

Niko Thomitzek

niko.thomitzek@uni-bayreuth.de

Matriculation no.: 1911110

Internship Report

at the

Supreme Court of Rwanda

332V+M88 Kigali

from 25th of August to 05th of October 2025

Supervisor: Justice Isabelle Kalihangabo
Mail: isabelle.kalihangabo@judiciary.gov.rw

Mob.: +250 788 307 919

Mob.: +250 788 307 919

Bibliography

- Adam, Roman* Die Kausalität der fehlerhaften Rechtswahrnehmung durch Anwälte und Steuerberater für den eingetretenen Schaden, VersR 2001, S. 809-815
- Brand, Oliver* Schadensersatzrecht, 3. Aufl., München 2021
- Braun, Johann* Zur schadensrechtlichen Problematik des hypothetischen Inzidentprozesses bei Regressklagen gegen den Anwalt, ZZP 1983, S. 89-112
- Grüneberg, Christian Bürgerliches Gesetzbuch, 84. Aufl., München 2025
- Gsell, Beate/Krüger, Wolfgang/Lorenz, Stephan et al. BeckOK BGB, München 2025
- Lange, Hermann/Schiemann, Gottfried Schadensersatz, 3. Aufl., Tübingen 2003
- Posser, Herbert/Wolff, Heinrich BeckOK VwGO, 75. Edition, München 2025
- Amadeus/Decker, Andreas
- Säcker, Franz Jürgen/Rixecker, Münchener Kommentar zum Bürgerlichen Gesetzbuch §§ 241 – 310 BGB, 10. Aufl., München 2025
- Roland/Oetker, Hartmut et al.
- Soegel, Theodor/Ekkenga, Jens Bürgerliches Gesetzbuch §§ 243-304 BGB, 13. Aufl., Stuttgart 2014

I. About the internship

From 25 August 2025 to 5 October 2025, I had the honour of participating in an internship at the Supreme Court of Rwanda in Kigali. Established under Article 152 of the Constitution, the Supreme Court is the highest court in the country. Its role is to administer justice with equity and integrity on behalf of the people, thereby contributing to the strengthening of the rule of law, respect for fundamental liberties and human rights for transformational governance.

Its territorial Jurisdiction covers the entire territory of the Republic of Rwanda. It is placed under its Chief Justice's authority, currently, the Chief Justice is Hon. Domitilla MUKANTAGANZWA.

The courts of Rwanda are further divided into different instances in accordance with Article 153 of the Constitution. These include the Primary Courts, Intermediate Courts, the High Court and the Court of Appeal, as well as various specialized courts.

At the Supreme Court, I worked under the supervision of Lady Justice Isabelle KALIHANGABO, who graduated in International Business Law from Queen Mary University of London and was appointed on the 31st October 2023 as a judge of the Supreme Court of Rwanda.

The country of Rwanda has a history that goes far back into the past, but today can only be reconstructed as far back as around the 15th century. The country is particularly marked by its recent civil war and subsequent genocide against the tutsi in 1994, when tensions triggered by ethnic differences imposed by the Belgian colonial power becoming clearly apparent around the time of the First World War. After the war, the previously permeable class system of society consisting of Hutu, Tutsi and Twa became so entrenched that it was considered immutable. A series of subsequent events, culminating in the shooting down of former President Juvénal Habyarimana's plane, ultimately led to the genocide. Between 800,000 and 1 million people were killed in about 100 days. Most of them belonged to the Tutsi minority.

On the 4th of July 1994 Rwandan refugees who were denied the return to the country, led by Paul Kagame captured the capital Kigali and ended the genocide.

Under President Paul Kagame, who has been in office since 2000, the country has generated unprecedented new momentum and growth. In his last election on 15 July 2024, Kagame secured 99.18% of the vote.

Today, Rwanda is considered a politically stable and safe travel destination.¹

II. My time there

During my first week, I was given some insights into the training process for lawyers in Rwanda, who typically first complete a bachelor's degree, as well as some explanations about the structure of the justice sector, by Mr. Anastase NGABO from the Institute of Legal Practice and Development (ILPD).

After meeting with my supervisor, I was given my first assignment. My work on site was to focus mainly on legal research for the judge's cases. This involved discussing certain legal issues within the respective cases for which the legal system in Rwanda has not yet found a conclusive solution, with the help of other legal systems, in particular the German one.

The first case, which occupied me for most of my internship, revolved around the conclusion of a contract between the government and a company that wanted to boost the sale of flowers in the country through its own resale.

What sounds trivial at first glance has far-reaching implications for the country's economy. Since the flower business, which is extremely profitable, is not overly regulated by the authorities, fragmentation is to be avoided. The promotion of flower production and sales in Rwanda is strongly focused on cooperation with private companies. Since the early 2000s, the government has defined floriculture as a priority for export diversification through the National Agricultural Export Development Board (NAEB) and has actively involved private actors. Private companies play a central role in both production and distribution. At the domestic market level, cooperation with private traders and agents is also promoted institutionally. In 2016, NAEB set up a flower sales point in Kigali, which is operated by private actors. The aim was to create an organized marketing platform to bring producers and buyers together and replace street sales. The government is counting on the expansion of cultivation areas from the current 120 hectares to 500 hectares by 2029 and the planned increase in exports to over 6,500 tonnes of flowers (around USD 41.5 million in export revenues) only being possible through significant private capital investment and cooperation with international companies. This is complemented by business development, incubation,

¹ https://www.auswaertiges-amt.de/de/reiseundsicherheit/ruandasicherheit-212026#content_1, accessed: 10th november 2025.

and investor attraction programmes designed to attract international companies to Rwanda.

Returning to the case, the issue was that the government was supposed to provide the private company with an area for storing flowers. The government found such an area and recruited the company. After nine months, the government terminated the cooperation. Due to its financial losses, the company took the matter to court.

There, both parties amicably agreed that the government would pay the company 10 million RWF (about 6 million Euro) in compensation and that both parties would then enter into a new agreement. The second point was disputed.

Essentially, the issue was whether the company was entitled to claim damages from the government under a public law contract. Under German law, this claim is governed by § 55, § 62 VwVfG i.V.m. §§ 280 I, III, 281, §§249 I, 251, 252 BGB. In particular, the question arose whether the present court settlement constituted a substantive legal contract and whether such a contract had actually been concluded between the parties. Under German law, the validity of a court settlement § 106 VwGO is governed by the principles of procedural law as well as by the principles of public law contracts, to which the rules of substantive law apply.² The conclusion of this contract is subject to the written form requirement § 57 VwVfG, which serves to ensure clarity. Rwandan law also has a written form requirement according to Article 42 LAW N° 45/2011 OF 25/11/2011 GOVERNING CONTRACTS. According to subsection 2, contracts impacting the right on immovable property shall be evidenced in writing. However, this did not pose any further problems in the present case.

A breach of duty occurred in the failure to comply with the principle of *pacta sunt servanda*.

After determining the other requirements for the claim, the biggest challenge was calculating the amount of damages. However, my research should only refer to German methods of determining the amount of damages, in order to give the judge the opportunity to have the parties produce the necessary evidence in court.

I first addressed the calculation of damages in cases where restitution in kind is impossible under § 251 BGB, and then moved on to the calculation of lost profits under § 252 BGB.

The former is carried out in Germany according to the *difference hypothesis*, which involves a comparison between the actual situation of the injured party and their

² Brünig in: BeckOK VwGO, § 106 Rn. 3; stRsp BVerwG NJW 1962, 1636; 1994, 2306.

hypothetical situation at that point in time.³ The scope of compensation is generally limited to the loss suffered by the injured party. The injured party should not be placed in a better position by the compensation than he would be in as a result of the damaging event.⁴

According to § 252 BGB, the damage to be compensated according to § 249 I BGB also includes the loss of profit. The net profit is eligible for compensation. (Complicated to calculate in the case of self-employed activities due to difficulties of proof).

To this end, the court may refer to the business results of previous years, taking into account current business developments. However, at least the last three years, or better still five years, should be considered. Business developments can typically only be assessed with the help of an expert opinion.⁵ In individual cases, however, shorter periods may also be considered if they provide sufficient certainty about the amounts not achieved. In any case, the injured party must at least present the basis for calculating the loss of profit.⁶ However, as a last resort, the court can refer to the provision in § 287 ZPO, according to which the amount of damages can be estimated by the court if necessary.

Another case I was subsequently entrusted with concerned tax law. In that case the Rwandan Revenue Authority (RRA) used an electronic billing machine to calculate taxes, specifically the Value Added Tax (VAT). According to their assessment, the company owed around 89 million RWF in taxes for the years 2016–2017.

The company appealed the decision before the RRA, but the appeal was rejected. It then took the matter to court.

³ BGHZ 51, 30 (34) = NJW 1969, 509; BGHZ 72, 328 (330) = NJW 1979, 819; BGHZ 79, 223 (225 f.) = NJW 1981, 920; BGH NJW 1996, 842 (843); 1996, 2501; 2000, 730 (732); 2000, 1263 (1266); 2000, 1572 (1573); BGHZ 145, 256 (261 f.) = NJW 2001, 146; BGH NJW 2001, 673 (674); 2003, 2022 (2025); BGHZ 163, 223 (227) = NJW 2005, 3071; BGH NJW-RR 2005, 1146 (1147); 2006, 1682 Rn. 14; NJW 2013, 540 Rn. 13, 26; NJW-RR 2014, 1015 Rn. 24 ff., 32; OLG Hamm NJW-RR 2004, 213 (214); Lange/Schiemann Schadensersatz § 3 X 7 (S. 151 f.); Grüneberg/Grüneberg Vor § 249 Rn. 80; aA Adam VersR 2001, 809 ff.; J. Braun ZZP 96 (1983), 89 ff.; J. Braun JZ 1997, 259 (260); Grunsky JZ 1997, 764 (765); einschr. auch Baur FS Larenz, 1973, 1063 ff.

⁴ BGHZ 154, BGHZ Band 154 Seite 395 (BGHZ Band 154 398) = NJW 2003, NJW Jahr 2003 Seite 2085; BGHZ 168, BGHZ Band 168 Seite 43 (BGHZ Band 168 45) = NJW 2006, NJW Jahr 2006 Seite 2179; BGH VersR 2007, VERSR Jahr 2007 Seite 1244 (VERSR Jahr 2007 1245); NJW 2008, NJW Jahr 2008 Seite 437 (NJW Jahr 2008 438); MüKoBGB/Oetker § 249 Rn. 20; Soergel/Ekkenga/Kuntz Vor § 249 Rn. 26; Brand SchadensersatzR § 2 Rn. 37; Lange in Lange/Schiemann Schadensersatz Einl. III 2, 10.

⁵ Brand in: BeckOK BGB, § 252 Rn. 21.

⁶ OLG Frankfurt a.M. GRUR-RS 2021, 38120.

An independent audit ordered by the court found that the company did not owe any taxes; instead, it was entitled to a credit of 2 million RWF.

The first commercial court ruled that the credit should be reimbursed to the company, and the second commercial court confirmed this decision. The case is now pending before the Supreme Court.

The RRA argues that the lower courts did not comply with the law, claiming that VAT must be properly registered and declared in order to be recognized.

My task specifically concerned how the deadlines for Value Added Tax (VAT) returns are structured in Rwanda and Germany in comparison. While VAT returns in Rwanda are filed in accordance with the Law No. 37/2012 of 9/11/2012⁷ after the end of the tax period Article 25, with different deadlines applying depending on the amount of tax, this process is different in Germany. A VAT return is filed in advance here according to § 18 II UstG. The entrepreneur must submit an advance return in accordance with the officially prescribed data record via the official interface by the tenth day after the end of each advance return period.

Due to the widely differing outcomes, difficulties arose in comparing the legal systems, particularly in areas as diverse as tax law. The comparison of the two systems did not produce satisfactory results, which meant that I was only able to contribute to interpreting the case under Rwandan law.

III. Further events

Around my **third week** there, this year's Cycling World Championships took place for the first time in Rwanda. An event at which the local authorities were able to demonstrate the country's security and efficiency.

Due to the racetracks and for security reasons, the court also operated completely remotely during this period.

Another fascinating event I had the privilege of attending was the opening of the judicial year in the state parliament on September 1st. This annual ceremony serves as an opportunity for the Judiciary to present its performance report, highlighting the achievements of the past year, the challenges faced, and the strategies adopted to strengthen the delivery of justice. In his remarks, Minister of Justice and Attorney General, Dr. Emmanuel UGIRASHEBUJA noted that during the 2024–2025 period, the

⁷ https://www.rra.gov.rw/fileadmin/user_upload/value_added_tax.pdf.

global report on justice and rule of law ranked Rwanda 1st out of 34 African countries, and 40th globally among 142 countries.

Thanks to the ILPD, I was also able to gain direct insight into legal education. During a visit to the evening classes for lawyers taught by Mr. John Bosco SIBOYINTORE, I learned about the structure of the legal system and its levels of jurisdiction. The course then went on to deal with appeals. As a result of my visit, I received an invitation to the National Public Prosecution Authority (NPPA) from Mr SIBOYINTORE, who also works as a national prosecutor and as the head of Rwanda's Genocide Fugitives Tracking Unit. Once there, he told me about his work, which mainly involves tracking down and prosecuting perpetrators of genocide who have fled from prosecution worldwide. To this end, Mr John Bosco often travels to the Netherlands and other European countries, where the perpetrators have gone into hiding.

He told me about the different procedures and difficulties involved in cooperating with other countries. Some German courts have also already participated in the prosecution and conviction of fugitive perpetrators of genocide.⁸ A mayor of the Rwandan community of Kiziguro, who had fled to Germany, was convicted for his involvement in the Kiziguro church massacre in a case that was initially heard before the OLG Hamm and later before the BGH. The Federal Court of Justice (BGH) confirmed the Higher Regional Court's (OLG) initial rejection of the defendant's intent to commit genocide.

IV. Personal Impressions

First, I would recommend this internship to anyone who is interested in the African continent and would like to fathom about a different legal system. Rwanda is the perfect place for this. On the one hand, I believe this is because the local people are very open towards Europeans and actively want to develop partnerships. On the other hand, even though it is a common law system, the Rwandan legal system also incorporates essential features of German law. This makes it easier for someone from a civil law background to understand the fusion of these two legal practices.

Unfortunately, there were a few difficulties with the organization of the internship, which meant that I was unable to get to know other parts of the justice sector. This was

⁸ OLG Hamm BeckRS 2017, 104722; BGH BeckRS 2016, 126410; OLG Frankfurt BeckRS 2015, 4846.

probably due in part to the fact that most institutions only operate in the national language, Kinyarwanda.

I would recommend that future interns look for accommodation independently and well in advance. There are many options that meet Western standards, particularly in the area around the parliament in Kigali, which is a quiet but vibrant neighbourhood from which it is very easy to reach both the Supreme Court and the city centre.

V. Conclusion

In conclusion, I can only say that anyone who has the opportunity to do an internship like this should take it. Not only did I learn an incredible amount about one of the many African cultures and their social structures during this time, but I was also able to test my legal skills in areas of law that were completely new to me. In addition, I was able to contribute to the development of the regional legal system, as the judge can consult my legal opinions when making her judgements, thereby indirectly applying German law. Even if there were sometimes problems with understanding, no one should be deterred by this, as Rwanda and its population, currently still positively disposed towards the West, offer a safe environment in which to expose oneself to such new experiences. In my view, therefore, an exchange is beneficial for both sides and can currently still change the relationship between the two countries and their populations for the better.

Signature of employer: _____

Declaration of Autonomy

This submission is my own work and written by myself. I have highlighted any use of external sources and have metioned the sources explicitly.

Signature: _____



Republic of Rwanda
The Judiciary

Internship Certificate of the Supreme Court of Rwanda

This is to certify that Mr. Niko Thomitzek, student of law from the University of Bayreuth has successfully completed the internship program from the 25th of August to the 5th of October 2025 at the Supreme Court of Rwanda in Kigali, under my Supervision.

Justice Isabelle KALIHANGABO
Judge of the Supreme Court of RWANDA