

LSH
Heard at Field House

DB (Sufficiency of Protection -
IFA) Algeria CG [2002] UKIAT
01013

On 25 February 2002

APPEAL NO CC16253-2000

IMMIGRATION APPEAL TRIBUNAL

Date Determination notified:

05.04.2002

Before:

**Mr J R A Fox
Mrs W Jordan
Mr G J Brown, JP**

Between

DJAMEL BRACHEMI

APPELLANT

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

RESPONDENT

DETERMINATION AND REASONS

1. The appellant a citizen of Algeria has been given leave to appeal to the Tribunal against the determination of an Adjudicator (Mr F R C Such) dismissing his appeal against the refusal of the respondent to grant him asylum.
2. At the hearing the appellant was represented by Miss Wood of Counsel and the respondent by Ms Malhotra of the Home Office.
3. The appellant was born on 17 February 1970 and is a citizen of Algeria. He arrived in the United Kingdom on 2 May 1999 without any travel documents. He claimed asylum at the port.
4. He was interviewed on 2 May 1999 and the respondent then considered the application and refused the same and the reasons for refusal are set out in a letter dated 27 March 2000.

5. The appellant appealed and the appeal was heard by an Adjudicator who in a determination promulgated on 24 September 2001 dismissed his appeal.
6. Numerous grounds of appeal were submitted. Leave was granted on the grounds that relating to the allegation that the GIA are acting throughout Algeria and therefore internal flight was not applicable for this appellant as he was persecuted by the GIA in Algiers. At the hearing Miss Wood submitted an article from the Daily Telegraph dealing with the death of the leader of the GIA.
7. She also submitted the reports of the various incidents namely a wedding massacre in Algeria, massacre at Berrouhehia 60 miles south of the capital, the report of gunmen killing 10 people in Iran. It showed that the GIA's activities were no longer confined to the countryside. She knew there had been an attack at seaside resort Zeralda.
8. She also relied on the US State Department Report of 2001 which shows that armed groups committed numerous serious abuses and killed hundreds of civilians and that there was an increase in violence as compared with 1999.
9. In her submission there was no question of internal flight for this appellant in Algeria. She sought to distinguish the facts in this case from the Tribunal decisions in **Saidi** (00/TH02757), **Djerouni** (01/TH/3396).
10. In her submission the situation was still volatile and the appellant was still at risk because he had a brother who was a commander in the army. She submitted that he fell within the definition of a person in need of protection as set out in the UNCHR Guidelines. There was a reasonable likelihood that he would be targeted on his return by the GIA.
11. The appellant had worked in the suburb of the capital in Algeria.
12. We were also told by her his parents lived in Kabylie.
13. Miss Malhotra said that the GIA was no longer active. The violence in the countryside had largely been brought under control. Their main activities had been in the mountains. She relied on the CIPU Report to that effect. She drew our attention to paragraphs A5 and Annex F.
14. Her submission there was a sufficiency of protection. She also submitted that the various articles that had been put in by the appellant did not assist his claim and did not show that the authorities were unwilling to provide a sufficiency of protection and that it was possible for him to relocate.

15. In this appeal the relevant rule is paragraph 336 of HC 395. The appellant has to show that there is a reasonable likelihood that he will be persecuted for a Convention reason if returned to Algeria.
16. This appeal is confined to his asylum claim as the decision was taken prior to the Human Rights Act coming into force.
17. In determining the claim the Tribunal has regard to the guidance given in **Sivakumaran** and the majority of the decision in **Kaja**. The Tribunal has referred to the Court of Appeal judgment in **Noune** and its own decisions in **Saidi** and **Djerouni**.
18. Additionally the objective evidence is to be examined as at the date when the appellant left Algeria and the date of decision and the date of the hearing.
19. The Tribunal has before it a US State Department Report on Human Rights Practices 2000. It refers to measurable improvements particularly in addressing the problems of torture and arbitrary detention. The human rights situation was generally poor and serious problems persisted including significant government restrictions on citizens political and association rights and failure to account for past disappearances and the massacre of civilians by armed terrorist groups continuing.
20. The Tribunal also had before it a CIPU Report October 2001 and one of the sources for that report is the US State Department Report.
21. Those reports refer to the events of 2001. There is a reference to the April riots in the Kabylie region following the death of a young man in police custody during the annual Berber spring demonstrations.
22. It reveals that a number of riots and antic government demonstrations took place in Kabylie in the following months and up to 80 people were killed and several hundreds were injured in and around the towns of Tizi Ouzou and Bejaia.
23. It also records that on 3 May there was a demonstration of 10,000 people in Algiers which passed off peacefully. It records that senior officials stated that the gendarme would work towards rebuilding the British population between the regions that had witnessed incidents. The gendarme were put on trial in connection with the use of firearms bringing the total so far to 12 gendarme referred to the specialised justice. The demonstrations and violence incidents occurred in early July in Kabylie.

24. Those demonstrations are largely link to the traditional Berber agitation for language in cultural recognitions.
25. It also states that meanwhile killings by armed groups continued in rural areas as the year progressed although the main cities were generally secure. It also records that a bomb exploded in Algiers (the first since 1998) near the Casbah wounding 34 people.
26. The security situation indicates that the worst affected areas at the height of the violence were the three urban areas to the south of Algiers, Boufarik, Blida and Medea.
27. At A7 the report records that violence has continued in 2001 at a similar level to the previous year despite the security force operations.
28. The government claims that the security forces mainly kill when there are armed clashes with terrorists and as a matter of policy disciplinary action is taken against members of the security forces who are guilty of violating human rights. The government told the Human Rights Watch in 2000 that 348 persons associated with the security forces including members of the self-defence militias being prosecuted for human rights abuses since 1992.
29. In 1998 an eminent panel appointed by the Secretary General of the United Nations visited Algeria with the remit to gather information on the situation to provide the international community with greater clarity. It reported that terrorism had passed through four stages. In the first it was aimed at security forces and government employees; in the second it was aimed at intellectuals, journalists, lawyers, artists and foreigners; in the third stage it was aimed at the general infrastructure of the country e.g. bridges, schools, railways and electricity supply; and in the current stage i.e. since 1998 was aimed at the current population.
30. In January 2002 the AIS and another smaller group the LIDD disbanded in response to the amnesty for armed groups under the President's civil concorde initiative. They had been observing a unilateral cease-fire since October 1997. It also records that 1,000 GIA members were also reported to have surrendered under the Amnesty.
31. It goes on to state in the short term there is nothing to suggest that the armed groups now operating will lay down their arms. Reports vary from several hundred to several thousand of the number of terrorists who remain operational. The numbers have become smaller since the amnesty.
32. It goes on to state the most terrorist incidents take place in the countryside and the smaller towns as the security forces have

largely forced the insurgents out of the cities. It states that essentially rural terrorism is taking place in the strongholds of the armed groups.

33. It records that the situation in Algiers and Constantine is very calm. There are some networks in Annaba and sporadic attacks in Blida. In Oran and Nostagan is also calm.
34. It states that more than 50% of the attacks in 2000 were carried out in areas west of Algiers in the provinces of Medea Ain Defla and Tipaza to a lesser degree relatively speaking in the chief regions.
35. The Tribunal has reviewed the material supplied by the appellant and it is reports of incidents.
36. Those reports can be summarised as follows. On 27 September there was a massacre at a wedding and 22 people were killed in Larba. On the 12 February 26 were killed in an area 60 miles south of Algiers. There was a report of 12 civilians being killed on 17 January 2001. There was a report 17 being killed in a road block.
37. There is a report of the bomb incident in Algiers and there is a further report that 10 were killed in Iran, and 7 were killed on a highway on 14 September.
38. There was an attack in Zeralda a beach resort on 5 September when 7 were killed. There was a further report of 11 village guards being killed by the TSPC on 15 October. On 5 February 2002, 2 were killed in an area south of Algiers.
39. Reference has been made to the judgment of the Court of Appeal in the case of **Noune**. That judgment turns on very special facts and relates to the experiences of women working in a government department namely the Telegraph department.
40. The Tribunal reviewed the objective evidence in **Saidi** heard on 3 December 2000 and promulgated on 24 January 2001.
41. The Tribunal were provided with statistics showing the results of enquiries made of France, Germany, the Netherlands and Belgium. In the case of France there were 1, 306 applications for asylum for which 39 were granted and 1,118 were refused. Details were not provided of returns. In relation to Germany 490 were returned. It is recorded that Algerian nationals expelled to Algeria are often taken into police custody after arrival at the airport and that could last for 4 days and the purpose is to establish identity and examine whether a person is suspected of a criminal act, military service, desertion or evasion and in the latter case detention can take up to 2 weeks.

42. In relation to the Netherlands there were 81 forced returns and 18 guided returns.
43. The Netherlands also stated that it does not have reason to believe that a rejected asylum seeker will upon return be persecuted by the Algerian authorities mainly because he has applied for asylum elsewhere.
44. In **Djerouni** which the Tribunal heard on 29 November 2001 and it again reviewed the objective evidence and found that one of the two principle opposition organisations of the FIS was now playing an active part in government and its terrorists. An armed wing had been virtually disbanded. It found that the only terrorist organisation which remains in the country would appear to be the GIA and even that it would appear is divided into a number of factions.
45. The US State Department revealed that much of the campaign perpetrated by those terrorists relate to the opposition to the amnesty programme.
46. The Tribunal accepted that the US State Department Report did indicate a significant increase in violence against security force members and civilians. The violence would appear to be terrorist randomly targeted civilians in an apparent attempt to create social disorders. It also found that the violence now seems to take place primarily in the countryside as the security forces have largely forced the insurgents out of the cities. Recently the killing of civilians appeared to be the result of opposition to the President's amnesty programme and to facilitate the theft and goods needed by the army groups.
47. The Tribunal also had reference to the Canadian Report which found "the security situation has largely been brought under control by the authorities and it does not impact on most peoples day to day lives. Most people living in the cities are able to lead a normal lifestyle such as precautions about travelling in uncertain areas especially at night.
48. "With some exceptions most of the killings were in relatively remote areas where the armed groups can operate and escape more easily in the rough terrain. It is more difficult for the security forces to intervene. Civilian victims are most often poor peasants and shepherds although there is some targeting being done dependent on who the perpetrators are".
49. There is a further Canadian report which states "However the view that it has had most frequently which appears to have widespread acceptance amongst Algerians is that the killings or the work of the variety of groups and interests. Their motives are often obscure but are believed by most interlocutors to include the full range from

pure banditry to the settling of schools to the protection of turf to the Islamic ideological struggle to organise crime to excesses by isolated elements in the security forces.

50. The basis of the applicant's claim is that prior to leaving Algeria he was employed by the authorities and run a workshop which repaired military vehicles and he had a brother who was a commander in the army and that he had been specifically targeted by the GIA.
51. The Adjudicator accepted that the appellant was employed as a civilian by the army and that he left that employment on 7 November 1998 and there is indeed a certificate to that effect. He accepted that the appellant's brother was in the army and the appellant together with many people in army or connected with it received three letters from the GIA the last of which was in 1995. He did not place any reliance on the appellant's statement that 36 people in his department had been assassinated by the GIA. He found the evidence that the GIA shot at the brothers in a car in 1995 and on another occasion following them in 1996 as possible but tenuous grounds that it could have been any one doing these acts. He accepted that the appellant received no more letters after 1995 since his brother arranged for him to live in the barracks. He also accepted that the appellant lived with his parents from 1998 to his departure for South Africa in April 1999.
52. He did not find it credible that he was able to avoid the GIA whilst staying with his parents.
53. He went on to conclude that whilst the appellant may have had a well-founded fear of persecution while working as a civilian in the army although he felt safe in barracks it would be unreasonable to expect him to live in the barracks all his working life. He assessed when the appellant left his civilian work with the army he would in a short time cease to be targeted by the GIA.
54. He also noted that the CIPU Report reports that the GIA is mainly active in the central and western parts of the country and has no presence in Cabylie which is where his parents live.
55. Paragraph 13 states that the situation in Algeria and Constantine are calm as are Oran and Nostagan.
56. He did not accept the appellant's contention that GIA were active everywhere in Algeria. There is no error of law in that finding and indeed the reports produced by the appellant do not indicate any increase on the level of activity by the GIA.
57. The situation in Algeria is far from ideal. The Tribunal is satisfied applying the tests as set out in **Horvath** that there is a sufficiency of

protection for the appellant in Algeria if he is returned there. He no longer works for the army. Whilst the Tribunal accepts that he has brother who is a commander in the army the indications are that the GIA can no longer get at relatives or family members of the military. The Reports indicate that the target is the general populace but this does not detract from our finding that there is a sufficiency of protection.

58. The Tribunal is satisfied applying the tests to which it has referred that this appellant no longer has a well-founded fear of persecution for a Convention reason if returned to Algeria. The facts in this case bear no relation to the facts in **Noune**.
59. The appeal is therefore dismissed.

J R A Fox
Vice President