Neutral Citation: [2014] IEHC 561

THE HIGH COURT

JUDICIAL REVIEW

[2010 No. 211 J.R.]

BETWEEN

W.T.

APPLICANT

AND

MINISTER FOR JUSTICE, EQUALITY AND LAW FORM

RESPONDENT

JUDGMENT of Mr. Justice Barr delivered the 5th day of December, 2014

1. This is a telescoped judicial review application for an order of *certiorari* quashing the deportation order dated 3rd February, 2010, issued by the Minister against the applicant pursuant to s. 3 of the Immigration Act 1999, as amended. The basis of this challenge to the validity of the deportation order is that, in the applicant's submission, the Minister failed to give adequate reasons for his decision that repatriating the applicant would not breach the principle of non-refoulement.

Background

2. The applicant was born on 25th May, 1969, and claims to be a national of Liberia. He states that he was born and resided in River Cess, Liberia, before moving to Monrovia in 1980. He lived there until April or May of 2003, when he left for Ghana. He claimed that he left Liberia because of the war and that his parents, who were still living in River Cess were killed. He had no details as to the circumstances in which his family died, merely stating that there was "*fighting all over*", that his parents were killed and that his sister went missing. He did not know who had killed his parents.

3. As regards fear of persecution, the applicant was unable to cite any specific basis for his fear beyond the general violence that was going on during the Civil War in Liberia, when he claims to have left the country in July 2003. The applicant claimed that at a road block, rebel combatants wanted to stop him and those travelling with him, and tried to force guns into their hands and to make them fight against the Charles Taylor regime. He states that he dropped the weapon and ran off into the bush. He states that he was shot at while he was running away. The applicant claims to have lived in the bush for around a month before escaping via sea from Freeport to Ghana. There he claims to have met a man who helped him to travel to Ireland. The applicant arrived in the State on 7th September, 2003 and applied for asylum on the following day.

4. The applicant was interviewed by the Refugee Applications Commissioner ("the RAC") on 12th February, 2004. The applicant had difficulty answering questions in relation to comparatively basic matters relating to Liberia, including the names of tribes, the languages other than English spoken in Liberia and the geography of Monrovia. On 19th March, 2004, the RAC recommended that the applicant's application for refugee status be refused.

5. The applicant appealed to the Refugee Appeals Tribunal ("the RAT") which affirmed the RAC decision on 23rd June, 2004. The Minister, on 30th November, 2004, issued a proposal to deport the applicant. However, the letter communicating this fact to the applicant was returned marked "*unclaimed*".

6. By letter dated 20th December, 2004, the Refugee Legal Services advised that they were no longer instructed in the matter.

7. Nothing further was heard from the applicant after this time. However, on 19th December, 2008, a request was received from the United Kingdom to take back the applicant under the Dublin II Regulations. The applicant was known to the British authorities as "*Daf Mukoro*". The applicant stated to the UK authorities that he was a Nigerian national born on 19th July, 1969. His fingerprints matched those of the applicant. It appears that when arrested by British police, he stated that he had been living in the UK for fourteen years, but when told that his fingerprints matched ones taken in Ireland in 2003, he admitted having been in Ireland at the time. He was transferred back to Ireland on 23rd March, 2009.

8. The applicant sent a letter to the Minister on 10th June, 2009, making representations as to why he felt he should not be repatriated to Liberia. The Refugee Legal Service ("the RLS") also prepared a letter dated 3rd September, 2009, making representations on behalf of the applicant; however, as a result of an administrative oversight, this letter was not sent to the respondent until after a deportation order had issued and was served on the applicant.

9. Following receipt of the applicant's handwritten letter, as well as supplemental representations, a report was prepared on 18th January, 2010, recommending that the applicant be deported. The present application for judicial review is directed at the contents of that report. The applicant claims that the Minister failed to give reasons as to why he considered that repatriating the applicant would not amount to a breach of the principle of non-refoulement.

10. The deportation order was signed on 3rd February, 2010 and was served on the applicant and on the RLS on 10th February, 2010. The applicant through the RLS sought to have the deportation order revoked by letter dated 17th February, 2010. This letter contains s. 3 representations which, through an administrative oversight on the part of the RLS had not been submitted to the Minister. In his representations, the applicant claimed to be a Liberian national and that he feared serious harm if returned to Liberia. No specific reason or explanation was given as to why he had such fears. Country of origin information was reproduced at some length; it identified problems with the police and the courts in Liberia and the weakness of State institutions.

11. The applicant's representations were considered by the Minister in a report dated 5th March, 2010. The report recommended that the deportation order be affirmed on the grounds that the applicant's representations did not affect the information considered prior

to making the deportation order. The applicant was thus informed on 24th March, 2010 that the deportation order was affirmed.

12. Meanwhile, on 24th February, 2010, the applicant had launched the present proceedings through his new firm of solicitors, Byrnes Kelly Corrigan. This challenged the validity of the deportation order by way of judicial review. This was within the fourteen day time limit.

Issue of Estoppel in Relation to Challenge to the Deportation Order
13. Having applied to have the deportation order revoked, the applicant proceeded in the meantime, while the determination of the revocation application was still pending, to lodge the present judicial review application challenging the validity of the deportation order. The respondent submits that the applicant has thereby been inconsistent in his approach. On the one hand, he asked the respondent to revoke the deportation order, thereby accepting its validity, then while a revocation request was still pending, the applicant sought to challenge the validity of the order. The respondent contends that it is not open to the applicant to adopt these inconsistent positions.

14. The respondent submits that the RLS letter dated 3rd September, 2009, but not submitted until 17th February, 2010, asked the Minister to reconsider the situation that would face the applicant if returned to Liberia. The Minister duly did this and in his decision dated 9th March, 2010, he affirmed his opinion that repatriating the applicant to Liberia would not breach s. 5 of the Refugee Act 1996. The respondent submits that since the applicant has now had his representations reconsidered and received a negative response, it is not now open to him to seek to backtrack and attack the deportation order.

15. The respondent relied on *Odulana v. Minister for Justice, Equality and Law Reform* (Unreported, Clark J., 25th June, 2009), in support of its opposition to the applicant's apparently inconsistent approach in challenging the deportation order having previously sought its revocation. In that case, the applicants failed to challenge the deportation order within the fourteen day time limit provided by s. 5(2)(a) of the Illegal Immigrants (Trafficking) Act 2000; they were six days out of time. The applicant therefore applied for an extension of time in which to challenge the deportation order. Clark J., however, rejected this application. At para. 42 of her judgment, the learned judge stated as follows:-

> *"Counsel for the respondents, I believe very properly, objected to any extension of time on the basis that the applicants had elected to treat the deportation order as valid and had sought to revoke the order on the basis of what they proposed to be new evidence of their medical position which had not previously been considered. While (counsel for the respondents) did not concede that the two medical reports from Dr. McMahon and Dr. Hayden relied on for the application to revoke the deportation order constituted new material, she argued that the applicants were in effect bound by their choice. It was a matter of concern that an applicant could choose to revoke an order and then when the application failed to seek to challenge the validity of the order itself.*
>
> *It is my view that the application to extend time to challenge the deportation order must fail as the proceedings in respect of which an extension of time is sought were commenced after a failed application to revoke. It is legally inconsistent to first treat an order to deport as valid and, relying on its validity, to seek revocation of that order, and then only after consideration by the Minister of the information relied on to revoke and on receipt of an unfavourable decision, to seek to challenge the original order. Such a step appears to me to suggest abuse of process and is akin to a guilty plea in a criminal trial which following consideration by the court and an imposition of sentence, is met with the retort of an objection to the charge. Such procedural gambling is not permitted and unless a genuine and extraordinary reason exists to explain the exercise of the revocation option in lieu of commencing proceedings challenging the deportation order, a party seeking to challenge validity of the deportation order will not be permitted an extension of time to do so. Those genuine and extraordinary reasons do not exist in this case. The extension of time application is, I believe, misconceived."*

16. I think that the position in this case can be distinguished from that in the *Odulana* case; here the applicant has submitted his judicial review claim within the fourteen day time limit. Furthermore, and perhaps more importantly, he did not await the outcome of the consideration of the revocation application before instituting these judicial review proceedings. His change of tack was probably due to the fact that he consulted with his new firm of solicitors, who obviously gave him advice as to the necessity of challenging the making of the deportation order. Hence the fact that the proceedings were instituted before the decision on the revocation issue. In these circumstances, I do not hold that the applicant is estopped from challenging the making of the deportation order.

Challenge to the Validity of the Deportation Order
17. The applicant seeks to challenge the validity of the deportation order on the grounds that the applicant's claim in relation to the consideration of s. 5 of the Refugee Act 1996, as amended, is in their submission indistinguishable on the facts from *Meadows v. Minister for Justice* [2010] 2 I.R. 701. In that case, a majority of the Supreme Court held that an applicant is entitled to know the reasoning and rationale of the Minister in arriving at the conclusion that the applicant's deportation order would not be contrary to s. 5 of the Refugee Act 1996, as amended. Section 5 provides:-

> *"(1) A person shall not be expelled from the State or returned in any manner whatsoever to the frontiers of territories where, in the opinion of the Minister, the life or freedom of that person would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion.*
>
> *(2) Without prejudice to the generality of subsection (1), a person's freedom shall be regarded as being threatened if, inter alia, in the opinion of the Minister, the person is likely to be subject to a serious assault (including a serious assault of a sexual nature)."*

18. The applicant submits that the Minister failed to provide reasons or a discernable rationale for his decision that deporting the applicant is not contrary to s. 5 of the 1996 Act. By letter dated 10th February, 2010, the Minister informed the applicant of his decision to make a deportation order against him under s. 3 of the Immigration Act 1999 (as amended). The letter explained "*in reaching this decision, the Minister has satisfied himself that the provisions of s. 5 (Prohibition of Refoulement) are complied with in your case*". The letter further notes that a copy of the order and a copy of the Minister's considerations pursuant to s. 3 of the Immigration Act 1999 (as amended) and s. 5 of the Refugee Act 1996 (as amended) were enclosed. The Minister's considerations were set out in a memorandum entitled "*Examination of File under Section 3 of the Immigration Act 1999, as amended".*

19. The Minister began his consideration under s. 5 by setting out the facts of the applicant's case as follows:-

> *"Mr. T. arrived in the State on 07/09/2003 and applied for asylum. He claims that he was born in River Cess but moved to Monrovia in 1980. Mr. T. claims that his problems in Liberia began when war broke out in or around April 2004. He*

claims that while fleeing from Monrovia, a group with which he was travelling was stopped by armed elements in Mufti. Mr. T. claims that he was given a gun and told to fight for the rebels against the then Charles Taylor regime. Mr. T. claims that he did not wish to fight and that he threw away his gun and fled. He claims that as he left, the rebels shot at him. Mr. T. claims that he hid in the bush and that while there he heard from a man that his mother and father had been killed but that his sister had managed to escape. Mr. T. claims that he stayed in the bush for about a month before going to Freeport, where he got on a boat for Ghana. He claims that he survived on charity while in Ghana and it was there that he met a man who helped him and arranged his travel to Ireland.

On 19/12/2008, a request was received from the UK border agency asking that Mr. T. be taken back under the Dublin II Regulation. The UK border agency stated that Mr. T. (known in the UK as a Nigerian national by the name of D.M., DOB 19/07/1969) was arrested by police in the UK on 26/10/2008. The request states that Mr. T. told the police that he had been living in the UK for fourteen years; however when presented with his Eurodac match, he admitted to having been fingerprinted in Ireland. Mr. T. told the UK authorities that he had been in Ireland for two to three weeks before being fingerprinted and that he remained in Ireland for a further four weeks after being fingerprinted before going to the UK. Mr. T. told the authorities that he has not returned to Nigeria since being fingerprinted in Ireland on 08/09/2003. Mr. T. re-entered the State on 23/03/2009."

20. The Minister's report then proceeds to reproduce extensive country of origin information, consisting of two country of origin reports on Liberia and one on Nigeria; these reports extend to eight pages. The Minister introduces this section with the statement "*the following country of origin information is relevant to the applicant's case*".

21. The first document examined was a document under the following title "*US Department of State Human Rights Report: Liberia, 25th February, 2009".* This report provided a synopsis of the situation in Liberia. It addressed the role of the police and security apparatus; the issue of freedom of movement, internally displaced persons, protection of refugees and stateless persons in Liberia; as well as the attitude of the Liberian government to international and non-governmental investigations of alleged human rights violations. Overall this report was cautiously encouraging about the situation in Liberia, noting that civilian authorities generally maintained effective control of the security forces and that the government was generally respectful of human rights. Serious problems persisted, however: mob violence and land disputes resulted in deaths; ritualistic killings occurred; the police abused, harassed and intimidated detainees and citizens; prison conditions remained harsh and arbitrary arrest and detention occurred. Corruption with impunity continued in most levels of government. On the other hand, human rights groups were able to operate without restriction and investigated and published their findings on human right cases. Government officials were found to be generally cooperative and responsive to the views of the human rights groups.

22. The second document was entitled "*UK Home Office Country of Origin Key Developments – Liberia, 3rd December, 2007".* This report set out the history and current constitutional, political and security situation in Liberia. The report noted that following the Comprehensive Peace Agreement, which was signed in September 2003, a vast DDR (Disarmament Demobilisation and Reintegration) programme disarmed over one hundred thousand combatants in 2005, although reintegration programmes have had only patchy success. The report noted a 2007 foreign and commonwealth office report which stated that the judicial system and security sector in Liberia "*need to be rebuilt almost from scratch*". The report also noted that good progress had been made with the reconstruction of the Liberian police force.

23. The third document was entitled "*UK Home Office Report with regard to Nigeria, 9th June, 2009*". This report provided a detailed insight into the situation in Nigeria. The report provided details about the Constitution, security forces, police, the treatment of human rights organisations, the freedom of movement, exit-entry procedures and the treatment of failed asylum seekers. The report noted that Nigeria had a large police force: one officer per 371 Nigerians, which was better than the 1:400 UN benchmark. However, the national police force was noted to have committed human rights abuses and generally to have operated with impunity in the apprehension, illegal detention and sometimes execution of criminal suspects. The Home Office report noted the US State Department 2008 Human Rights Report which stated that corruption was rampant in the police, most often at highway checkpoints where bribes were required to be allowed to pass. On the other hand, a number of human rights groups operated freely in Nigeria and government officials were generally cooperative and responsive to their views. However, the government's capacity and willingness to follow through on necessary reforms was lacking; and although the government met with NGOs and civil society organisations frequently, few results came from their communications. Finally, the report noted that failed asylum seekers were not subject to arrest, persecution or ill-treatment in Nigeria.

24. Having reproduced these reports in full, and without commenting in any way on their contents, the report concluded:-

"Having considered all the facts of this case, I am of the opinion that repatriating Mr. T. to Liberia or Nigeria is not contrary to section 5 of the Refugee Act 1996, as amended, in this instance."

25. Finally, at the end of the memorandum, under the heading "*Recommendation*" it was stated:-

"W.T's case was considered under s. 3(6) of the Immigration Act, 1999, as amended and under s. 5 of the Refugee Act 1996, as amended. Refoulement was not found to be an issue in this case. In addition, no issue arises under s. 4 of the Criminal Justice (UN Convention Against Torture) Act 2000. Consideration was also given to private and family rights under Article 8 of the European Convention on Human Rights (ECHR). Therefore on the basis of the foregoing, I recommend that the Minister makes a deportation order in respect of W.T. a.k.a W. T. a.k.a. D.M."

26. Counsel for the applicant submits that it is impossible to glean from the Minister's s. 5 analysis and conclusions what the rationale for his decision was and what his reasons were for finding that deporting the applicant to Liberia would not be contrary to the principle of non-refoulement. The applicant had claimed that there was a real risk that he would be killed, tortured or seriously harmed if repatriated. The applicant further submitted that Liberia was not among the countries designated as safe by the Minister. He therefore asked the court to find that the Minister's failure to give adequate reasons for his decision rendered the deportation order unlawful.

27. In support of this submission, counsel for the applicant relied on the decision of the Supreme Court in *Meadows v. Minister for Justice* [2010] 2 I.R. 701 and the judgment of the High Court in *J.D.S. (Nigeria) & Anor v. Minister for Justice, Equality and Law Reform & Ors* [2012] IEHC 291.

28. In the *J.D.S. (Nigeria)* case, the applicants were seeking to quash deportation orders made in respect of them on the ground that the Minister's consideration of the applicant's rights under s. 5 of the Refugee Act 1996, was inadequate and unlawful. The Minister allegedly failed to disclose the reasons for refoulement being found not to be an issue in the applicant's case. The applicants further

contended that they were entitled to a decision from which they could discern the reasons for the Minister's conclusion that the applicant's repatriation would not be contrary to s. 5 of the Refugee Act 1996. The applicant argued that failure to provide reasons or a rationale for the decision rendered the deportation order unlawful.

29. Counsel for the Minister argued that unlike the *Meadow's* case, where the single sentence "*refoulement was not found to be an issue*", was wholly unexplained and unrelated to any earlier analysis, the corresponding sentence in the final recommendation in *J.D.S. (Nigeria)* followed the Minister's summary of the s. 5 claim and the relevant quotations thereafter.

30. Having considered the matter, Cooke J. held at paras. 19 – 20 of his judgment:-

> *"Having summarised the claim based upon the threats to her life from her Muslim father at the beginning of the s. 5 analysis, the memorandum immediately proceeds to recite the country of origin information given above. This includes extracts relating to the existence of security forces and police; the availability of 'avenues of complaint'; and the freedoms of religion and of movement. This part of the memorandum draws no explicit conclusions from these extracts, but the implication is that a Christian woman threatened by a Muslim father for having converted to Christianity would have avenues of complaint available to her in Nigeria which would secure her domestic protection from the police or security forces or, alternatively or additionally, by relocating elsewhere within Nigeria. Because this assemblage of country of origin information covering different possible topics is followed directly by the opinion of the author as already quoted above without any linking explanation or particularisation of reasoning, it is not possible, in the view of the Court, to understand precisely why the Minister formed the opinion that the applicant could be repatriated without risk that the prohibition would be violated. The implication clearly arises that, in the absence of any reiteration of, or reliance upon, credibility doubts expressed in the asylum process, the Minister is accepting that this is a woman who has converted to Christianity and has been or might have been, the subject of threats to her life by her Muslim father but that, if so, she would not now be at risk on repatriation because (a) she can complain to the police or security forces who will intervene to protect her from such threats; (b) she can relocate away from her father and it is unlikely he will pursue her there; and (c) such fundamentalist religious threats are only a problem in certain northern states of Nigeria where she has never lived.*
>
> *In these circumstances the Court accepts that the fundamental proposition advanced in support of the leave ground is correct. While it is possible and even highly probable that the hypothesis advanced on behalf of the Minister as to the rationale and reasons for the s. 5 conclusion is that suggested, the addressee of a deportation order cannot be expected to wait for the forensic analysis of the memorandum in the course of judicial review in order to understand why the crucial opinion has been reached. Although, understandably, it has not been referred to by either side in the course of the present hearing, this is an issue which was addressed by this Court in its recent judgment in Ahuka v. Minister for Justice (Unreported, Cooke J. High Court, 20th June, 2012). In that judgment, the Court pointed to the dangers inherent in systematic processing of large numbers of decisions taken under s. 3 of the Act of 1999, where the tendency to reply mechanically by reference to country of origin information to the headings of s. 3(6) of the Act of 1999 or s. 5 of the Act of 1996 can deflect the decision maker from the need to stand back and ensure that a coherent and intelligible explanation is apparent from the memorandum when read as a whole. It is necessary in the view of the Court that the decision should explain why the deportation order is being made and why, in particular, it is concluded that the deportee faces no risk to life or to person on repatriation contrary to the prohibition in section 5."*

31. In reply, counsel for the respondents submitted that the applicant's account was set in the context of the Civil War in Liberia in 2003 and that the country of origin information recited by the Minister showed that the situation in Liberia had improved. Counsel for the respondent thus argued that repatriation was not contrary to s. 5 because the country of origin information disclosed that the Civil War was over, peacekeepers were present, and a democratic system established, albeit with some corruption. as is common in new democracies in developing countries. Therefore, the applicant's fears, which were based entirely on the threat posed by the Civil War were not well founded. This, counsel submitted was the clear rationale for the Minister's decision.

32. The respondent attempted to distinguish the present case from the decision in *J.D.S. (Nigeria)* on the grounds that in that case, the applicant's father was the immediate source of persecution; whereas in the present case, the applicant's alleged fear stemmed from the Civil War in Liberia, and the country of origin information upon which the Minister relied showed that the war had ended in September 2003, and that the Liberian situation was much improved. In their written submissions, the respondent asserted as follows:-

> *"The change in circumstances in Liberia involving the cessation of the war and the general improvement in conditions, was a complete answer to the applicant's claims of dangers arising from the war in that country."*

33. The respondent further contended that the applicant's claim to fear, harm or serious persecution in Liberia:-

> *"…was based on the war conditions in that country which had evidentially ceased by the time the respondent came to decide on whether or not to make a deportation order. The information considered showed that the conditions were generally safe in Liberia."*

34. Counsel for the respondent submitted that the Minister's conclusion "*was perfectly rational*" and he concluded that "*the essential rationale for the conclusion is clear in this case, unlike Meadows. It is that the war was over in Liberia and conditions had greatly improved*".

35. Counsel for the respondents opened the judgment of Murray C.J. in Meadows case in support of his contention that the Minister's rationale was clear and could be inferred from its terms and context. At paras. 93 – 97 of his judgment, the learned Chief Justice gave the following analysis of s. 5 of the Refugee Act 1996:-

> *"[93] An administrative decision affecting the rights and obligations of persons should at least disclose the essential rationale on foot of which the decision is taken. That rationale should be patent from the terms of the decision or capable of being inferred from its terms and its context.*
>
> *[94] Unless that is so then the constitutional right of access to the courts to have the legality of an administrative decision judicially reviewed could be rendered either pointless or so circumscribed as to be unacceptably ineffective.*
>
> *[95] In my view the decision of the first respondent in the terms couched is so vague and indeed opaque that its underlying rationale cannot be properly or reasonably deduced.*

[96] The recommendation with which the memorandum submitted to the first respondent with the file is not helpful and adds to the opaqueness of the decision. That states that 'refoulement was not found to be an issue in this case'.

[97] This decision is open to multiple interpretations which would include one that refoulement was not an issue and therefore it did not require any discretionary consideration. On the other hand it may well be that the Minister did consider refoulement an issue and that there was evidence of the applicant in this case being subject to some risk of being exposed to female genital mutilation but a risk that was so remote that being subject to female genital mutilation was unlikely: alternatively he may have considered that while there was evidence put forward to suggest that the applicant might be subjected to female genital mutilation, that evidence could be rejected as not being of sufficient weight or credibility to establish that there was any risk."

36. Counsel for the respondents also referred to the decision in *E.O. & Anor v. Minister for Justice, Equality and Law Reform* [2010] IEHC 512. In that case, the applicant's challenged the deportation order issued against them by the Minister; in so doing they relied on the Supreme Court in *Meadows v. MJELR* [2010] 2 I.R. 701, and in particular, the Chief Justice's criticism of the respondent's statement that "*refoulement was not found to be an issue in this case*". The High Court noted that Murray C.J. had found that this statement was subject to multiple interpretations such that it was not possible to discern the rationale of the Minister's conclusion that no risk of refoulement arose. This meant that there was a fundamental defect in the decision of the Minister. Ryan J. stated at para. 7-8 of his judgment:-

"7. Returning therefore, to the main point which is that of Meadows, the question is whether the rationale for the decision is clear from the material that was cited. Counsel for the respondent cited the opening part of the consideration in the report on her application where, in discussing s. 5 of the Refugee Act 1996, it says 'the following country of origin information addresses E.O. concerns'. There then follows a series of pages of extracts from COI relating to three matters: (i) police protection; (ii) the position of cults; and (iii) internal relocation. These issues are obviously relevant to the question of refoulement. They are in fact more than, and substantially more than, the case that was made by the applicant in submissions of 12 October 2009. Those submissions did raise the question of the safety of the applicants so as to invoke s.5 consideration and the matter was dealt with on that basis in the report but it is clear that the report went a great deal further than the submission demanded. Following the extracts of COI, in the conclusion of the report it said 'Having considered all the facts of this case, I am of the opinion that repatriating E.O. to Nigeria is not contrary to section 5 of the Refugee Act 1996, as amended, in this instance.'

8. Does the Meadows decision invalidate the conclusion that was reached? It is to be noted first that the actual wording of this conclusion is different from that in Meadows and I think there is less room for an argument about ambiguity or non-clarity in this case than there was in the Meadows formula. When one takes the statement opening the consideration of this issue and the COI material together with the conclusion, it seems to me that the reasoning is clear. For the reasons that are set out in the extensive quotations of COI the Minister decides that repatriation would not breach s.5 of the Refugee Act 1996…

11. … Since the COI in this case contains extensive citations of specific relevance to material questions relating to safety and does not contain material that undermines the conclusion it seems to me that this decision is soundly based and there are no substantial grounds for challenging it."

Conclusions

37. Counsel for the respondent argued forcefully that the rationale for the Minister's decision was clear, i.e. that the applicant's claim to have a well founded fear of persecution or serious harm was based entirely on the war that was going on in Liberia at the time he claims to have fled the country in the summer of 2003; but, as the country of origin information cited shows, the war ended in September 2003 and the situation in Liberia had greatly improved since then.

38. It must be remembered that the applicant's case was that he was fleeing from Civil War in his country of origin. He did not point to past persecution on either side save for the one incident with the rebels at the roadblock. He did not make the case that if returned to Liberia, he would face persecution at the hands of either of the protagonists in the Civil War. In essence, his case was that he was fleeing from the bloodshed and general mayhem of the war itself.

39. By the time his application came to be considered in 2010, there was ample evidence in the COI that the war had long since ended. Furthermore, while things were far from perfect, there had been demobilisation of the warring factions and many previous combatants had been reintegrated into ordinary civil life in Liberia. In general, the country was seen as being reasonably safe for the civilian population.

40. The respondent has made the case that the change in circumstances in Liberia, involving the cessation of the war and the general improvement in conditions was a complete answer to the applicant's claim of danger arising from the war in that country.

41. When looked at in the light of the applicant's stated fear, it is clear that the Minister reached his decision on the basis of the COI which established that the Civil War ended in 2003 and for that reason there was not a risk of refoulement if the applicant was repatriated to Liberia. The applicant's claim to fear persecution or serious harm in Liberia was based on the war conditions, which had ceased by the time that the respondent came to decide on whether or not to make a deportation order. The material considered showed that conditions were generally safe in Liberia. There is none of the ambiguity that existed in the decision challenged in the *Meadows* case.

42. In essence, the case boiled down to the following: the applicant says that he feared persecution due to war conditions in his country of origin. The Minister referred to the COI which showed that the war was over. I am satisfied that the conclusion reached by the Minister that in the circumstances, the applicant would not be subject to refoulement if repatriated to Liberia, was a rational conclusion on the evidence then before the Minister.

43. I am satisfied that in this case, the reasoning as to why the Minister came to the conclusion that refoulement was not an issue, was reasonably clear from a perusal of the entirety of the decision and of the COI referred to therein. It is clear that the Minister felt that refoulement was not an issue because the Civil War had ended almost seven years prior to the time when the decision came to be taken. This was a logical conclusion based on the material before him.

44. In the circumstances, therefore, I refuse the relief sought by the applicant herein.