on human rights grounds. Parliament clearly intended section 19(1)(b) to be used as it is included in the Human Rights Act 1998. All such a statement means is that the Home Secretary is not able to state now that the Bill's provisions are more likely than not compatible with Convention rights. A range of bills have also had section 19(1)(b) statements in the past, including the 2003 Communications Bill under the last Labour Government.

It is an important measure to safeguard Parliamentary sovereignty. The use in this case recognises the novel and ambitious approach taken by this Bill, and the fact there is room for argument both ways. Legislation and policy nearly always engage human rights and there are very often arguments on both sides of the equation on compatibility.

The approach adopted is new and ambitious, but that does not mean that the Bill is not compatible with the Convention rights. Our focus is introducing legislation that will deter people from entering the country dangerously and illegally. Parliament has the opportunity to thoroughly scrutinise the Bill and once approved the measures in the Bill will have been expressly endorsed by Parliament.

## Safety of Rwanda

### *The Committee's finding*

**We have heard different views on whether the new treaty with Rwanda meets the Supreme Court's conclusions as to the country's safety. We recognise that, if complied with, the treaty's strict prohibition on the removal of any relocated individual to anywhere but the UK would prevent refoulement. However, we note that the House of Lords International Agreements Committee has reported on the need for further steps to be taken to establish a system for ensuring that removal contrary to this obligation does not occur. Particularly given the clear conclusions of the Supreme Court, it remains unclear whether compliance with the treaty can be guaranteed in practice.** (Paragraph 50)

### *Government Response*

The Government has signed an internationally legally binding treaty responding to the Supreme Court's conclusions, in particular on the issue of refoulement. We have been clear that Rwanda will not remove any individual relocated there to another country, except the UK in very limited circumstances. The implementation of these provisions in practice will be kept under review by the independent Monitoring Committee, whose role is enhanced by the treaty, and who will ensure compliance with the obligations.

The Monitoring Committee is made up of eight independent members and will:

- have the power to set its own priority areas for monitoring and have unfettered access for the purposes of completing assessments and reports.
- monitor the entire relocation process from beginning, including initial screening, to relocation and settlement in Rwanda.
- be responsible for developing a system to enable relocated individuals and legal representatives to lodge confidential complaints directly to the Committee.

The legislation required for Rwanda to ratify the treaty has now passed through both houses of the Rwandan Parliament. This is a key success. Once ratified, the treaty will become law in Rwanda. Rwanda is working at pace to pass further domestic legislation 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 and independence of the judiciary, which was a key factor in the Court's determination that there was a risk of refoulement. We will not ratify the treaty until the UK and Rwanda agreed that all necessary measures in the treaty are in place.

### ***The Committee's finding***

**We have considered the Government's evidence that Rwanda is now safe but have also heard from witnesses and bodies including the UNHCR that Rwanda remains unsafe, or at least that there is not enough evidence available at this point to be sure of its safety. Overall, we cannot be clear that the position reached on Rwanda's safety by the country's most senior court is no longer correct. In any event, the courts remain the most appropriate branch of the state to resolve contested issues of fact, so the question of Rwanda's safety would best be determined not by legislation but by allowing the courts to consider the new treaty and the latest developments on the ground. (Paragraph 58)**

### ***Government Response***

This Bill reflects that Parliament is sovereign and can change domestic law as it sees fit including, if that is Parliament's judgment, requiring a state of affairs or facts to be recognised.

The Bill reflects the strength of the Government of Rwanda's protections and commitments given in the treaty to people transferred to Rwanda in accordance with the treaty. The treaty, alongside the evidence of changes in Rwanda since summer 2022, enables Parliament to properly conclude that Rwanda is safe.

It is our view that Parliament and the Government are well placed to address the sensitive policy issues involved in this legislation and ultimately tackling the major global challenge we are facing of illegal migration.

Parliament is able, with clear and express words, to limit access to the domestic courts and, has done so in the recent past in ways that have been upheld in the courts. The judgement of the Court of Appeal in the most recent case of *R (LA (Albania)) v Upper Tribunal* [2023] EWCA Civ 1337 is instructive.

As set out above, the Bill does allow Parliament to confirm that it considers it has sufficient material before it to judge that Rwanda is in general safe and that this finding should not be disturbed by the courts.

## **Judicial scrutiny**

### ***The Committee's finding***

**The overwhelming majority of the evidence we received supported the view that by denying access to a court to challenge the safety of Rwanda the Bill is not compatible with the UK's international obligations, most obviously Article 13 ECHR – the right to an effective remedy. (Paragraph 79)**

### ***Government Response***

The Bill explicitly protects access to justice by ensuring that courts can continue to consider the safety of Rwanda based on compelling evidence relating specifically to a person's particular individual circumstances. This underpins the principle that no one should be put into a position where they would face a real risk of harm and contributes to the Bill's compatibility with the UK's international legal obligations, including under Articles 2, 3 and 13 of the European Convention on Human Rights.

This limited route for individual challenge provides for compatibility with the UK's international obligations by meeting the requirements of Articles 2, 3 and 13 ECHR of the availability of domestic challenges to removal on the grounds of individual circumstances, and the availability of a suspensive remedy where required.

### ***The Committee's finding***

**Given that a declaration of incompatibility cannot affect an individual's removal to Rwanda, we do not consider that it can meet the requirement of Article 13 ECHR that asylum seekers have access to an effective remedy with automatic suspensive effect.** (Paragraph 80)

### ***Government Response***

The Bill does not disapply section 4. The ability to make a Declaration of Incompatibility under section 4 of the Human Rights Act allows the courts to respond to changing circumstances in the future and for this question to be brought back for Parliamentary consideration. It does not affect the validity or application of the legislation.

The principle that Parliament should be able to address any determination by the courts of incompatibility, rather than primary legislation being quashed by the courts, is part of the fundamental basis of Parliamentary sovereignty.

The Bill allows decision makers and the courts to consider claims that Rwanda is unsafe for an individual person due to their particular circumstances, despite the safeguards in the treaty, if there is compelling evidence to that effect. For those not subject to the provisions of the Illegal Migration Act 2023, when commenced, clause 4(4) of the Bill permits courts and tribunals to grant an interim remedy preventing or delaying removal if they are satisfied that the person would, before their challenge is determined, face a real, imminent and foreseeable risk of serious and irreversible harm if removed to Rwanda. For those subject to the Illegal Migration Act 2023, when commenced, an individual to be removed to a safe third country has the possibility of making a serious harm suspensive claim. This provides for compatibility with the ECHR.

### ***The Committee's finding***

**Clause 4 of the Bill would mitigate the Bill's impact by allowing for claims based on individual circumstances. It would not, however, make the Bill compliant with the Refugee Convention or with Article 13 ECHR because it would continue to deny access to court for individuals with arguable claims that they face persecution or a violation**

**of fundamental human rights as a result of Rwanda being unsafe generally or because there is a risk of refoulement. Neither would clause 4 provide for a suspensive process, as required by Article 13 ECHR, in all but the rarest of circumstances. (Paragraph 81)**

### ***Government Response***

The treaty addresses and deals with the concerns identified by the Supreme Court regarding the policy of relocating illegal migrants to Rwanda. It provides for clear, detailed, and binding obligations on both parties in international law and introduces a complete bar on any onward removal of relocated individuals from Rwanda, other than in exceptional circumstances back to the UK (upon request).

The treaty sets out the new system for assessing and deciding asylum claims in Rwanda and includes new monitoring mechanisms to ensure practical compliance with the terms of the treaty. It also introduces binding dispute settlement and provides for the opportunity to suspend and terminate the treaty if require.

The Bill will allow Parliament to confirm that it considers it has sufficient material before it to judge that Rwanda is in general safe and that this finding should not be disturbed by the courts. Clause 4 of the Bill allows for an exceptionally narrow route to individual challenge for those at risk of serious and irreversible harm.

## **Disapplication of human rights law**

### ***The Committee's finding***

**The Human Rights Act 1998 is the cornerstone of human rights protection in domestic law. The Joint Committee on Human Rights has previously been critical of disapplication of parts of the HRA because it weakens human rights protections for particular groups, and thereby undermines the fundamental principle of the universality of human rights. The Bill would go further than ever before, disapplying almost all of the key provisions of the HRA in respect of removals to Rwanda. This is inconsistent with respect for universal human rights and for the UK's obligations under the ECHR. By expressly legislating to allow public authorities to act incompatibly with Convention rights the Bill also risks undermining the rights compliant culture that should exist in all public bodies. This risk is exacerbated by issuing guidance requiring civil servants to act incompatibly with interim measures from the European Court of Human Rights. (Paragraph 95)**

### ***Government Response***

It is legitimate to treat people differently in different circumstances: to take just two examples, a citizen may legitimately be treated differently, and have different legal rights, from a non-national; and a person in detention may have certain rights restricted when compared to a person at liberty. The ECHR, as interpreted by the case law of the ECHR, fully recognises this principle. Rights are therefore universal, but what rights may mean for different people may legitimately differ depending on the circumstances, so long as any difference in treatment is justifiable within the framework of the relevant right. Therefore, everybody holds their rights without distinction on any ground; but the extent to which



those rights may be limited, restricted, interfered with, or indeed vindicated, depends on each individual's circumstances, and the legitimacy of the limitation, restriction, interference, etc.

There is nothing in the Bill that deprives any person of any of their human rights: in accordance with Article 1 of the ECHR, we shall continue to secure to everyone within our jurisdiction the rights and freedoms defined in the Convention. What we can legitimately do, and what we are doing, is to draw legal distinctions between those with a legitimate right to be in this country, and those who have come to this country illegally.

The disapplication of the relevant provisions of the Human Rights Act 1998 in clause 3 will ensure that the Bill's provisions are interpreted to meet the legislative intent of Parliament and will prevent individuals from bringing systemic challenges in our domestic courts about the general safety of Rwanda to prevent their removal.

## Interim measures from the European Court of Human Rights

### *The Committee's findings*

**We recognise that there are differences of opinion over whether or not interim measures ought to be binding on the United Kingdom. However, as a matter of international law, they are binding. Failing to comply with interim measures directed at the UK would amount to a violation of the European Convention on Human Rights. (Paragraph 105)**

**Clause 5 of the Bill contemplates a Minister choosing not to comply with an interim measure and thus violating the UK's international human rights obligations. It also prevents the domestic courts taking into account what may be a relevant factor for any decision whether or not an individual should be removed to Rwanda. This is not consistent with a commitment to complying with the UK's obligations under the ECHR. (Paragraph 110)**

### *Government Response*

When deciding whether to comply with an interim measure indicated by the Strasbourg Court, due consideration will be given to the facts in the individual case and careful consideration of the UK's international obligations. Given the importance of this decision it is crucial that we are clear on the face of the Bill that this decision rests with a Minister of the Crown.

Where there is an equivalent domestic remedy—as we have provided for in clause 4 of the Bill—there should be no need for the Strasbourg Court to intervene. The decision of the UK's domestic courts to issue interim relief should be made only where they have reached their own conclusion about whether a person is at risk of serious and irreversible harm and not on the basis that the European Court of Human Rights has indicated an interim measure.

These provisions are consistent with the measures introduced in the Illegal Migration Act.



## Other Issues

### *The Committee's finding*

**We have heard serious concerns raised about the compatibility of the Bill with the Windsor Framework and the Belfast (Good Friday) Agreement, which guarantee human rights in Northern Ireland. The Government has not adequately explained why it considers those concerns are not merited.** (Paragraph 116).

**The Government should provide a full explanation of why it considers the Bill to be consistent with the Windsor Framework and Good Friday Agreement before the Bill reaches Report stage in the House of Lords.** (Paragraph 116)

### *Government Response*

The Bill will apply in full in Northern Ireland in the same way it does in the rest of the UK. This is set out on the face of the Bill, reflecting that immigration policy is a UK-wide matter.

There is nothing in the Windsor Framework that affects that. The Bill does not engage the Belfast (Good Friday) Agreement, including the rights chapter – those rights seek to address longstanding and specific issues relating to Northern Ireland's past and do not extend to matters engaged by the bill. The Government remains fully committed to that Agreement in all its parts. [The Safety of Rwanda Bill Factsheet Safety of Rwanda \(Asylum and Immigration\) Bill: factsheet – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/684442/Safety_of_Rwanda_Bill_Factsheet_Safety_of_Rwanda_(Asylum_and_Immigration)_Bill_factsheet_-_GOV.UK_(www.gov.uk).pdf) has been updated to reflect the Government's position on this.

I have placed a letter in the House Library which annexes the Government's clear position on the application of the Bill in Northern Ireland which you can see [here](#).

## Safety of Rwanda (Asylum and Immigration) Bill

### *The Committee's findings*

**The UK has a reputation for respect for human rights and the rule of law, of which we should be proud. Legislation that seeks to disapply or fails to respect international law risks damaging that reputation and encouraging other states who are less respectful of the international legal order.** (Paragraph 120)

### *Government Response*

Illegal migration destroys lives, it is only by removing the prospect that illegal migrants can settle in the UK that we can stop the boats and can save lives at sea, this is the primary purpose of this legislation – to stop people from putting their lives at risk to cross the channel in small boats.

We are responding to a global crisis of increased levels of illegal migration and it requires bold novel solutions to tackle it. The legislation and treaty deliver on the Prime Minister's priority to stop the boats. These measures are fair and necessary and are compatible with the UK's international legal obligations.

People with no right to be here will only stop coming here illegally when they know they cannot stay and will instead be swiftly removed to a safe third country. They should avail themselves of the safe routes available. We want to ensure anyone considering making illegal, dangerous and unnecessary journeys across the Channel know that if they come to the UK illegally, they will not be able to stay.

**Rt Hon Michael Tomlinson KC MP**  
**Minister for Illegal Migration**