



Observatoire ARGA

INTERNATIONAL ANALYTICAL REPORT

D-06. Diplomatic Assurances

in Extradition Proceedings 2022-2026

Author:

Sergey Khrabrykh - President of ARGA, PhD

Organisation: Observatoire ARGA

Correspondence: 21 rue de l'Aviation, 64600 Anglet, France

Contact: info@argaobservatory.org, +33 7 58 49 62 27

Website: www.argaobservatory.org

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1. Executive summary and principal findings

A diplomatic assurance does not displace the prohibition on extradition where a real risk of torture or treatment incompatible with Article 3 of the European Convention on Human Rights remains. Its legal significance lies elsewhere: the competent authority examines whether a particular undertaking changes the conditions of the proposed surrender sufficiently for the relevant risk no longer to be substantiated. The adequacy of an assurance therefore cannot be determined merely by the existence of a diplomatic note or a general assessment of the receiving State. Its content, the authority of its issuer, its practical feasibility and the individual's circumstances must be assessed. [1, 2, 3]

The case law examined produced materially different outcomes. In *Liu v. Poland*, the European Court of Human Rights held that the proposed extradition to China would violate Article 3: the informal declarations obtained did not provide sufficient protection. In *Minister of Justice v. Kim*, by contrast, the Supreme Court of New Zealand accepted additional undertakings concerning the place of detention and frequency of visits and reinstated the Minister's surrender decision. The subsequent examination of Kim by the UN Human Rights Committee found no violation of Article 7 of the Covenant, although it found a violation of Article 9(1) in respect of a separate period of detention in New Zealand. These outcomes cannot be reduced to a single proposition that extradition to a particular country is either permissible or impermissible. [4, 5, 6]

The British materials demonstrate why different versions of assurances and different procedural stages must be distinguished. The *Assange* judgment of 26 March 2024 identified matters that additional assurances could address and adjourned the decision on permission to appeal on certain grounds. It was not a final prohibition on extradition. In *Japan v. Chappell and Wright*, decided on 29 January 2025, the court assessed revised undertakings, including assurances that had not been before the judge below. The appeal was allowed, in part because the protection afforded in relation to Articles 3 and 6 was considered sufficient. [3, 7]

The study identifies four interrelated conditions underpinning the persuasiveness of an assurance: it addresses the particular risk established; it is given by an authority capable of securing the conduct promised; the arrangements for implementation are sufficiently defined; and anticipated compliance can be verified in light of the available means of oversight. This is the author's systematisation of judicial criteria, not a new binding test or scoring system. The absence of one element does not invariably determine the outcome mechanically; equally, several general promises do not compensate for a substantive risk that remains unaddressed.

The period 2022-2026 denotes a targeted review of decisions and a current assessment as at 23 September 2026. The principal comparative sample consists of verified decisions from 2022-2025; the 2026 materials provide an official overview of the case law and institutional context. The report does not claim to cover all proceedings in each year or measure how frequently assurances are accepted. Nor does judicial acceptance of their adequacy prove subsequent compliance. The study claims neither success-rate statistics nor experience drawn from ARGAs' client work. [10, 11]

2. Research question and methodology

The report's central question is when a particular diplomatic assurance permits a finding that a risk has been removed, and when its content or implementation arrangements leave an obstacle to extradition in place. The subject is not diplomatic correspondence in general, but a promise concerning the treatment of a particular person after surrender. The analysis covers protection against torture and inadequate detention conditions, certain procedural safeguards, the death penalty, and distinctions concerning life imprisonment. Analysis of assurances does not replace the examination of asylum issues, political motivation or double criminality.

The sample was selected purposively. It includes materials allowing comparison of contrasting outcomes, changes to undertakings over time, and review of a national decision by an international body. The principal units of analysis are Liu, Kim, Assange and Chappell/Wright. The Supreme Court's and the UN Committee's examinations of Kim are two stages of the same factual case, rather than two independent confirmations of the general effectiveness of assurances. No aggregate statistics are calculated from such a small and heterogeneous sample.

Five components are distinguished for each case: the circumstances and anticipated risk; the requesting State's position; the undertaking as recorded in the available primary document; the reviewing body's reasoning; and the procedural outcome. A court's account of national practice is identified as part of that decision, rather than presented as independent country monitoring by ARGAs. A party's allegation does not become an established fact merely because a judicial text reproduces it. Similarly, the author's explanation of comparative differences is not attributed to the court concerned.

Primary judicial documents take precedence over press reports and law-firm commentary. Official guides are used for limited supporting propositions, with their status identified. Where a full text could not be obtained, the case is not included in a separate detailed analysis. This distinction is particularly important in high-profile proceedings, where a public description of a 'court victory' may mean only permission to appeal. The report does not reconstruct confidential notes or the content of unidentified documents.

In individual proceedings, the national rules in force and the facts at the time of the decision require separate verification.

3. Legal framework: a promise cannot be balanced against a risk

Article 3 ECHR prohibits torture and inhuman or degrading treatment or punishment. In the extradition context, the question is whether substantial grounds exist for believing that the person would face a real risk of such treatment in the receiving State. The prohibition does not permit extradition on the basis that the charge is sufficiently serious and the risk politically acceptable. The first task is to establish whether the risk remains after assessment of the specific conditions, including assurances; only the absence of that obstacle allows the examination of the remaining conditions for extradition to proceed. [1, 3]

Article 3 of the UN Convention against Torture expressly covers expulsion, return and extradition where substantial grounds exist for fearing torture. In General Comment No. 4, the Committee against Torture emphasises the absolute character of non-refoulement and describes the risk as foreseeable, personal, present and real. Paragraph 20 warns that diplomatic assurances must not be used to circumvent the prohibition. This is the Committee's interpretation, not an amendment to the treaty; it excludes reasoning under which an official letter alone authorises surrender despite an established danger. [2]

An assurance has evidential and practical significance: it may change anticipated detention conditions, access to a lawyer or the conduct permitted of the authorities. Its content must, however, be related to the competence of the authority responsible for the conduct promised. A ministry's statement about a desired judicial outcome differs from a prosecution undertaking not to seek a particular penalty; an undertaking by a prison authority differs from a statement about an independent court's decision. These documents cannot be treated as interchangeable simply because they originate from the same State.

The international regimes are not identical either. The ECtHR applies the Convention; the UN Human Rights Committee examines communications under the Covenant; a national court acts within its own legislation and applicable international obligations. In *Kim*, the Committee attached significant weight to the quality of the domestic assessment and examined whether it was clearly arbitrary, involved a manifest error or amounted to a denial of justice. It would be wrong to transfer that approach without qualification to the procedural powers of every national court. [6]

Other obstacles to extradition remain distinct. Even a convincing promise concerning detention conditions does not establish double criminality, resolve a dispute about the political purpose of a request or automatically dispose of the fair-trial question. Practical analysis must address each ground. Otherwise, a satisfactory answer to the most prominent humanitarian concern creates the misleading impression that the entire request has been examined and surrender is inevitable.

4. The Othman criteria and their application in recent case law

The criteria in *Othman (Abu Qatada) v. the United Kingdom* originate in a 2012 judgment and are used here as the preceding legal framework. Their continuing application is confirmed by their express reproduction in paragraphs 76-79 of the 2025 *Chappell/Wright* judgment. The focus is on the quality of assurances and whether they can be relied upon in light of practice in the receiving State. Establishing that a promise exists is insufficient: the court must assess its practical operation. [3]

The factors include disclosure of the text to the court, specificity, the status and authority of the person giving the undertaking, the ability of central authorities to secure compliance by local authorities, the nature of the anticipated treatment, and existing protective mechanisms. Bilateral relations and previous compliance with similar undertakings, objective verification, access to lawyers, cooperation with monitors and the investigation of allegations of torture are relevant.

Previous ill-treatment of the applicant and the quality of domestic judicial examination are also considered. [3, para. 77]

These factors should not be converted into a formal questionnaire yielding an automatic result. Naming the detention facility may be essential where monitors' access depends on its location, but does not replace information about actual conditions. Strong diplomatic relations may make an undertaking more persuasive, but do not establish that all agencies have received the necessary instructions. A detailed note may leave a critical gap if it omits an entire stage of detention.

The opposite risk also matters: an excessively suspicious reading of each word without regard to the document as a whole. In *Chappell/Wright*, the appellate court criticised an analysis premised on the assumption that every linguistic possibility would necessarily be exploited to evade the undertaking. The court considered it necessary to assess assurances as a whole and in the context of the authorities giving them. That conclusion concerns the established circumstances of the case; it neither prohibits close scrutiny of the text nor creates a presumption that any foreign State is reliable. [3, paras. 79-86]

The author's recommendation is to conduct two successive readings. First, examine the assurance as a document: its addressee, scope, duration, exceptions and the stages covered. Then examine it as an anticipated practice: who will perform the undertaking, how breaches will be detected and what action can follow a report. Only by combining these levels can genuine protection be distinguished from a detailed but practically ineffective text.

5. Liu v. Poland: why general declarations were insufficient

Liu v. Poland, application no. 37610/18, decided on 6 October 2022, concerned the proposed extradition to China of a person suspected of participating in a large telecommunications fraud scheme. The judgment became final on 30 January 2023; the version rectified on 6 June 2023 is used here. The report is concerned neither with determining guilt nor with the nature of the loss, but with how the national authorities examined the risk of treatment after surrender. [4]

In the domestic proceedings, information was obtained that the applicant would be held at Boluo Detention Centre and that his rights would be respected. A visit by journalists to a facility in Beijing in 2012 and a visit by a Taiwanese representative to another place of detention were also mentioned. Such information could substantiate individual past events, but did not establish independent access to this applicant at the proposed facility. The gap between a general illustration of openness and individual protection became material to the analysis. [4, paras. 9, 81]

The ECtHR found the argument concerning public access to detention facilities unconvincing. The facility mentioned in Beijing was more than two thousand kilometres from Boluo; the material presented contained no information about actual conditions at the latter. The Court noted that only informal declarations that rights would be respected had been obtained, rather than diplomatic assurances whose practical sufficiency could be assessed. This is not a finding that the State never uses monitoring: the conclusion concerns the evidence in the case under examination. [4, paras. 81-82]

In paragraphs 83-84, the Court gave substantial weight to consistent reports of torture and other serious violations in detention facilities. In the circumstances established, it equated the scale of the credibly reported treatment with a general situation of violence, so that the applicant did not need to demonstrate additional personal reasons for fearing harm: the established prospect of detention was sufficient. The outcome was expressed conditionally: extradition would violate Article 3. It must not be recast as a statement that the applicant had already been extradited and tortured. [4]

The case offers a specific lesson: evidence that someone once visited another facility is not equivalent to a mechanism providing access to the person concerned. Equally, Liu cannot be turned into a permanent universal prohibition on all extraditions to China without examining subsequent facts, undertakings and the applicable regime. The judgment's force lies in its specific assessment of risk and the insufficiency of the declarations presented, not in dispensing with analysis of every new request.

6. Kim: specifying the place of detention and frequency of visits

In *Minister of Justice v. Kyung Yup Kim* [2022] NZSC 44, decided on 13 April 2022, the Supreme Court of New Zealand examined additional assurances obtained after an earlier stage of judicial review. Its operative orders allowed the State's appeal, set aside the Court of Appeal's decision and reinstated the Minister's surrender decision of 19 September 2016. That outcome establishes the domestic legal validity of the decision within the scope examined, but does not itself establish when extradition actually occurred or whether the undertakings were subsequently fulfilled. [5]

The Court proceeded on the basis that a risk of torture existed without assurances. The assessment did not rest on denying problems in the receiving system. The issues were the individual's relative risk, the quality of the undertakings and the likelihood of compliance. The earlier analysis had identified two outstanding matters: confirmation that the applicant would be tried and detained in Shanghai, including serving any sentence there if convicted, and express agreement to visits by diplomatic or consular representatives every 48 hours during the investigation, together with additional visits on request. [5, paras. 19-25]

The place of detention was linked to practical monitoring capacity: staff at New Zealand's consulate in Shanghai were to conduct the monitoring. An internal instruction from the sending State to visit the person regularly did not secure access from the receiving State. External confirmation of that entitlement was therefore required. The note obtained provided for detention and trial in Shanghai and access every 48 hours during the investigation phase, with the possibility of additional visits. The distinction between a monitor's plan and an undertaking to provide access has independent significance here. [5]

The Court also considered objections to the reliability of the assurances, including arguments about breaches of international obligations and changes in the political environment. It took account of the Minister of Foreign Affairs' reasoned assessment of bilateral relations, the interest in international criminal cooperation and the consequences of non-compliance. These considerations are presented

as elements of the judicial assessment in the case, not as an ARGA-certified guarantee of the State's future conduct. [5, paras. 34-40]

The author's conclusion is limited: greater specificity may remedy a deficiency if it changes the practical conditions of protection themselves. '48 hours' is not a universal international standard for everyone facing extradition. It addressed an identified risk at a particular stage of these proceedings. Applying that frequency to another person without examining medical circumstances, monitors' access and the nature of the danger would be as mistaken as considering any regular visit sufficient regardless of the interval.

7. Kim before the UN Committee: the significance of subsequent review

The UN Human Rights Committee's Views on communication no. 4170/2022, *Kim v. New Zealand*, were adopted on 26 October 2023 and published as CCPR/C/139/D/4170/2022. The Committee is a treaty body, not a judicial appellate instance above the Supreme Court of New Zealand. It assessed compliance with the Covenant, including the alleged risk of torture and the lawfulness of particular periods of detention. These distinct subjects must remain separate when describing the outcome. [6]

In paragraphs 8.3-8.4, the Committee emphasised the need for a personal, real risk and the relevance of all the circumstances. It did not recognise a categorical prohibition on reliance upon diplomatic assurances. At the same time, it identified the content of undertakings, monitoring mechanisms and practical implementation conditions as relevant to the assessment. The absence of monitoring does not, in itself, automatically establish a violation of Article 7: the conclusion must take account of the entire situation. That qualification must not be converted into a claim that oversight is generally unnecessary. [6]

The package examined contained substantially more than a promise not to torture. In addition to detention in Shanghai and visits every 48 hours during the investigation, it described notification of location and transfers, communication with representatives, private meetings, specialist involvement, medical care, access to premises and information, protection of good-faith informants against reprisals, provision of interrogation recordings, and a consultation mechanism in the event of a dispute. The report does not reproduce every technical detail as a universal requirement; what matters is that different elements addressed different pathways of risk. [6, paras. 8.7-8.8]

The Committee considered that the domestic authorities had examined the author's arguments with due care, sought additional information and assessed contrary material. On the information presented, no violation of Article 7 was established. However, detention from 12 September to 1 December 2014 inclusive was found to have been arbitrary because it lacked a legal basis, constituting a violation of Article 9(1). Presenting the entire case as an unqualified victory for either the State or the author would lose a significant part of the outcome. [6, paras. 8.12-8.14, 8.19-9]

This stage reinforces the importance of procedural diligence but provides no empirical proof of the person's subsequent well-being. The Committee assessed material concerning the proposed surrender and the domestic examination. Claims about implementation in the receiving State would require separate documentation. Within the research sample, this examination helps test the

robustness of the domestic reasoning; it does not increase the statistical number of cases in which assurances were successfully fulfilled.

8. Liu and Kim: comparison without a false contradiction

Both cases concern proposed surrender to China, but that does not make them a controlled experiment under identical conditions. The applicants, procedural histories, reviewing bodies, available documents and content of the undertakings differ. In Liu, the Court considered informal declarations and the lack of specific information about the place of detention. In Kim, a multi-element package was examined, supplemented by targeted undertakings and arrangements for diplomatic access. Comparison must begin with these differences, rather than the name of the receiving country. [4, 5, 6]

The first dimension of comparison is the treatment of the underlying risk. Acceptance of assurances does not necessarily mean denial of serious problems. In Kim, protective measures were considered necessary precisely because a risk existed without them. In Liu, the general information presented did not displace the finding of a real danger. The correct question is therefore not 'did the court declare the country safe?', but 'why did the court find, or decline to find, that removal of the risk to this person had been demonstrated?'

The second dimension is verifiability. In Liu, reference to past visits to other facilities did not secure future access to the applicant. In Kim, the place of detention, frequency of contact and representatives' powers were interconnected. This does not mean that copying the relevant wording into a new request is sufficient: monitors must be able to perform their role in practice, and the person's circumstances may require different measures. The quality of a mechanism cannot be inferred merely from the number of provisions in a note.

The third dimension is the institutional standard of review. In Kim, the UN Committee focused on the quality of the domestic process and the absence of manifest arbitrariness, whereas in Liu the ECtHR directly assessed the risk under the Convention and the material before it. This does not mean that one body permits torture while another prohibits it: the absolute prohibition remains. What differs is the route of legal and evidential assessment, which must be specified accurately before the decisions are declared incompatible.

The author's overall conclusion is more limited than categorical statements about countries: a detailed individual arrangement and a thorough examination have legal significance, but their sufficiency is determined in the particular case. Neither a positive nor a negative outcome relieves the next court of an up-to-date assessment. For research purposes, comparing the content of undertakings and the reasons for reliance is more useful than compiling lists of 'reliable' and 'unreliable' States without comparable evidence.

9. Assange 2024: the limits of earlier undertakings

Assange v. Government of the United States of America [2024] EWHC 700 (Admin), decided on 26 March 2024, concerned a renewed application for permission to appeal. It is this procedural stage that is used in the present report. The court did not hold that all objections to extradition were well founded, nor did it find all US assurances inadequate. It distinguished the grounds and identified matters on which additional assurances could change the decision on permission to appeal. [7]

The death-penalty issue illustrates the danger of drawing conclusions from the 'spirit' of an undertaking. The existing assurance concerned the possibility of transfer to Australia to serve a sentence under specified conditions. The court agreed that the death penalty would run counter to the general tenor of that undertaking, but noted the absence of an express prohibition on its imposition. Under the statutory scheme discussed, the relevant issue was not only execution of a death sentence, but also the possibility of imposing it. An indirect expectation therefore did not replace the protection required. [7, paras. 230-235]

Paragraph 237 listed possible assurances concerning the First Amendment, the absence of prejudice at trial and sentence by reason of nationality, equal protection with US citizens, and non-imposition of the death penalty. These elements cannot be collapsed into a promise of a 'fair trial' without loss of meaning. The opportunity to advance an argument, freedom from discrimination in its consideration, and a guarantee of a particular outcome are different subjects of an undertaking. The report does not reconstruct the content of a later note from statements by the parties. [7]

In paragraphs 239-241, the court adjourned consideration of certain grounds, set deadlines for possible assurances and written submissions, and refused permission to appeal on other grounds. What matters here is the opportunity provided to discuss new material, rather than only the State's right to submit it. If a clarification can alter the outcome, the defence must understand its content and have a procedural opportunity to identify any remaining gap. The judgment does not establish a universal period for such scrutiny in other countries.

The subsequent conclusion of the US criminal proceedings should not be presented as a final British judicial determination that all assurances were inadequate. The US Department of Justice's official statement of 25 June 2024 describes a guilty plea and a sentence of time served at a hearing held on 26 June, local time in Saipan. The report uses that source solely to distinguish the subsequent agreed resolution from the March decision concerning an appeal. The full substantive May order is not included in the verified source base. [8]

10. Chappell and Wright 2025: why the version of an assurance matters

In *Government of Japan v. Chappell and Wright* [2025] EWHC 166 (Admin), decided on 29 January 2025, the appellate court examined refusals to extradite two persons requested by Japan. The sequence of undertakings is important to the analysis: initial assurances in 2023, more detailed assurances in March 2024, and additional provisions in October 2024. The latter post-dated the decisions of the court below. The appellate outcome therefore cannot be described as simple approval of an unchanged document previously found inadequate. [3]

The examination covered restrictions during questioning, the use of restraints, medical care, detention conditions, isolation, access to lawyers and monitoring. The court emphasised that the undertakings had to be read together. For example, restrictions on restraints did not merely restate Japanese law: an additional undertaking limited their use to specified necessary purposes and excluded their use as a means of interrogation or punishment. The appellate court considered this to provide individual protective content. [3, paras. 82-84]

In assessing the duration of questioning, account was taken of the overnight break, rest, breaks during the day, video recording and the opportunity to consult the defence. The court rejected a reading based on the most adverse possible use of every remaining formulation. It did not, however, declare the mere existence of national rules sufficient. The issue was whether targeted undertakings altered the practices that the judge below had found problematic. This connection between identified conduct and a specific restriction is central. [3, paras. 85-88]

The additional assurances of 25 October 2024 expressly extended video recording to the initial opportunity to provide an explanation and to any other questioning in the first 72 hours after arrest. They provided for information about the right to remain silent, the absence of adverse inferences at trial from exercising that right, and the possibility of remaining silent until the first private consultation with a lawyer. The significance of the addition lay in closing an early temporal gap, rather than increasing the overall length of the diplomatic document. [3, text of the additional assurances]

In paragraph 129, the court allowed the appeal, including on the basis that the assurances were practically sufficient to protect against a real risk of treatment contrary to Article 3 and a flagrant denial of justice under Article 6. Articles 4 and 5 were considered separately. The Supreme Court's official case entry confirms that permission to appeal on the question of prison labour under Article 4 was refused on 5 June 2025. That was not a separate full examination by the Supreme Court of every element of the assurances. The report does not establish actual surrender or subsequent compliance from these documents. [3, 9]

11. Monitoring: access, substance and the capacity to respond

Monitoring is meaningful if it can obtain information about the risk for which the undertaking was given. Visiting premises, meeting the administration and speaking confidentially to a detainee are different activities. A demonstration visit to a facility may reveal nothing about night-time questioning or psychological pressure. A general provision that 'access will be ensured' should therefore be examined in terms of concrete rights and operational capacity. This conclusion is based on a comparison of Liu, Kim and Chappell/Wright, not an empirical assessment of all existing programmes. [3, 4, 5, 6]

In Kim, oversight was linked to the consulate's location, the regularity of visits, privacy of communication and access to additional information. In Chappell/Wright, the court assessed the involvement of British officials who could visit the individuals and discuss conditions with the competent authorities, as well as defence access. Information about visiting committees was treated as additional reassurance; the court expressly noted that its decision did not depend on their existence. This prevents the simplistic conclusion that the presence of any oversight body was itself decisive. [6, paras. 8.7-8.8; 3, paras. 96-97]

The author's model of scrutiny comprises five questions. Can the monitor learn the place of detention in time? Can the monitor reach the person during the relevant period? Can information be obtained without control by the potential perpetrator? Can the account be checked against documents and medical information? To whom is a concern reported, and what action is possible? This sequence is not a mandatory international protocol, but helps identify the gap between a formal visiting entitlement and a practical ability to detect danger.

Covert forms of harm and the risk of reprisals for reporting must be considered. The absence of visible injuries does not establish the absence of pressure. A promise of a private conversation loses part of its value if the person reasonably fears consequences after the monitor leaves. Individual scrutiny should establish whether the assurance covers protection for reporting, medical examination and independent documentation. It should not, however, be asserted that each of these provisions is mandatory in every case regardless of the circumstances.

Finally, a consultation mechanism is not equivalent to a power to release the person immediately or return them to the surrendering State. Such an outcome must not be promised unless it is expressly provided for and supported by the applicable law. The practical value of a response must be assessed in light of the nature and urgency of the risk. Where harm is irreversible, a subsequent diplomatic explanation is not an adequate substitute for preventive protection; response capacity must therefore be analysed before surrender.

12. Different risks require different undertakings

An assurance against the death penalty has a different subject from a promise of adequate detention conditions. In the former case, possible charges, prosecutorial powers, imposition and execution of the sentence, and limits on amending charges are material. In the latter, the relevant matters are actual treatment, those responsible, and the places and stages of detention. A satisfactory answer to one question does not resolve the other. Assange shows why a promise of transfer to serve a sentence does not invariably replace an express undertaking concerning the death penalty. [7]

An automatic formula is equally inappropriate for life imprisonment. The ECtHR's official guide, updated on 28 February 2026, describes the two-stage Sanchez-Sanchez approach: first, a real risk of life imprisonment without parole is established; then, if that risk is shown, the mechanism for review in light of personal change and rehabilitation is examined. The official overview is used here; a complete independent verification of the entire judgment is not claimed. The possibility of the maximum sentence does not, without further analysis, establish that it will inevitably be imposed. [10, para. 85]

Procedural assurances require separate attention to competence. A promise to permit access to a lawyer before questioning may be directed to investigative authorities; a court determines the admissibility of evidence under its own law. If the executive claims that it will secure a particular judicial outcome, the legal mechanism must be identified rather than the statement accepted as self-sufficient. Equally, a State cannot be required to abolish judicial independence to demonstrate the reliability of an assurance: the task is to establish the actual protective procedure.

The medical component must address the need established. A general promise of treatment may be sufficiently specific in one context but fail to resolve an individual issue in another. The documented condition, required care, continuity of treatment, specialist access and availability of emergency intervention are relevant. This report neither assesses the medical risk to a particular person nor establishes treatment standards; it identifies questions that cannot be concealed behind the general formulation 'medical care is provided'.

A restriction authorised by law must also be distinguished from an unlawful practice. An undertaking to comply with the law may change little if the law itself permits dangerous treatment. If the problem is a breach of an existing prohibition, scrutiny shifts towards oversight of actual compliance. Judicial criteria recognise this distinction. For the drafter of a submission, it means identifying the source of the risk precisely: a rule, an established practice, an individual threat, or a combination of factors. [3, paras. 77, 81]

13. Late clarifications and procedural safeguards for the defence

Additional assurances may arrive after the first decision, on appeal or following a request from the court. Their late timing alone does not establish that they are inadmissible. In *Assange*, the March judgment allows consideration of proposed assurances and gives the parties time for submissions; in *Chappell/Wright*, undertakings obtained during the appeal were significant. This practice does not, however, establish a right for a State to replace documents indefinitely without a genuine opportunity for challenge. [3, 7]

Substantive scrutiny begins by identifying the version. The original text, a clarification, a supplement and a document entirely replacing the earlier one must be distinguished. If a new undertaking addresses only one question, other provisions of the earlier note may remain in place; if the text is contradictory, an explanation is needed. A deficiency in an earlier version cannot be cited as persisting after it has been expressly remedied. Nor can a problem be considered resolved merely because a document bears a new date.

The defence needs access to the content on which the court intends to rely. Otherwise, conditions, exceptions and the authorities responsible cannot be examined. Disclosure and the treatment of confidential material may vary between jurisdictions; the report does not assert an unconditional right to publish all diplomatic correspondence. Access by the court, access by the parties and public availability are distinct. A restriction on publication should not be misdescribed as the absence of the document before the authority that assessed it.

Where the new text removes some risks, objections should be updated. Retaining an argument already disproved weakens confidence in the remaining reasoning. A short comparison can be useful: the earlier gap, the new provision and the factual condition still outstanding. For example, express permission for monitors to enter addresses a lack of authority but may leave questions about specialist availability or urgent contact. This is an analytical recommendation, not a universal form of procedural document.

The stated outcome must correspond to the procedural stage. Permission to appeal means that an issue warrants further consideration; reversal of a refusal to extradite does not always mean immediate surrender; reinstatement of a ministerial decision does not confirm its implementation. Precision in these distinctions is essential both in a public report and in communication with a client. Otherwise, success at an intermediate stage becomes a promise of a final outcome that the judicial decision does not contain.

14. Post-surrender compliance and the limits of the available data

The pre-surrender assessment is predictive, whereas subsequent compliance is a separate subject of research. A judicial decision may convincingly explain why an assurance deserves reliance without stating whether extradition took place, visits occurred or complaints arose. The absence of a public report of a breach does not prove compliance either: some monitoring may be non-public, and opportunities to report a problem may be restricted. The converse claim, that non-publicity proves a breach, is equally unfounded.

Research into implementation would require documents concerning the date of surrender, place of detention, actual contacts, medical monitoring and responses to reports. A monitor's report, an administration's position, a representative's statement and a judicial finding must be distinguished. No such comparable dataset has been assembled for this report. Consequently, formulations such as 'the assurances worked' or 'the assurances were breached' are not used as an aggregate empirical finding for the sample examined.

The content of an assurance may help identify the evidence that ought to exist. If regular visits are promised, it is logical to seek confirmation that they occurred; if video recording is promised, its existence and availability to the specified extent should be checked; if notification of transfers is promised, the relevant communication should be examined. A researcher's lack of a particular document does not invariably mean that it was never created. The limits of access must be identified and, where possible, clarification sought from the competent recipient while respecting confidentiality.

The response to an alleged breach depends on the wording of the undertaking, national law and available international mechanisms. Approaches to monitors, diplomatic authorities, a lawyer, competent courts or treaty bodies may be possible, subject to their respective conditions. No automatic extraterritorial jurisdiction of the surrendering State, unconditional right to return or universal response deadline is asserted here. Such questions require independent analysis and cannot be inferred from the moral importance of a promise.

Documented monitoring of implementation, using an agreed methodology and protecting personal data, could be a prospective research direction for ARGAs. This is a proposal, not a description of an existing programme. Publication of medical information, confidential access arrangements or information about third parties requires a separate basis. Useful monitoring does not require disclosure of the entire client file: the objective is to make conclusions verifiable while limiting public data to the minimum necessary.

15. Materials from 2026 and the limits of currency

Assurances remain on the official agenda of international criminal cooperation. The list of decisions of the 89th PC-OC meeting, held on 19-21 May 2026, records practical questions concerning cooperation with States outside the Council of Europe that retain the death penalty, and recourse to diplomatic assurances where possible. Document PC-OC(2026)04 is dated 21 May 2026. It confirms the issue's institutional relevance but introduces no new binding test and authorises no particular extradition. [11]

The ECtHR's official guide on immigration, updated on 28 February 2026, retains a section on assurances and reflects developments in the case law. Its purpose is to systematise judicial approaches. It does not replace a decision in an individual case or justify attributing identical practice to all States. The guide is used to a limited extent in this study; the principal comparative conclusions rest on judicial materials verified directly. [10]

The title '2022-2026' does not mean that every decision delivered up to the end of 2026 has been located and studied. The cut-off is 23 September; subsequent events are not covered. The national and international decisions included date from 2022, 2023, 2024 and 2025; the 2026 documents serve a different function. The report does not fill a temporal gap with an unverified case merely to achieve symmetry between years. This transparency matters more than the formal appearance of complete annual coverage.

There are also limits of subject matter. The European Arrest Warrant regime, particular treaty qualifications applicable to individual countries, and practice concerning transfers through immigration removal are not examined exhaustively. The general prohibition of ill-treatment may overlap across procedures, but the grounds, powers and remedies differ. A conclusion concerning a particular extradition assurance cannot be transferred to every removal procedure without examining the relevant regime.

Before the report is used in individual proceedings, the circumstances on which the prediction depends should be updated first: the continuing validity of the undertaking, the authorities' competence, the place of detention, access arrangements, medical condition and current information about practice. Even a precedent that remains legally relevant does not establish these facts as at a new date. The recommendation to update does not mean that all earlier assurances automatically cease to be valid; the issue requires specific confirmation.

16. Counterarguments and alternative explanations

The first counterargument to a critical assessment of assurances is the need for effective prosecution of serious crime. That is a legitimate consideration in international cooperation, but does not authorise surrender where a real risk of torture remains. The correct sequence is to examine whether the risk has been removed, rather than compare its gravity with the charge. At the same time, declining to distrust every promise automatically is not a concession to the prohibition: an adequate assurance may change the factual conditions underlying the prediction.

The second counterargument concerns the absence of a private-law action to enforce a note. This does not in itself establish that an undertaking is ineffective: courts assess practical and legal operation together, including diplomatic incentives and oversight. However, the inter-State form cannot establish the existence of a specific remedy that the law does not provide. Researchers must describe the grounds for reliance and actual response options separately, without substituting one for the other. [3, 5]

The third counterargument concerns excessive detail. A document need not describe every everyday situation in advance, and linguistic uncertainty does not always indicate a real risk. Chappell/Wright demonstrates the need for a reasonable reading of the package as a whole. Details nevertheless become material where they are the precise location of the identified danger: initial questioning, access before the first contact, or transfer to another facility. The significance of a gap must be explained, rather than merely counting uncertain words.

The fourth counterargument concerns the distinction between individual and general risk. Not every country report is sufficient evidence of personal danger; equally, systemic material cannot be ignored merely because it does not name the applicant. Liu and Kim demonstrate different ways of assessing this connection. The author does not derive from them a universal requirement for additional personal evidence in every situation, or relieve an applicant of the burden of substantiation where such evidence is required. [4, 5, 6]

The fifth counterargument is selective sampling. The review covers well-known and accessible cases, creating a risk of bias: detailed published judgments may not reflect ordinary practice. For that reason, the report does not assert growing confidence in assurances, a stricter general standard or the numerical predominance of one outcome. Its result is an analytical set of questions supported by specific examples. Conclusions about a trend would require search rules, a complete set of comparable cases and transparent coding of outcomes.

17. A practical model of scrutiny and recommendations

When working with a particular assurance, the proposed first step is to formulate the risk as a single verifiable proposition. For example: at a certain stage, the person may lack access to a lawyer; necessary care has not been confirmed; or the undertaking does not cover a possible additional charge. The formulation should rest on the case materials and the applicable standard. General statements about a State's dangerousness do not replace an explanation of how the risk arises in the proposed procedure.

The next step is to establish which undertaking addresses that risk. The working record should identify the assurance's text and date, the issuing authority, the addressee, the conduct covered, the stages and exceptions. Who will actually fulfil the promise must be examined separately. A ministerial signature does not automatically explain a local facility's conduct; a national rule does not confirm its application to a particular person. If an additional undertaking is needed, the request should explain the gap it would remedy rather than simply demand stronger language.

The third step is to examine oversight and response. It is useful to distinguish the monitor's access, the gathering of information, its independent assessment and action following a report. If the mechanism relies on a consulate, geographical accessibility and the necessary arrangements should be established; if it relies on a lawyer, the possibilities for contact and for using the information in proceedings should be examined. No participant should be described as holding powers unsupported by the document or the law. This applies especially to promises of release or return.

The fourth step is to test the strongest counterargument. If the State has submitted a new version, deficiencies actually remedied must be acknowledged. If monitoring is reliably organised, the reasons why the particular risk nevertheless remains should be explained. If the risk rests on general material, its connection with the person's situation must be shown. Persuasive defence rests on accuracy, rather than retaining the maximum number of adverse assumptions after they have been disproved.

For authorities deciding on surrender, the author's recommendation is to give reasons linking the danger established to each measure accepted, identify the version assessed and address material objections. For research organisations, it is to distinguish judicial adequacy from implementation and avoid presenting an incomplete sample as statistics. For ARGA, these propositions are proposed as a standard for producing analysis and reviewing materials; they are not represented as an existing monitoring programme or an established record of successfully preventing extradition.

18. Conclusion

The case law examined supports neither automatic confidence in diplomatic assurances nor an automatic conclusion that they are ineffective. What matters is a particular undertaking's ability to change the prediction of how the person will be treated. Where a State offers only a general declaration, fails to confirm access to the relevant facility or leaves a material stage of risk unaddressed, official form does not resolve the problem. Where a promise is specific and connected to practical implementation arrangements, a court may attach decisive weight to it.

Liu demonstrates the insufficiency of informal declarations in the face of an established risk; Kim demonstrates the significance of targeted additions and a practical monitoring arrangement; its examination by the UN Committee demonstrates the distinct nature of international review and of different claims under the Covenant. Assange shows why an undertaking needs a precise subject and why procedural stages must be distinguished. Chappell/Wright emphasises the role of an evolving text, reading assurances together and closing specific temporal gaps. These conclusions remain tied to the materials examined. [3, 4, 5, 6, 7]

The most robust approach combines legal characterisation of the risk, verification of competence, analysis of content and assessment of practical oversight. No element replaces the others. The absolute prohibition of torture remains; an assurance may influence the assessment of risk, but cannot create an exception to the prohibition. An unaddressed danger does not become acceptable because of the gravity of the charge or an interest in cooperation.

The report provides a framework for substantive analysis rather than a prediction of the outcome of every future case. Its principal limitations are purposive sampling, differences between jurisdictions and the absence of comparable verification of post-surrender compliance. Further research should expand the primary-source base and document implementation of undertakings. Until then, quantitative claims and assertions about ARGAs effectiveness would exceed the available evidence and have not been included in this text.

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