

CASE STUDIES (FOCUS: AFGHANISTAN & IRAQ)

A. Focus: Afghanistan

1. Case No. 1 – The identification of a 'home area'

Statement of facts:

The applicant, born in 1996, applied for asylum in 2015. He is a Shia Muslim of Hazara ethnicity, whose family originates from Helmand province. Upon return to Afghanistan, the applicant fears to be forcibly recruited by the Taliban.

a) The applicant was born in Helmand province and attended school there. At the age of twelve, his family (parents and siblings) moved to Kabul because of the danger emanating from the Taliban and the worsening situation for persons of Hazara ethnicity in the region.

b) The applicant's parents fled to Iran in 1994. The applicant was thus born in Iran and has no personal experiences of Afghanistan and his parents' birthplace.

The applicant had attended four years of school and had then worked – in Kabul/Teheran – as a street vendour until he left for Europe in 2014. Following his departure, he lost contact with his family and former colleagues. The applicant does not suffer from any illnesses.

The determining authority established that the applicant could not return to Helmand province, as the whole region was still under Taliban rule.

It thus proceeded to examine whether an IPA would be available to the applicant in Kabul, where it found that the Taliban would not be able to trace the applicant. The authority further concluded that neither the general security situation in Kabul nor the specific situation for Hazaras were such as to render an expulsion in breach of Article 3 ECHR. Kabul could be safely and legally reached by plane and the applicant could gain admittance.

Questions:

(1) What is the applicant's 'home region' under scenarios a) and b)?

(2) Could the applicant be expected to return to Kabul?

a. What criteria appear particularly relevant in the present case?

b. Would the assessment lead to a different result if the applicant was diagnosed with PTSD and depression in the course of the proceedings?

2. Case No. 2 – The 'Reasonableness' Test

Statement of facts:

The applicants, Shia Muslims of Hazara ethnicity, are a family – a young married couple in their mid-thirties and their three children aged fourteen, eleven, and six. They were all born in Wardak province and had continuously been living there until they left for Europe in 2016. They left Afghanistan because of violent land disputes with a family of a majority ethnic clan in their village. The man does not have any family members left in Afghanistan.

The woman's parents still live in Wardak province. One of the woman's brothers (aged 27) currently lives in Kabul. The said brother resides, together with his wife and two children, in a small flat in Kabul City and works irregularly on construction sites. His wife cares for their children aged one and three years.

The determining authority established that the applicants would be at real risk of suffering serious harm in their home region due to the volatile security situation in Wardak province. Therefore, it proceeded to examine whether the applicants could relocate to Kabul.

Questions:

- (1) Could the applicants be reasonably expected to settle in Kabul?**
- (2) What circumstances and criteria must be paid particular attention to in the present case?**

B. Focus: Iraq

1. Case No. 3 – Specifying an 'area of relocation'

Statement of facts:

The applicant, a 23-year-old Iraqi citizen of Arab ethnicity, applied for asylum in 2016.

He is a Sunni Muslim who grew up in Karrada, a district in Baghdad that was formerly mixed, but is now predominantly populated by Shiite Muslims.

The applicant had been living in Baghdad throughout his life, where he attended six years of school and then worked as a truck driver. His parents died five years ago, his two brothers moved to Turkey, his sister got married and currently lives with her husband's family near Kirkuk.

The applicant fled from Iraq because he had been persecuted by Shia militias that had gained control in his home district in Baghdad.

The determining authority concluded that the applicant would be at real risk upon return to his home district, given the overwhelming presence of Shia militias there, and following which large parts of the Sunni population were forced to leave their houses.

The determining authority went on to examine whether the applicant could nonetheless be returned to another/other district(s) in Baghdad that were predominantly inhabited by Sunni Muslims.

Questions:

- (1) What is to be considered the 'home region' of the applicant?**
- (2) Could the applicant be returned to other districts in Baghdad? Which criteria apply?**
- (3) Based on the available country of origin information, what particular issues arise in the current context of Baghdad/Iraq?**