

LEGAL MEMORANDUM

On the risks to detainees transferred to Rwandan custody

Issued by Stand For Our Parents — concerning the proposed transfer of our family members from Senegal, Benin and Niger to Rwanda. <https://www.standforourparents.org>

A note from the families

This document has been prepared by members of Stand For Our Parents; the families of the persons currently held in Senegal, Benin and Niger.

We are not lawyers. We have gathered the public materials that, we believe, must be considered before any decision is taken concerning the proposed transfer of our family members to Rwandan custody, and we have organised them in a way that we hope is useful to those engaged with the question.

Where this document offers framings or observations, they are how we, as families, have read the material as we have assembled it. The legal questions raised by the documented record are for those qualified to address them.

Primary sources	(i) Opinion of the Advocate-General at the Hoge Raad der Nederlanden (Dutch Supreme Court), 6 June 2023, in the matter of a proposed extradition to Rwanda — recommending against extradition on the basis of documented mistreatment of persons in Rwandan custody; (ii) ICJ Kenya, Quarterly Monitoring Report, March–May 2021 — documenting failures of the monitoring programme itself; (iii) supporting documentation on the cases of Mr Leopold Munyakazi (extradited from the United States to Rwanda in 2016) and others.
Subject	The treatment of persons held in Rwandan custody, and the inadequacy of the safeguards (Transfer Law, governmental guarantees, third-party monitoring) typically offered to dispel that concern.
Operative legal framework	Non-refoulement under Article 3 of the Convention against Torture (CAT); prohibition of cruel, inhuman or degrading treatment under Article 7 ICCPR; humane-treatment obligation under Article 10 ICCPR; customary international law on non-refoulement.
Why we have prepared it	Our family members held in Senegal and Benin are persons convicted by the ICTR; the persons in Niger have been acquitted or have completed their sentences. From the public materials we have read, we understand that the question raised by any proposed transfer is not whether they would receive a fair trial in Rwanda — they have either already been tried, or have no remaining proceedings — but whether transfer would expose them to torture, cruel or inhuman treatment, or other

	serious harm in Rwandan custody. That is the question we have organised the materials below to inform.
Intended audience	The international institutions seized of decisions concerning the future custody of our family members; the United Nations Security Council; the host State authorities of Senegal, Benin and Niger; the United Nations human-rights mechanisms with relevant mandates; and the broader public concerned with the integrity of the international justice framework.

Executive summary

In compiling these materials, we have drawn from two complementary public sources that, between them, address what we understand to be the central question: what would happen to our family members if they were transferred to Rwandan custody?

The first source is a Dutch judicial decision of June 2023, in which the Advocate-General at the Hoge Raad recommended against extradition to Rwanda on the basis of documented mistreatment of persons in Rwandan custody. The Dutch court was deciding a fair-trial question under the European Convention; we understand, however, that the substantive findings on Rwanda's conduct toward persons in custody are equally relevant to the different legal question that arises in our family members' situation.

The second source is the monitoring programme operated by the Kenyan Section of the International Commission of Jurists (ICJ Kenya), which monitors persons previously transferred from the Netherlands to Rwanda. This is the same programme that is typically pointed to as the safeguard that makes transfer acceptable. Reading the programme's own published reports, we have noticed that the safeguard appears, on its own record, to be materially deficient: the monitor has been denied access to the prison; hearings have been inaccessible to the monitor, the prosecution and the defence simultaneously; procedural irregularities have been recorded during the monitoring period.

How we have read these materials

Taken together, the materials seem to us to engage the legal test that we understand applies — substantial grounds for believing that a person transferred to Rwanda would face a real risk of torture or other prohibited treatment in custody.

The standard safeguards that are typically offered to dispel that concern — Rwandan governmental guarantees, the Transfer Law, ICJ Kenya monitoring — do not, on the documented record we have collected, appear to neutralise that risk.

We offer this reading not as a legal conclusion but as our own understanding from the material. We leave the legal analysis to those who are qualified to make it.

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A. The legal framework that applies to transfer

From our reading of the public sources, we understand that the fair-trial framework under Article 6 ECHR and Article 14 ICCPR is not the operative vehicle for our family members' situation. Those held in Senegal and Benin have been tried and convicted by the International Criminal Tribunal for Rwanda. Those in Niger have been acquitted, or have completed their sentences. The question is not whether they would receive a fair trial in Rwanda. The question is whether transfer to Rwandan custody would expose them to torture, cruel or inhuman treatment, or other serious harm.

We understand that question to be governed by the principle of non-refoulement. The relevant provisions are set out below.

A.1 Treaty and customary law sources

- **Article 3, Convention against Torture (CAT).** "No State Party shall expel, return (« refouler ») or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." The Committee against Torture has, in its General Comment No. 4 (2017), confirmed that the obligation extends to all forms of transfer.
- **Article 7, ICCPR.** "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The Human Rights Committee, in its General Comment No. 20 (1992) and No. 31 (2004), has held that States Parties must not expose individuals to such treatment by way of extradition, expulsion or refoulement.
- **Article 10, ICCPR.** "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." The conditions of detention in the receiving State are relevant to the lawfulness of transfer.
- **Customary international law.** The non-refoulement principle prohibiting transfer to a real risk of torture is recognised as a rule of customary international law, binding on all States independently of treaty obligations.
- **ICTR Statute Articles 26 and 27; IRMCT Statute Article 25.** Enforcement of sentences is to be carried out under conditions consistent with the international standards for the treatment of prisoners. Designation of an enforcement State must satisfy those conditions.

A.2 The applicable standard

Transfer is precluded where there are substantial grounds for believing that the person would face a real risk of torture or of cruel, inhuman or degrading treatment in the receiving State. The standard does not require certainty; it requires that the risk be more than theoretical. The Committee against Torture has set out the framework for the assessment in General Comment No. 4 (2017), paragraphs 38–49: the risk is to be assessed on the basis of all available information, including the human-rights situation in the

receiving State, prior instances of torture, conditions of detention, and the existence (or absence) of effective remedies.

Diplomatic assurances offered by the receiving State are admissible evidence but, on the Committee's settled view, do not displace the obligation where the underlying risk is documented. The Committee has been particularly sceptical of assurances where the receiving State has a documented record of mistreating detainees of the relevant category.

B. The documentary record on treatment in Rwandan custody

The Dutch court, in the proceedings culminating in the Advocate-General's Opinion of 6 June 2023, surveyed the publicly available record on Rwanda's treatment of persons in custody. We have collected the same sources here; they are listed below by category.

B.1 Governmental and intergovernmental sources

- **Netherlands Ministry of Foreign Affairs** — *Thematic Country Report on Human Rights and Justice in Rwanda (2016)*. Documents executive interference and the vulnerability of detained persons in cases where State interests are engaged.
- **United States Department of State** — *Country Report on Human Rights Practices: Rwanda (2021)*. Documents conditions of detention, treatment of detainees, and the predetermined character of outcomes in sensitive cases.
- **United Nations Human Rights Council** — *Universal Periodic Review of Rwanda (2021)*. Expression of concern at reports of unlawful interference in judicial proceedings; conditions of detention; treatment of detainees.
- **United Nations Working Group on Arbitrary Detention**. Opinions and visits, including the truncated October 2017 visit that was terminated when the Working Group was prevented from completing its investigations.
- **United Nations Secretary-General** — *Report on cooperation with the United Nations (14 September 2022)*. Documents allegations of intimidation and harassment of human-rights defenders who have engaged with UN Working Groups concerning Rwanda.
- **United Kingdom Foreign, Commonwealth and Development Office**. Internal diplomatic documents on the suitability of Rwanda as a destination country for asylum seekers, recording "red traffic-light" assessments in relation to human rights, extrajudicial killings, and the disappearance of opponents of the Government.

B.2 Non-governmental and academic sources

- **Human Rights Watch (2017).** Report on arbitrary detention and torture in Rwandan detention centres of persons suspected of cooperation with adversaries of the State. Includes the finding that when defendants or witnesses report torture in court, the courts decline to investigate.
- **Human Rights Watch — "We will force you to confess".** Detailed report on torture practices employed to extract information from real or suspected members or sympathisers of opposition groups, in illegal military detention facilities.
- **Human Rights Watch (March 2022).** Report on multiple politically motivated trials in 2020 and 2021, including the conditions of detention of defendants.
- **Amnesty International.** Reporting on Rwanda's non-implementation of judgments of the African Court on Human and Peoples' Rights.
- **Freedom House (2021).** Report documenting transnational repression by the Rwandan State, including the targeting of dissidents and former officials living abroad.
- **Filip Reyntjens (Emeritus, University of Antwerp).** Expert report dated 5 September 2022 and oral evidence given on 19 October 2022 in the Dutch proceedings. Conclusion that torture of detained persons and the courts' refusal to investigate such allegations are routine in cases of any sensitivity to the regime.
- **Zembla (Netherlands) — documentary "De lange arm van Rwanda"** (12 September 2022). Coverage of Rwanda's extraterritorial reach against persons of interest.

B.3 Documented patterns of treatment in custody

The Dutch court drew, from the sources above, the following findings of fact concerning the treatment of persons in Rwandan custody — particularly persons held in connection with cases that engage State interests.

- Persons in Rwandan custody have been subjected to torture and other forms of physical mistreatment, including sleep deprivation, beatings and incommunicado detention.
- The right to confidential communication between detained persons and their counsel has been breached in documented instances, including by interception of correspondence and obstruction of visits.
- Statements obtained from detained persons under torture or duress have been used as evidence by the courts.
- Allegations of torture or mistreatment raised in court by detained persons have not, on the documented record, been investigated by the courts.

- Persons reporting their own mistreatment in custody have been denied medical treatment for documented conditions.
- Where detained persons are perceived as connected to interests adverse to the State, the documented mistreatment intensifies.

What strikes us about these findings

Each of the findings above is established by multiple, independent, citable sources. None requires our families to vouch personally for any specific allegation.

Reading the material together, what we notice is the cumulative character of it: the documented mistreatment in Rwandan custody is not a series of isolated incidents but a recurring pattern across many independent reports and many years.

C. Documented cases of mistreatment in custody

The Dutch court relied on specific documented cases as illustrations of the general pattern. We have summarised below the principal cases referenced in the Dutch court's reasoning. In each, the events have been documented by independent observers — court testimony, monitoring reports, intergovernmental and NGO reporting — and the underlying facts are established on the institutional record. Where developments are continuing in respect of an individual, we have flagged the situation so that current-status questions can be verified separately.

C.1 The case of Mr Paul Rusesabagina (returned to Rwanda in 2020)

The case of Mr Paul Rusesabagina, brought to Rwanda in 2020 and convicted in 2021 to twenty-five years' imprisonment for terrorism-related offences, is documented in detail in independent trial-monitoring reports and in the reasoning of the Dutch court. The documented record establishes:

- Mr Rusesabagina was brought to Rwanda under false pretences. The Rwandan Minister of Justice publicly confirmed that the aircraft used to transport him had been chartered by the Rwandan government for that purpose.
- Following his arrival, Mr Rusesabagina was held incommunicado and was subjected to mistreatment during pre-trial detention.
- The Rwandan Minister of Justice publicly confirmed that Mr Rusesabagina's right to confidential communication with counsel during pre-trial detention had been breached.
- Statements obtained from co-defendants under conditions described in trial monitoring as restraint and torture were admitted into evidence by the court.
- When co-defendants attempted in court to raise the circumstances under which they had given pre-trial statements, the court did not investigate and proceeded to use the statements as evidence.
- Independent trial-monitoring observers — including Human Rights Watch, the American Bar Association and the Belgian Ministry of Foreign Affairs — characterised the proceedings as deficient with respect to the basic protections owed to a detained person.

C.2 The case of Col. Tom Byabagamba and Brig. Gen. (rtd) Frank Rusagara (convicted 2016)

The case of two former senior military officers, Col. Tom Byabagamba and Brig. Gen. (rtd) Frank Rusagara — convicted in 2016 to terms of twenty and twenty-one years' imprisonment respectively, and whose detention the United Nations Working Group on Arbitrary Detention found to be arbitrary — documents the following:

- Witnesses against the detained persons were, on documented record, compelled to give incriminating statements under duress. One such witness subsequently confirmed publicly that he had been compelled.
- The detained persons were not permitted to question prosecution witnesses who had given incriminating statements against them.
- The judge who denied bail at the pre-trial stage subsequently appeared as a witness against the defendants.
- One defendant was tried by a military tribunal for acts that occurred during a period when he was a civilian.
- The convictions were upheld on appeal without redress of the procedural complaints.

C.3 The case of Mr Aimable Karasira: documented torture, and death in custody on the day of scheduled release

Mr Aimable Karasira was an academic at the University of Rwanda and a prominent commentator on Rwandan affairs through his YouTube channel "Ukuri Mbona" ("The Truth as I See It"). He was a survivor of the 1994 genocide against the Tutsi, in which he lost members of his own family. He was held in Rwandan detention from May 2021 until his death in custody on 6 May 2026 — the day of his scheduled release from prison — which we set out in detail below.

The documented record of his treatment in custody is drawn from his own statements made in open court at a hearing on 30 May 2022 at the Nyarugenge prison court — as reported by Human Rights Watch in June 2022 and incorporated into the Dutch court's reasoning in 2023. At that hearing, Mr Karasira told the court, in substance:

- That prison authorities at Nyarugenge prison had subjected him to torture, including through sleep deprivation by means of constant light and loud music, and through beatings.
- That the purpose of the mistreatment, as he described it, was to punish him and to compel his attendance at court hearings.
- That he was being denied medical treatment for diabetes and for documented mental-health conditions.
- That he had been brought to the court by force on a day on which he was not fit to participate in proceedings.
- That he was being provided inadequate and insufficient food, and was being denied access to money sent to him by friends or relatives.
- That prison authorities were intercepting and withholding privileged communications between him and his counsel.

The court before which Mr Karasira made these statements ordered no investigation into any of the allegations. The proceedings against him continued.

Why this case has weighed particularly with us

First, the facts come from Mr Karasira's own statements in open court — institutional record, not secondary allegation. They are independently confirmed by Human Rights Watch and incorporated into a Dutch judicial decision.

Second, the breadth of the mistreatment reported — torture, denial of medical care, denial of adequate food, interception of counsel communications, use of force to compel attendance — appears to engage multiple distinct prohibitions: CAT Articles 1, 2 and 16, ICCPR Articles 7 and 10, and the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), Rules 24, 27 and 61.

Third, the court's response — no investigation — itself appears to engage CAT Article 12, which requires competent authorities to proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that torture has occurred.

Fourth, Mr Karasira's background — as a Tutsi survivor of the genocide and an academic — has weighed particularly with us. It tells us, as families, that the documented mistreatment in Rwandan custody is not confined to any narrow category. It extends across the population of persons whom the State perceives as adverse to its current political interests. That is the population our family members would, on transfer, be placed into.

Subsequent developments — death in custody on the day of scheduled release (6 May 2026)

After more than four years of pre-trial and post-conviction detention, in September 2025 a Rwandan court acquitted Mr Karasira of the charges of genocide denial, genocide justification, and inciting public disorder, and convicted him of "inciting division" (divisionism), with a five-year sentence. The prosecution appealed and sought a longer sentence of thirty years; the five-year sentence stood at the relevant time. By the first week of May 2026, Mr Karasira had served the full sentence imposed.

On 6 May 2026 — the day of his scheduled release — Mr Karasira died at Nyarugenge District Hospital in Kigali. The Rwanda Correctional Service issued a statement the following day. Its spokesperson, Chief Superintendent Hillary Sengabo, gave the following account to local media (The New Times; TV One): Mr Karasira had signed his release papers on the afternoon of 6 May; he had then, while awaiting collection by his family, ingested an excessive dose of medication that had been prescribed for pre-existing conditions (diabetes, hypertension, mental-health conditions); prison officials had attempted to take the medication away from him but, in the spokesperson's words, "it was too late"; he was taken to Nyarugenge District Hospital, where he died.

The death has been the subject of formal statements by Human Rights Watch (8 May 2026), the Committee to Protect Journalists (8 May 2026), and Media Defence, each of which has called for an independent, credible and expedited investigation. Ms Clémentine de Montjoye, senior Great Lakes researcher at Human Rights Watch, stated:

"There are many reasons to question the circumstances surrounding Aimable Karasira's death in custody, not least the years of harassment and persecution he experienced at the hands of the authorities. The government bears the burden of proving that Karasira was not unlawfully killed, and Rwanda's partners should be watching closely."

Human Rights Watch has placed Mr Karasira's death in the same documented pattern as the 2020 death in custody of the singer and government critic Mr Kizito Mihigo, who died at Remera Police Station four days after he was rearrested while seeking to flee the country. The Committee to Protect Journalists has noted that Rwanda was ranked, in CPJ's most recent annual prison census, as the second-worst jailer of journalists in sub-Saharan Africa.

Why this development weighs particularly with us

The point at which a person was supposed to leave the Rwandan correctional system — completion of sentence, signed release papers, escort out of the prison gate — did not, in this documented case, mean leaving the system alive.

The May 2022 court testimony of Mr Karasira's treatment in custody (set out above) and the documented record of his death in May 2026 belong to the same case file. The mistreatment we read about in 2022 was not an isolated period; it was a sustained pattern through to the day on which Mr Karasira was to walk out.

The Rwandan authorities' own account is on the record; the institutional responses calling for an independent investigation are also on the record. We make no characterisation beyond what those records say. We share the case here because it answers, in a way that no other source can, the question we have lived with as families: what happens to a person at the end of their time in Rwandan custody. For Mr Karasira, on the documented record, the answer was that he did not leave.

C.4 The case of Mr Leopold Munyakazi: the fair-trial assurances tested in practice

Mr Leopold Munyakazi is a linguistics professor and former trade union official from Gitarama in central Rwanda. He was detained in Rwanda from 1994 to 1999 — five years in prison without any charge — and was eventually released without any judicial process. He fled Rwanda in 2004 and obtained refuge in the United States, where he taught French at Goucher College in Baltimore.

Beginning in 2006, after he had given public talks at several United States universities characterising the 1994 conflict as a class struggle rather than a genocide, the Rwandan government issued international arrest warrants against him (in 2006 and again in 2008). The Rwandan extradition request was supported by formal guarantees of fair trial under Rwanda's Transfer Law. After successive United States immigration and appeal courts (including the United States Court of Appeals for the Fourth Circuit) rejected his asylum and his fear-of-torture defences, he was extradited to Rwanda in September 2016.

The documented record of what followed his transfer is established as follows:

- In 2017, a lower Rwandan court convicted Mr Munyakazi of direct involvement in the 1994 genocide and sentenced him to life imprisonment, to be served in solitary confinement.
- In July 2018, on appeal, the Chamber for International Crimes of the Rwandan High Court overturned the conviction for direct involvement in the genocide. The Chamber acquitted Mr Munyakazi on those charges.
- The same Chamber, however, upheld a conviction for "genocide denial" and confirmed a nine-year sentence on that charge. The conviction was based, in substance, on the academic talks Mr Munyakazi had given at United States universities prior to his extradition.
- Human Rights Watch, in its April 2019 reporting, places this case within a documented pattern in which "genocide ideology and inciting insurrection" charges are used to prosecute prominent government critics. The 2008 Rwandan Law on the Crime of Genocide Ideology has been documented by Human Rights Watch and academic commentators as drafted in broad and imprecise terms that permit its use against a wide range of speech.

What this case tells us

First, the United States courts accepted Rwanda's fair-trial assurances and extradited Mr Munyakazi on that basis. The first-instance Rwandan court still delivered a life sentence in solitary confinement. The assurances did not, in operation, deliver the promised outcome.

Second, when the appeal stage delivered the partial correction (acquittal on direct involvement), the system retained a separate conviction — a nine-year sentence — for speech offences relating to academic remarks made outside Rwanda. The substantive genocide case fell away; the speech conviction did not.

Third, the use of broad and imprecise speech-based offences ("genocide ideology", "genocide denial") is itself part of the documented pattern that has caused Human Rights Watch and other observers to express sustained concern about the Rwandan judicial system in cases that engage State interests.

We share this case because, from our reading, it shows that the fair-trial assurances on which transfer decisions are sometimes made do not, in operation, dispose of the underlying risks.

C.5 The Dutch refusal of extradition (June 2023) and what followed

As we have noted in the metadata at the start of this document, the Dutch judicial decision that this memorandum has been organised around — the Opinion of the Advocate-General at the Hoge Raad of 6 June 2023 — concerns the proposed extradition to Rwanda of the requested person, a former senior officer in the Rwandan armed forces who had been living in the Netherlands for many years. We set out the case here, with the developments that followed the Dutch refusal of extradition, because together they illustrate both the documented risks of transfer and the alternative pathway that exists where transfer is refused.

The Dutch refusal of extradition

Rwanda submitted an extradition request for the requested person in 2012, in connection with allegations relating to events in Mugina commune (former Gitarama prefecture) in April 1994. Following a lengthy procedural history — including the revocation of his Dutch citizenship and an initial arrest in May 2022 — the matter reached the Dutch Supreme Court (Hoge Raad).

On 6 June 2023, the Hoge Raad upheld the lower court's ruling that the extradition was inadmissible. The Court accepted the defence that the requested person would be exposed to a real risk of a flagrant breach of his right to a fair trial under Article 6 ECHR, in light of:

- Documented patterns of treatment of detainees in Rwandan custody (as summarised in Sections B and C above);
- Expert evidence given by Prof. Filip Reyntjens (Emeritus, University of Antwerp);
- Human Rights Watch reports and other independent documentation; and
- Specific factors personal to the requested person — his former senior military background, and his political affiliation with a Rwandan opposition formation that the Rwandan State has designated as a terrorist organisation.

We note, in the spirit of accuracy, that the political affiliation referenced in the Dutch ruling is a feature of the requested person's individual case. It is not a feature of the situation of our family members, and we do not draw any analogy on that basis.

What the Dutch authorities did next

The most important feature of this case, from our point of view, is what happened after the Hoge Raad refused extradition. The requested person was released in June 2023. On 3 October 2023, he was re-arrested in the Netherlands — this time not for transfer to Rwanda, but in connection with a Dutch prosecution opened under universal jurisdiction by the Dutch National Public Prosecution Service. Reporting from October 2025 indicates that the Dutch investigation is nearing completion and that a domestic trial in the Netherlands is anticipated.

What this case tells us

First, the Hoge Raad — the highest civil court of a country with no obvious interest in obstructing Rwanda's legal process — concluded, on a full evidentiary record, that the extradition could not safely proceed. The ruling is a senior judicial endorsement of the concerns set out in this memorandum.

Second, the Netherlands did not respond to the refusal by abandoning the matter. They responded by opening their own investigation and prosecution under universal jurisdiction — that is, by holding the person accountable, if accountable he is, in a forum that can guarantee a fair trial.

This pathway — domestic prosecution where the person is, rather than transfer to a system that international courts have found unsafe — is the model we believe applies to the questions facing the Mechanism in respect of any of our family members for whom further proceedings might at some point be contemplated.

C.6 Recurrent patterns across cases

Beyond the cases above, the documentary record establishes the following recurrent features of Rwandan custody:

- Interception of legal communications between detained persons and their counsel.
- Restrictions on the choice of counsel, including obstruction of representation by foreign or independent counsel.
- Refusal of confidential lawyer-client meetings.
- Limited access for international observers, including documented refusals to permit prison visits by monitors (see Section D below).
- Documented allegations of mistreatment that the courts have declined to investigate.
- Documented use of statements obtained under torture or coercion as evidence.

A note on how we have selected cases

We have focused on cases referenced in the Dutch court's own reasoning, because we understood that institutional citations carry the most weight in the consideration of questions of this kind. Where the situation of a named individual has developed during the period of preparation (see Section C.3 on Mr Karasira, whose death in custody on 6 May 2026 we have incorporated), we have updated the relevant section to reflect what has been documented at the time of finalization

D. The monitoring problem — ICJ Kenya findings

Rwanda routinely argues — and we understand the Dutch Public Prosecutor argued in the proceedings considered above — that transferred persons are protected from mistreatment because their cases are monitored by the Kenyan Section of the International Commission of Jurists (ICJ Kenya), with publicly available quarterly reports. The argument is that even where the substantive evidence raises concerns, the monitoring programme provides effective oversight.

Reading the monitoring programme's own published record, we have found that the argument does not, on its face, hold. The Quarterly Monitoring Report of ICJ Kenya for March to May 2021, in respect of a person extradited from the Netherlands to Rwanda, records the following — in the programme's own words and from its own pages.

D.1 The Monitor was denied prison access

The introduction to the report (paragraph 3) states, expressly: "the Monitor was not allowed to meet the Accused in prison."

This is a direct, documented denial of the access that is the precondition for any meaningful monitoring of the treatment of a detained person. A monitoring program that cannot meet the detainee in custody cannot verify the conditions of his detention, the state of his health, the treatment he is receiving, or his ability to communicate with counsel.

D.2 The monitored hearing was inaccessible to all parties

Paragraph 2 of the introduction records that, in respect of a hearing scheduled for 18 March 2021 held virtually via Skype, "the Monitor, the Prosecution and Defence were unable to follow these proceedings. This was due to technology challenges, as advised by the High Court Registrar."

Paragraph 14 of the substantive report records that the Monitor raised the concern directly with the High Court Registrar. Paragraphs 21–22 record that the Defence Counsel also did not receive the link to attend virtually.

A monitoring program that does not reach the proceedings it is established to monitor produces a quarterly report — and any reliance on that report by extraditing or transferring authorities — that is not based on observation. The same failure simultaneously deprived the Defence of representation at the hearing.

D.3 Procedural irregularities under monitoring

Paragraph 9(h) and paragraph 10 of the report record that the Court reopened the case for the hearing of a recalled witness after the Prosecution and the Defence had each closed their cases and made their closing submissions.

Paragraph 24 records that the Defence considered the reopening unlawful: the Defence's view was that the Rwandan procedural framework permits reopening only upon discovery of new evidence, and that the testimony relied upon was not new. The Defence appealed the reopening decision.

Paragraph 25 records a further concern of the Defence: that the Prosecution had written to the National Commission for the Fight Against Genocide (CNLG) to request the witness's file only after the Court had ordered the reopening. The implication — preserved in the monitoring report — is that the additional evidence was being constructed after, rather than discovered before, the procedural decision that admitted it.

D.4 Implication for the safeguard argument

The ICJ Kenya monitoring programme is the principal third-party safeguard cited by Rwanda and by transferring authorities. The same programme's own published record documents, in respect of a single quarter:

- **(i)** the Monitor's exclusion from prison access — at the very level where mistreatment, if occurring, would be observed;
- **(ii)** the Monitor's inability, simultaneously with that of the Defence and the Prosecution, to attend the very court hearing the monitoring programme exists to monitor;
- **(iii)** procedural irregularities in the Rwandan court of a kind that ordinarily attract judicial concern; and
- **(iv)** conduct on the part of the Prosecution that the Defence considered, and the monitoring report recorded as, concerning.

How we read this record

We share this finding because it seems to us to answer, on its own terms, the standard reassurance we have heard repeatedly — that the monitoring programme ensures mistreatment will be detected and addressed.

On what we have read, the monitoring programme cannot detect mistreatment in a prison to which the monitor is denied access. It cannot report on a court hearing it cannot attend. It cannot challenge procedural irregularities; it can only record them.

The Quarterly Monitoring Report for March to May 2021 is publicly available. The findings are in the programme's own published voice, not ours.

E. State-sponsored kidnappings and killings — the transnational record

This section addresses a question that, in our view, the IRMCT and host States cannot avoid: would the Mechanism transfer our family members into the custody of a State whose conduct toward persons abroad — beyond its own borders, in third countries — has been the subject of sustained documentation by media, human-rights organisations and United Nations bodies?

Across the period since 1994 and continuing into the present, persons identified by the Rwandan State as adverse to its interests have been kidnapped or killed in multiple countries on at least three continents. The cases below are not exhaustive; they are illustrative of a documented pattern. Each case has been the subject of independent reporting (newspapers, broadcasters), human-rights investigation (Human Rights Watch, Freedom House, Amnesty International) or formal UN intervention (Special Rapporteurs, Working Groups). We have included only cases for which the documentary record is settled, in our reading.

Why this section in particular matters for SFOP

Our family members have come into contact with the Rwandan State as defendants before an international tribunal. Two of the cases below — Mr Sendashonga, the former Interior Minister, and Mr Ntirugiribambe, a former defence investigator at the ICTR itself — illustrate that proximity to the international-criminal-justice process is not a protection against the reach of the State.

If anything, the documented record suggests proximity to the ICTR may itself constitute a risk factor.

E.1 Cases in East Africa

Kenya — Mr Seth Sendashonga (1996 attempt; killed 16 May 1998, Nairobi)

Mr Seth Sendashonga was Minister of the Interior in the post-1994 Rwandan Government of National Unity. He left office in 1995 after disagreement with the ruling party over reported killings of civilians, and took up exile in Kenya. He survived an assassination attempt in Nairobi in February 1996. He was killed on 16 May 1998 by gunmen who fired on his car in central Nairobi; a businessman, Mr Augustin Bugirimfura, who was with him, was also killed. The killing was the subject of a Kenyan criminal investigation and a Nairobi court proceeding at which Mr Sendashonga's widow testified that the Rwandan Government was, in her belief, involved. At the time of his death, Mr Sendashonga had been expected to testify as a defence witness before the ICTR on the subject of prosecution-witness manipulation.

Kenya — Mr Emile Gafirita / Emmanuel Mughisa (disappeared 13 November 2014, Nairobi)

Mr Emmanuel Mughisa, a former soldier in the Rwandan Patriotic Army known under the pseudonym Emile Gafirita, was living in exile in the Dagoretti suburb of Nairobi. In November 2014 he was scheduled to travel to France to give evidence before the investigating judges Marc Trévidic and Nathalie Poux in their inquiry into the shooting-down of the aircraft carrying President Habyarimana on 6 April 1994. His French counsel had requested that he be heard anonymously; the court declined to anonymise him. Within days of his identity entering the official court record, he was handcuffed and taken from his home in Waithaka by unknown persons. He has not been seen since. The disappearance was reported by three Rwandan men who lived with him to the Dagoretti Police Station. His French counsel, Maître François Cantier, has publicly identified the Rwandan State as the suspected agent of his disappearance.

Kenya — Mr Jean Chrysostome Ntirugiribambe (abducted 23 June 2015, Nairobi)

Mr Jean Chrysostome Ntirugiribambe was a former captain in the Rwandan Army (pre-1994). From the early 2000s he worked as a defence investigator and legal assistant at the International Criminal Tribunal for Rwanda, including on the Military II case, the Government II case, and the Nizeyimana trial. From 2010 he worked at the Terram Pacis organisation as an analyst on Rwandan refugee questions. He was living as a refugee in Togo and had travelled to Nairobi to visit his five children. On 23 June 2015, in the early evening, three men identified themselves to him as Kenyan police officers and forced him into a black station wagon outside the Tana market on Kamiti Road. The disappearance was reported at Kasarani Police Station. He has not been seen since. According to family sources, Mr Ntirugiribambe had received calls from Mr Mughisa (the case above) in the hours before his abduction. The Rwandan Political Prisoners Support Network and counsel formerly working at the ICTR have requested a formal investigation by the Mechanism's Registrar.

Kenya — Mr Yusuf Ahmed Gasana (abducted 30 May 2023, Nairobi)

Mr Yusuf Ahmed Gasana was a Rwandan refugee registered with UNHCR in Kenya. He was a member of a community-based refugee organisation in Nairobi which advocated against the involuntary repatriation of Rwandan refugees, including those who had left Rwanda before 31 December 1998. On 30 May 2023, at around 7 p.m., he was abducted from his home in Nairobi by unidentified persons. His family reported the abduction to the Kenyan police, the Directorate of Criminal Investigation, the Independent Police Oversight Authority, the Ministry of the Interior, the Ministry of Foreign Affairs, the Kenyan National Commission on Human Rights, and UNHCR Kenya. No response was received from any of these bodies. Between September 2023 and March 2024, his family received reports from informal sources that he was being held without charge in an unofficial detention facility in Rwanda, alongside other persons whom the authorities sought to charge.

Mr Gasana's case has been raised, by formal communication, by the UN Working Group on Enforced or Involuntary Disappearances (September 2023) and by Ms Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders (joint communication, July 2024, with a public press release). The

Special Rapporteur's communication states that the abduction and enforced disappearance "are believed to have been carried out by State agents" and that the persons involved "acted in collusion with Rwandan agents."

Why the Kenya record matters specifically

Four separate documented cases — across nearly three decades, with the most recent in May 2023 — establish that being a Rwandan national in Kenya is not, on the record, a guarantee of safety from the reach of the Rwandan State.

Two of the four — Mr Sendashonga (a defence witness for the ICTR at the time of his killing) and Mr Ntirugiribambe (an ICTR defence investigator) — were persons engaged in the international-criminal-justice process itself.

The most recent case (Mr Gasana, May 2023) has been the subject of formal UN Special Rapporteur intervention — the highest-level human-rights mechanism response short of a Working Group opinion.

E.2 Cases in Southern Africa

South Africa — Mr Patrick Karegeya (killed 1 January 2014, Johannesburg)

Colonel Patrick Karegeya was Rwanda's former Chief of External Intelligence. He fell out with the Rwandan leadership in the mid-2000s and took political asylum in South Africa in 2007. On the night of 31 December 2013 / 1 January 2014, he was strangled in his suite at the Michelangelo Towers hotel in Sandton, Johannesburg. The killing has been the subject of: (i) the South African Police Service's continuing investigation; (ii) Mozambican police arrest of four Rwandan suspects (including a senior military official); (iii) a 2019 inquest in South Africa at which the magistrate found that the killing had been committed by Rwandan State agents; and (iv) sustained journalistic investigation, including by Michela Wrong (Do Not Disturb, 2021) and by the Forbidden Stories "Rwanda Classified" consortium (2024).

South Africa — Gen. Faustin Kayumba Nyamwasa (multiple attempts, 2010 onwards)

Lieutenant General Faustin Kayumba Nyamwasa was Rwanda's former Chief of Staff of the Rwandan Armed Forces. He took asylum in South Africa in 2010. He has been the subject of at least three documented assassination attempts in Johannesburg: a shooting on 19 June 2010 (he survived); a second attempt in March 2014 (armed men entered his home; no one was there); and additional attempts thereafter. Four suspects from Tanzania, Somalia and Mozambique were arrested in connection with the 2010 shooting; further arrests were made in 2014. South African authorities have publicly attributed the attempts to Rwandan State actors.

Mozambique — Mr Revocant Karemangingo (killed 13 September 2021, Maputo)

Mr Revocant Karemangingo, a former Rwandan Army lieutenant who had settled in Mozambique after 1994 and become a businessman, was shot dead in his car by gunmen using automatic weapons as he returned to his home in the Matola suburb of Maputo. He had been a public critic of the Rwandan leadership. The killing occurred in the context of Rwanda's military deployment in Mozambique in 2021. Deutsche Welle and Daily Maverick have documented the killing as part of a continuing pattern; the Rwandan Government has denied involvement.

Mozambique — Mr Cassien Ntamuhanga (disappeared May 2021, Maputo)

Mr Cassien Ntamuhanga, a Rwandan journalist, disappeared in Maputo in May 2021 after being taken into custody by Mozambican police. He has not been heard from since. Independent sources have reported he was rendered to Rwandan custody. Deutsche Welle has documented the case alongside the Karemangingo killing.

South Africa — Mr Abdallah Seif Bamporiki (killed 21 February 2021, Cape Town)

Mr Bamporiki was Chairman of the South African branch of the Rwanda National Congress. He was shot dead in Nyanga township, Cape Town, after being pulled from his vehicle. One week before his killing, he had led a memorial service for previously assassinated members of the Rwandan opposition. South African police initially treated the case as a robbery; the Rwanda National Congress and counterterrorism analysts (including the Armed Conflict Location and Event Data project) have placed the killing in the documented pattern of attacks on exiled critics.

South Africa — Mr Thomas Ngeze and Mr Pieter-Jan Staelens (June and July 2018, Johannesburg and Hermanus)

Mr Thomas Ngeze was a 27-year-old Belgian-Rwandan international law specialist. He had arrived in Belgium as a small child after fleeing Rwanda in 1994, had been raised in Bruges, had completed his law degree at Ghent University, and had interned at the Belgian Ministry of Foreign Affairs. He was visiting South Africa professionally at the time of his death. He was the son of Mr Hassan Ngeze, who was sentenced by the Appeal Chamber of the International Criminal Tribunal for Rwanda in 2007 to 35 years' imprisonment for his role in the genocide.

On 16 June 2018, Mr Thomas Ngeze's body was discovered shortly after midday by a maid in a busy backpacker hotel in Johannesburg, on the seventh floor. He was found hung from a shower curtain rail with a bath towel, wearing only underwear, with a stool on the floor beneath. According to family sources and subsequent reporting by RTBF (the Belgian francophone public broadcaster) and VRT (the Flemish public broadcaster), Mr Ngeze had had a scheduled appointment with members of the Rwandan embassy in South Africa on the night of his death. His death came approximately ten days after Mr Hassan Ngeze, his father, had filed in the Mechanism for International Criminal Tribunals a request for provisional release after serving one third of his sentence. From his cell, Mr Hassan Ngeze stated

publicly his belief that his son had been killed in retaliation and as a means to put pressure on the family.

The Belgian Public Prosecutor's Office opened a joint investigation with the South African Police Service. The South African investigation file was subsequently obtained and analysed by RTBF; the case was further examined by the Forbidden Stories "Rwanda Classified" consortium (2024). The Belgian Foreign Minister, Ms Hadja Lahbib, publicly engaged with the matter in 2023, ultimately declaring the then-Rwandan ambassador to Belgium, Mr Vincent Karega, persona non grata.

On 29 July 2018 — approximately six weeks after Mr Ngeze's death — Mr Pieter-Jan Staelens, a 35-year-old Belgian lawyer from Bruges who had been investigating Mr Ngeze's death on behalf of the family, was found dead in his burnt-out car on a road in Hermanus, in the Western Cape (about a hundred kilometres from Cape Town). A neighbour who attempted to save him reported having seen a black Audi at the scene, driven by an African woman; the same neighbour told RTBF that, in his view, a diesel engine could not have ignited spontaneously in the way the vehicle had burned. The Belgian Public Prosecutor's Office and South African authorities have continued to investigate the two cases together.

Why this case matters specifically for SFOP

Mr Thomas Ngeze was the son of an ICTR-convicted person. He was killed in a third country (South Africa), at a moment when legal proceedings concerning his father (a request for provisional release before the Mechanism) were in motion. This is the only case in the documented record in which a family member of a person convicted by the ICTR has died in suspicious circumstances in a third State during proceedings about the convicted relative.

Our family members are persons convicted by, or otherwise involved in, the ICTR's proceedings. We are their family members. The Ngeze case is the one that most directly illustrates that being part of an ICTR-affected family does not, on the documented record, place a person outside the reach of the State whose conduct this memorandum addresses.

We mention the follow-on death of Mr Staelens not for rhetorical effect, but because it is on the documented record and because any reader engaging with this material should be aware that persons investigating cases of this kind have themselves come to harm.

E.3 Cases in Europe

Belgium — Mr Juvénal Uwilingiyimana (disappeared 21 November 2005, body discovered 17 December 2005)

Mr Juvénal Uwilingiyimana was a former Rwandan Commerce Minister and director of national parks. He had taken refuge in Belgium. On 21 November 2005 he disappeared. His body was discovered on 17 December 2005 in Belgium. At the time of his disappearance, he had reportedly been in contact with the Office of the Prosecutor of the ICTR. The Rwanda National Congress and other opposition bodies have publicly identified the Rwandan State as the suspected agent of his death. Belgian authorities investigated the death; the case has not been judicially resolved.

Other Rwandan nationals have been the subject of intimidation, surveillance and threat in Belgium. Independent reporting (Le Soir, Knack, ZAM Magazine, Forbidden Stories) has documented sustained patterns of Rwandan State activity directed at the Rwandan diaspora in Belgium, including spyware deployment and harassment of investigative journalists who travel there.

E.4 Cases in West and Central Africa

Cameroon — Mr Pasteur Musabe (killed, Cameroon)

Mr Pasteur Musabe was a banking executive and an exiled critic of the Rwandan Government. He was assassinated in Cameroon. The Rwanda National Congress and journalistic sources have placed the killing in the documented pattern of extraterritorial Rwandan operations against opposition figures.

Cameroon — Mr Jean-Baptiste Kayisire (killed 22 September 2012, Yaoundé)

Mr Jean-Baptiste Kayisire was a 33-year-old Rwandan national living in Yaoundé, where he ran a small shop in the Messassi neighbourhood. On Saturday 22 September 2012, at approximately 7 p.m., as he was closing his shop, he was shot twice and killed. The killing took place during a power cut in the neighbourhood. The Cameroonian press reporting on the case (Le Messenger, 2 October 2012, in an article by Florette Manedong reproduced by Cameroun24 and the allAfrica network) noted that the killing was officially treated by the authorities as an armed robbery that had gone wrong, and that the assailants had not been arrested. The same reporting noted that, according to local sources, official documents had previously been observed in Mr Kayisire's shop attesting that he had served as a high-ranking officer in the Rwandan army, and that those local sources considered the perpetrators may have been other Rwandan nationals. We include the case here because it has been recorded in Rwandan diaspora documentation of extraterritorial killings, and because the documented circumstances — the targeted shooting at the moment of a power cut, the lack of arrests, the background of the victim — fit the broader pattern set out across this section.

E.5 Cases connected to international-criminal-justice work

Several persons who worked on, or in proximity to, the ICTR's work — and at least one family member of a person convicted by it — have died or disappeared in circumstances that, in the documented record, are linked to the Rwandan State:

- Mr Jwani Mwaikusa, a defence counsel before the ICTR, killed in Dar es Salaam, Tanzania, in 2010.
- Mr Callixte Gakwaya, a defence counsel before the ICTR, reportedly poisoned in Maputo, Mozambique.
- Mr Jean Chrysostome Ntirugiribambe, a defence investigator at the ICTR (see E.1 above).
- Mr Seth Sendashonga, anticipated defence witness before the ICTR (see E.1 above).
- Mr Thomas Ngeze, son of Mr Hassan Ngeze (convicted by the ICTR Appeal Chamber to 35 years' imprisonment), killed in Johannesburg in June 2018 approximately ten days after his father filed for provisional release before the Mechanism (see E.2 above).
- Mr Pieter-Jan Staelens, the Belgian lawyer investigating the death of Mr Thomas Ngeze, killed in Hermanus, South Africa in July 2018 (see E.2 above).

This sub-pattern — persons engaged with the international-criminal-justice process, and at least one family member of an ICTR-convicted person, being among the targets — bears directly on the SFOP question. Our family members have themselves been the subject of ICTR proceedings, and we — their parents, children, brothers and sisters — are, on the Ngeze precedent, not outside the reach of the State whose conduct this section concerns.

E.6 Operation "Cleaning the West" and the institutional record

The documentary record before the Dutch court included evidence of a Rwandan government operation publicly identified as "Cleaning the West". The operation is reported in the source publication *The Rwandan* (2020) as having been launched in 2019. The stated objective, as reported, is the silencing of persons abroad whom the Rwandan State regards as adverse to its interests — including former officials, military officers, opposition figures, journalists and human-rights defenders. Reported methods include the use of arrest warrants and extradition requests; surveillance; threats; attempts to compel return; abduction; and other extra-legal means.

Independent confirmation of the pattern has come from multiple institutional sources:

- Freedom House, which since 2021 has ranked Rwanda among the "top ten perpetrators of transnational repression" worldwide, on the basis of documented activity in at least seven countries.

- The Forbidden Stories consortium investigation "Rwanda Classified" (May 2024), conducted by 50 journalists at 17 outlets across 11 countries, documenting a coordinated pattern of espionage, intimidation, surveillance and physical violence against Rwandans abroad.
- Human Rights Watch's October 2023 report on transnational repression by Rwanda, and Lewis Mudge's testimony before the United States Tom Lantos Human Rights Commission on 15 February 2024.
- The UN Working Group on Enforced or Involuntary Disappearances and the UN Special Rapporteur on the situation of human rights defenders, on the specific case of Mr Yusuf Ahmed Gasana (E.1 above).

E.7 What this means for the SFOP question

We have approached this section, as we have approached the rest of this memorandum, on the basis of what is documented. The documented record is that the State to which our family members would be transferred has, across multiple decades and on multiple continents, engaged in operations of extraterritorial coercion, abduction and killing of persons it has identified as adverse to its interests.

The legal question is whether a body charged with the enforcement of international sentences — the IRMCT — may transfer persons in its supervised custody into the territorial jurisdiction of a State whose conduct toward persons within reach of its security apparatus is the subject of the documented record above. We do not propose to answer that legal question; it is for those qualified to address it, and for the bodies seised of the decision to determine. We submit only that the documented record bears directly on the answer, and should be visible in any decision that is taken.

A note on sources

Each case in this section has been the subject of independent reporting in named publications (Reuters, BBC, AFP, AP, Deutsche Welle, Daily Maverick, The East African, ZAM Magazine, The Daily Beast, JusticeInfo.net, and others), and where indicated, of formal UN intervention.

Where the Rwandan State has denied involvement in a particular case, we record the denial; we have not adopted any characterisation that exceeds the documented institutional record.

F. Absence of effective remedy

From what we have read, even where torture or other prohibited treatment in custody is documented, transfer is generally permissible if effective avenues of redress exist in the receiving State. The Dutch court found that, in the case of Rwanda, those avenues are absent. The findings appear to us to extend, in their nature, to our family members' situation as well.

F.1 The African Court is no longer accessible to individuals from Rwanda

- In 2016, Rwanda withdrew its declaration under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights establishing the African Court.
- The effect of withdrawal is that individuals can no longer bring complaints directly against Rwanda before the African Court.
- The withdrawal was effected on the eve of the African Court's hearing of a major case against Rwanda — a sequence the Dutch court considered relevant to Rwanda's overall posture toward international human-rights mechanisms.

F.2 Rwanda does not implement African Court judgments

- The Activity Report of the African Court (2022) records that Rwanda has not complied with the judgments rendered against it before the withdrawal.
- Amnesty International identifies Rwanda among the States that do not implement African Court judgments at all.
- Rwandan officials have, on the public record, justified non-implementation in terms that frame compliance with international human-rights tribunals as inconsistent with national priorities.

F.3 Domestic remedies are not effective for detained persons in sensitive cases

The Dutch court found that internal Rwandan appellate and review mechanisms do not provide effective remedy in cases where the State's interests are engaged. The Advocate-General's reasoning records that the indications of these limitations are not confined to lower courts.

The ICJ Kenya monitoring record (Section D above) supports this finding on a separate ground: even where third-party monitoring is in place, the monitoring program itself cannot remedy the conduct it observes. The monitor records; it does not adjudicate.

What this seems to mean for the analysis

From our reading of the public sources, we understand the Committee against Torture's General Comment No. 4 (2017) to treat the availability of effective remedy in the receiving State as a relevant factor in the non-refoulement assessment.

On what we have collected concerning Rwanda, individual access to the African Court has been withdrawn (2016), the Dutch court has found that effective domestic remedies are not available, and the ICJ Kenya record shows that third-party monitoring has not provided an effective substitute.

We share these observations as our own reading. The legal weight to attach to them is for those qualified to address such questions.

G. Our family members' situation

G.1 Our family members held in Senegal and Benin

Our family members held in Senegal and Benin are persons convicted by the International Criminal Tribunal for Rwanda. They are serving their sentences under enforcement-of-sentences agreements between the ICTR (now succeeded by the IRMCT) and the respective host States. Their custody is supervised within the international framework that the Mechanism continues to administer. Over the years, our families have built up the practical arrangements that make it possible for us to visit them and to maintain contact with them.

Transfer of our family members to Rwandan custody would, from what we have read, substitute that framework with one in which:

- Persons in custody have been subjected to torture and other prohibited treatment (Section B);
- Specific instances of mistreatment have been documented and have not been redressed (Section C);
- The principal third-party monitoring programme appears to be materially deficient — the monitor has been denied prison access and has been excluded from hearings (Section D);
- The Rwandan State has, on the public record, identified persons abroad of the relevant category as targets of operational priority (Section E);
- Effective remedy does not appear to be available either before the African Court (withdrawn), within the Rwandan domestic system (in cases engaging State interests), or through the monitoring programme (Section F).

Taking these factors together, what we have read seems to us to show substantial grounds for believing that transfer would expose our family members to a real risk of torture or cruel, inhuman or degrading treatment in custody. We understand this to engage the non-refoulement obligations of the host States under CAT Article 3 and ICCPR Article 7. But again, this is our reading; the legal question is for those qualified to address it.

G.2 The acquitted and released persons in Niger

The acquitted and released persons currently held in Niger occupy a different legal position from our family members serving sentences. They have no remaining sentence to serve, and no proceedings remain to be conducted. Their continued detention is a function of administrative limbo rather than any subsisting legal basis.

From what we have read, transfer of these persons to Rwanda would expose them to:

- The same documented patterns of treatment in custody set out in Sections B–C, if they were placed in Rwandan custody on any basis.
- A specific risk arising from operation "Cleaning the West" (Section E), which on the documented record targets precisely the population of persons abroad whom the Rwandan State considers of adverse interest — a category into which acquitted ICTR-related persons would fall.
- A particular vulnerability arising from the absence of any continuing international supervisory framework over them: they are not transferred persons under an enforcement-of-sentences agreement; they are persons whose international legal status has been resolved (acquittal, completion of sentence) but who, on transfer to Rwanda, would lose the residual protections that the Mechanism's continuing engagement with them currently provides.

We would also wish to mention, even though it is not strictly part of the legal analysis, that three of the persons held in Niger have died since the conclusion of their proceedings. We are mindful that the absence of an effective resolution of the situation in Niger is not — and cannot be — an argument for transfer to Rwanda. What we have read leads us to believe that what is needed is the implementation of one of the relocation alternatives that do not engage non-refoulement concerns.

G.3 Drawing the threads together

For both groups of our family members, what we have read suggests that the operative legal question is non-refoulement under CAT Article 3 and ICCPR Article 7, and that the documentary record engages that standard. The standard safeguards — Rwandan governmental guarantees, the Transfer Law (insofar as it would apply), and ICJ Kenya monitoring — do not, on the record we have collected, appear to displace the engagement.

We respectfully submit these observations as the basis on which we believe transfer to Rwanda may be precluded by the host States' own treaty obligations, by customary international law, and by the framework within which the Mechanism is required to make designation decisions.

H. Supplementary materials and observations

H.1 Where we understand these materials may be relevant

We have identified the following forums where the question of the proposed transfer is being considered, or in which the documented record may be relevant.

- The Executive Office of the Secretary-General and the Office of Legal Affairs — in relation to the implementation of Security Council Resolution 2740 (2024) and any decisions flowing from the Secretary-General's report S/2025/786.
- The IRMCT and any of its judges or chambers seised of designation or transfer decisions affecting our family members.
- The President of the Security Council and individual Council Members — in advance of any decision at the June 2026 review.
- The national authorities in Senegal, Benin and Niger — in relation to their non-refoulement obligations under CAT and the ICCPR.
- UN Special Procedures — the UN Working Group on Arbitrary Detention and the UN Special Rapporteur on Torture, to whom we understand the documentary record can be referred.
- The Committee against Torture — in relation to any country reporting cycle or individual communication where these issues fall within scope.

H.2 Source details we have collected

We have collected the following citation details. They are gathered from the materials themselves.

- **The Dutch decision.** The 6 June 2023 document is the Conclusion of the Advocate-General at the Hoge Raad der Nederlanden — that is, an opinion to the Court, not a final judgment of the Court itself. The Hoge Raad's subsequent ruling, if obtained, would be the appropriate citation alongside or in place of the Advocate-General's Opinion.
- **The ICJ Kenya monitoring report.** Kenyan Section of the International Commission of Jurists, Quarterly Monitoring Report for March to May 2021. The specific findings we have drawn on are at paragraph 3 of the introduction (prison access), paragraph 2 of the introduction and paragraphs 14, 21–22 (hearing inaccessibility), paragraphs 9(h), 10, 24 (reopening), and paragraph 25 (prosecutorial conduct).
- **Third-party reports.** We have listed each report in the Annex below with the publishing institution, full title and year. Where we have been able to identify paragraph or page pinpoints from the Dutch court's reasoning, we have noted them; where we have not, we have flagged the source as one to be verified.

H.3 Things we have been careful about as we prepared this

In compiling these materials we have been mindful of a number of things that may be worth mentioning to any reader. We list them here so that they are visible.

- On the Dutch decision: we have been careful to describe it accurately as the Opinion of the Advocate-General, not as a final judgment of the Hoge Raad. We mention this in case the distinction matters in submission.
- On Section C.3 (Mr Karasira): the section incorporates the documented record of his death in custody on 6 May 2026 — the day of his scheduled release — as reported by the Rwanda Correctional Service, Human Rights Watch (8 May 2026), the Committee to Protect Journalists, Media Defence, and the press.
- On framing: we have tried, in our reading and presentation of the material, to focus on the question of treatment in custody — the non-refoulement question — rather than on the political dimensions of the broader debate. We did this because we understood the non-refoulement framing to be the safest legal vehicle for our family members' situation; the underlying material is of course available for engagement in other framings.
- On language from third-party sources: where reports use strong characterisations, we have tried to cite the source and let its words stand on its own authority, rather than adopt them as our own.
- On currency: the Rwandan position on the African Court declaration, on the Transfer Law and on standard monitoring arrangements is something we will continue to monitor. If anything changes materially, we will provide an update.

Annex — Source citations for verification

We have gathered the following citation details from the materials themselves. We list them for the convenience of the reader.

Treaties and instruments

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Articles 3 and 16.
- International Covenant on Civil and Political Rights, Articles 7, 10 and 14.
- Committee against Torture, General Comment No. 4 (2017) on the implementation of Article 3 in the context of Article 22, CAT/C/GC/4.
- Human Rights Committee, General Comment No. 20 (1992) on Article 7; General Comment No. 31 (2004) on Article 2.
- ICTR Statute, Articles 9, 10, 26 and 27; IRMCT Statute, Article 25.
- Security Council Resolution 2740 (2024); Resolution 1966 (2010), paragraph 17.

Judicial decisions

- Conclusion of the Advocate-General at the Hoge Raad der Nederlanden, 6 June 2023 (extradition matter; name withheld) — recommending rejection of the Public Prosecutor's cassation appeal against the inadmissibility ruling of the Rechtbank Den Haag.
- Hoge Raad der Nederlanden — relevant leading framework decision: HR 21 March 2017, ECLI:NL:HR:2017:463, NJ 2017/276.
- European Court of Human Rights, Othman (Abu Qatada) v. United Kingdom, 17 January 2012, Application No. 8139/09, NJ 2013/360.
- African Court on Human and Peoples' Rights, Mugesera v. Republic of Rwanda, judgment of 27 November 2020.

Monitoring

- Kenyan Section of the International Commission of Jurists, Quarterly Monitoring Report from March to May 2021 (extradition matter from the Netherlands).
- Additional quarterly reports of the same monitoring programme exist; the complete file should be available from the Mechanism, the Netherlands authorities, or ICJ Kenya directly.

Governmental and intergovernmental reports

- Netherlands Ministry of Foreign Affairs, Thematic Country Report on Human Rights and Justice in Rwanda (2016).
- United States Department of State, Country Report on Human Rights Practices: Rwanda (2021); subsequent annual editions to be checked for current text.
- United Nations Human Rights Council, Universal Periodic Review of Rwanda (2021 cycle); subsequent cycles to be checked.
- United Nations Working Group on Arbitrary Detention, country mission documentation in respect of Rwanda.
- United Nations Secretary-General, Report on cooperation with the United Nations of 14 September 2022.
- African Court on Human and Peoples' Rights, Activity Report 2022.

NGO and academic reports

- Human Rights Watch (2017) on arbitrary detention and torture in Rwanda.
- Human Rights Watch, "We will force you to confess" — report on torture practices in unofficial detention.
- Human Rights Watch (March 2022) on politically motivated trials 2020–2021.
- Human Rights Watch, "Rwanda: 25 Years On, Solidarity With Victims" (April 2019) — including the documented use of "genocide ideology" and "inciting insurrection" charges against government critics, and reporting on the Munyakazi case sentencing on appeal.
- Amnesty International report on non-implementation of African Court judgments by Rwanda.
- Freedom House (2021) report on transnational repression.
- Filip Reyntjens (Emeritus, University of Antwerp), expert report dated 5 September 2022 and oral evidence given on 19 October 2022 to the Rechtbank Den Haag.
- Zembla (Netherlands), documentary "De lange arm van Rwanda", 12 September 2022.
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