

LSH  
Heard at: Field House  
On 19 November 2004

ML (GIA- Risk- Internal flight  
alternative) Algeria [2004]  
UKIAT 00332

## **IMMIGRATION APPEAL TRIBUNAL**

notified:

Date Determination

22 December 2004

**Before**  
:

**His Honour Judge N Ainley (Vice President)**  
**Mr A E Armitage**  
**Mr D W Mayall**

**Between**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

### **DETERMINATIONS AND REASONS**

1. This is an appeal by the claimant from the determination of Mr Boyd, sitting as an Adjudicator on 29 July 2003.
2. The claimant is an Algerian who was born on 4 May 1969. He entered the United Kingdom illegally on 10 June 2000 applying for asylum 2 days later. He was accompanied by his wife who is a dependant on his claim.
3. The claimant and his wife come from Oran in the west of Algeria. He began working in a metal school training centre for trainee metal workers after leaving college. He was responsible for the maintenance of the stores. This centre was run by a government agency. There was no requirement to observe Muslim codes of dress, men and women worked together, and traditional Muslim customs were not observed

either. This caused problems with the GIA. At the training school the GIA repeatedly demanded of the claimant that he provide them with materials that could be used for bomb making, but because he did not want to help he did not. The GIA began to steal materials and petrol bombed the women's centre at the training school. This was burnt down and the claimant was accused of committing thefts from it. He was taken to Court but was acquitted in December 1995.

4. The centre was rebuilt and security was increased but the thefts continued and the GIA carried on intimidating employees and students alike. He was threatened by telephone and his boss was killed. He transferred to another department in Oran but was still contacted by the GIA.
5. In the meantime, on 16 June 1997 he married. His wife does not adhere to any strict Islamic dress codes and she too was threatened, indeed her brother was killed shortly after the wedding.
6. Finally, in March 2000 the GIA attacked his place of work and there was a 2 day gun battle. The claimant says that he could bear the pressure no longer and decided to leave Algeria.
7. In the initial bundle that was before the Adjudicator were copies of the claimant's passport and those of his wife. The claimant's representative before us said that he had not seen these documents, but we consider that they were of some assistance in establishing when things happened. We can certainly see no unfairness in referring to documents that plainly were available to all the parties before the Adjudicator as well as before us. In any event the study of his passport has not in any way affected the conclusion to which we have come in this case.
8. The claimant's passport shows that he applied for and obtained a Schengen visa, which of course gave him admittance to France, on the 19 December 1999, somewhat before the bombing of his place of work. However that may be, he did not leave until after that event occurred, arriving in Paris airport on 14 April 2000. He then remained in France without ever regularising his position after his initial visa ran out, but did not apply for asylum there because he was of the view that the French authorities were not to be trusted in their dealings with the GIA, at least to the extent that he would not be safe from the GIA if he were to apply for asylum in France.
9. His wife stayed behind in Algeria, not obtaining a passport until 23 January 2000. She obtained a Schengen visa on 24 August 2000 and spent a month in France between 24 September and 22 October. She then returned to Algeria

obtaining another visa on 17 March 2001. She then entered France on 29 March 2001 and presumably met her husband shortly afterwards.

10. The claimant and his wife assert that if they were to return to Algeria they would still be at real risk of persecution from the GIA.
11. It seems to us that the starting point in assessing risk must be to see what the situation in Algeria was at the time of the hearing before the Adjudicator in relation to the activities of the GIA.
12. That is set out at paragraph 6.33 and 6.34 of the CIPU report that was in front of the Adjudicator and which reads as follows:

“6.33        The violence [from the GIA] takes place primarily in the countryside and smaller towns as the security forces have largely forced the insurgents out of the cities, except in the strongholds of the armed groups. Cities such as Algiers, Oran and Constantine are surrounded by police forces. Terrorist violence has decreased enormously and attacks occur more and more rarely in comparison with the difficult years of the 1990s.

6.34        According to one former policeman who contributed to a recent country report the backbone of organised terrorism has been broken. The groups are now fewer and worse equipped than before. They do not have the same effectiveness they once had. It should normally be possible to avoid threats by armed groups by the person concerned going to any of the largest cities which are considered as safe.”
13. Despite what the earlier authorities referred to by the Adjudicator had concluded in light of the situation as it appeared then, the position in Algeria at the time the hearing came on before the adjudicator was radically transformed, in so far as the dangers that the GIA and other armed groups were capable of presenting. It is plain that whatever fears the claimant and his wife may have had of the GIA and whatever dangers the GIA posed towards them in the late 1990s, that organisation is not capable of posing any sort of realistic threat to them now.
14. If they were to go to Algiers, because they felt that Oran was simply too close to home for them to feel safe, there is no suggestion that they would be at real risk of persecution or Article 3 harm from the GIA. This, as it seems to us, would

get around any difficulties that might be feared, particularly by the claimant's wife, of any persons known to them in the Oran area.

15. The Adjudicator came to the conclusion that the claimant could go to Algiers and indeed it seems the claimant could give no credible reason to him why he could not move there and stay there although, no doubt, there would be employment difficulties.
16. We can see no error in the Adjudicator's conclusions in light of the background material before him. The issue as to whether, as a returned failed asylum seeker the claimant would be at risk on return to Algeria was not pursued before us, but in any event we would consider that such a submission would be wholly unarguable in the present circumstances in that country.
17. For all these reasons, we consider this appeal must be dismissed.

**His Honour Judge N Ainley**  
**Vice President**