

## INTERNAL RELOCATION

### 1. INTRODUCTION

The application of internal relocation to asylum claims and assessments of eligibility for a grant of Humanitarian Protection under the Immigration Rules is set out in paragraph 339O of the Rules.

This provides that;

(i) The Secretary of State will not make:

(a) a grant of asylum if in part of the country of origin a person would not have a well founded fear of being persecuted, and the person can reasonably be expected to stay in that part of the country; or

(b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm, and the person can reasonably be expected to stay in that part of the country.

(ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State, when making his decision on whether to grant asylum or humanitarian protection, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.

(iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return

It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents.

### 2. ASSESSING THE APPLICATION

#### 2.1 Is internal relocation an option?

There are two main points to be considered in assessing the possibility of internal relocation.

- Is there a part of the country in which the applicant would not have a well-founded fear of persecution or face a real risk of suffering serious harm?
- Is it **reasonable** to expect the applicant to stay in that part of the country?

#### **Well-founded fear/serious harm**

Where internal relocation is an issue decision makers must make an assessment of whether the applicant would be at risk of persecution or serious harm in the place of relocation.

**Is it *reasonable* to expect the applicant to stay in that part of the country ?**

Having established that there is a part of the country where the applicant would not have a well founded fear of persecution or face a real risk of serious harm, decision makers must consider the reasonableness of relocation. In assessing whether it would be reasonable for an applicant to stay in the place of relocation decision makers should take into account:

- the general circumstances prevailing in that part of the country; and
- the personal circumstances of the applicant.

**The test: would relocation be unreasonable?**

The internal relocation test is a *stringent* one, because the Convention is not designed to protect those who face social disadvantage. Consequently, it will not be enough for applicants to say that they do not like the weather in the safe area, or that they have no friends or relatives there, or that they might not be able to find suitable work there. Neither is it enough for an applicant to show that relocation would be unpleasant or even harsh or that he will be deprived of his civil, political or social and economic rights. Rather, he must show that relocation would be *unreasonable*.

Relocation would be unreasonable if life for the individual applicant in the place of relocation would result in economic annihilation, utter destitution or existence below an adequate level of subsistence. So, for example, an applicant should not be compelled to hide out in an isolated region of their country, like a cave in the mountains, or in a desert or the jungle, if those are the only areas of internal safety available. On the other end of the spectrum a simple lowering of living standards or worsening of economic status would not be unreasonable.

What must be shown to be lacking is the real possibility to survive economically, given the particular circumstances of the individual concerned (language, knowledge, education, skills, previous stay or employment there, local ties, sex, civil status, age and life experience, family responsibilities, health, available and realisable assets and so on). In assessing economic viability, the possibility of avoidance of destitution by means of financial assistance from abroad, whether from relatives, friends or from governmental or non-governmental sources, should not be excluded.

**General circumstances prevailing in the safe area and comparison with the country of return as a whole**

Where decision makers seek to rely on internal relocation they should identify a particular area or areas of the country suitable for relocation and provide the applicant with an adequate opportunity to respond to that assertion at their asylum interview. Protection in that area must be effective and of a durable nature. Where the applicant raises issues in support of a claim that internal relocation would be unduly harsh, decision makers should address those issues in any reasons for refusal letter (where we still consider internal relocation to be reasonable).

Decision makers should refer to the relevant Operational Guidance Note (OGN) when making an assessment of the country situation.

In assessing reasonableness, conditions in the area of safety must be considered in the context of the country concerned. Comparisons should be made between conditions prevailing in the area of habitual residence and those in the area of safe haven rather than between conditions in the safe haven and the country in which asylum is sought. For example, in a country where respect for human rights is scant and where the applicant could live elsewhere in the country with no fear of persecution the situation should be considered in context; internal relocation should not be dismissed just because the applicant would experience the drawbacks of living in the country from which he originally came.

In the case of *Januzi*, an ethnic Albanian from Kosovo, it was claimed that the applicant's already fragile mental health would deteriorate if he were to return to Kosovo.

It was argued that the conditions in Kosovo were below the standard for basic norms, that he would have no family or friends in the proposed area of relocation, no community ties, no independent means of subsistence and no prospect of gainful employment and that psychiatric services in Kosovo were very limited.

The tribunal determined that whilst it would be difficult for the applicant to readjust to life in Kosovo and whilst he would be isolated in Pristina, they were not satisfied that it would be unduly harsh for him to be returned there. The House of Lords agreed.

### **Personal circumstances**

The personal circumstances of an individual should always be carefully considered. Factors which will not preclude relocation on their own may do so when their cumulative effect is taken into account.

The absence of close ties in the safe area should not prevent a decision maker deciding that an applicant could be properly returned there. However, recent residence or ties in the safe area would clearly reinforce the argument that internal relocation was the more reasonable option.

### **State persecution**

In considering whether it is reasonable to expect an applicant to relocate decision makers should give due consideration to the source of the persecution giving rise to the applicant's fear of persecution in his place of residence. Where the state is involved in the claimed persecution decision makers must assess the level of state involvement. It may be that agents are state authorized or directed by the state to persecute; or they may be agents of the state whose persecution is connived at or tolerated by the state, or not restrained by the state; or the persecution may be by those who are not agents of the state, but whom the state does not or cannot control.

In some cases control of events by the state may be so fragmented, or its activities may be being conducted in such a way, that it will be possible to identify places within its territory where there are no grounds for thinking that persecution by the state or its agents of the applicant for a Convention reason will be resorted to. For example, a civil war may take the pattern that the extent of it is localized. So too may the process of ethnic cleansing affecting people of the applicant's ethnicity which is in progress in one area but not in others.

The more closely the persecution in question is linked to the state, and the greater the control of the state over those acting or purporting to act on its behalf, the more likely (other things being equal) that a victim of persecution in one place will be similarly vulnerable in another place within the state. The converse may also be true. The Court of Appeal has confirmed (in 2005 in the case of *Hamid*) that the principle of internal relocation is not excluded where the persecution feared in one part of the country emanates from the state. All must depend on a fair assessment of the relevant facts.

In order to argue internal relocation as an alternative in such cases decision makers will need to clearly establish that the risk of persecution stems from an authority of the state whose power is clearly limited to a specific geographical area, or where the state itself only has control over certain parts of the country. Where the state is in full control of a country and its agents of persecution are everywhere within its borders then internal relocation is not going to be an available option.

***If the applicant has a well founded fear of persecution for a Convention reason in one part of the country of return and it is not reasonable to expect them to live in another part of that country, they should be granted asylum rather than another form of leave.***

Similarly, if the applicant does not qualify for asylum but there are substantial grounds for believing that there is a real risk of serious harm in one part of the country of return, and if it is not reasonable to expect the applicant to live in another part of that country, he or she should be granted humanitarian protection.

### **Technical obstacles**

Where it is apparent that there are technical obstacles which would prevent return of an applicant to the country of origin the argument of internal relocation may still be relied upon.

Technical obstacles should be taken to mean, for example, problems with documentation which would facilitate return to the country in question, practical problems which at the present time prevent return to that country, or temporary problems affecting the possibility of return such as a natural disaster.

Where a safe area exists in the country of origin but there are technical obstacles to accessing this area (or the country as a whole) at the present time, it is not appropriate to grant asylum or humanitarian protection. A person for whom such an area exists is not a refugee or person in need of protection because there is a place to which they will safely be able to go, a fact not altered by the current practical difficulty in getting there.

### **3, REFUSING ON INTERNAL RELOCATION GROUNDS**

An applicant can be refused on internal relocation grounds alone or with supporting grounds.

In the case of refusal on internal relocation grounds alone, the decision maker needs to demonstrate in the reasons for refusal letter that consideration has been given to whether the applicant's fears are restricted to a particular area **and** whether it would be reasonable for the applicant to stay within the place of relocation. The decision maker should also address any response the applicant has provided to the proposed area of internal relocation.

If additional grounds are to be invoked in the refusal, it is for the decision maker to decide whether the other grounds should take precedence or whether the internal relocation grounds should be accorded primacy.

#### **4. HUMAN RIGHTS CLAIMS AND INTERNAL RELOCATION**

The principle of internal relocation should be applied, where appropriate, in the context of claims for humanitarian protection. It should also be applied where it is claimed that a person's removal or return from the UK would result in the flagrant denial of rights under the ECHR that fall outside the scope of the Immigration Rules on humanitarian protection. Where there are substantial grounds for believing that there is a real risk of serious harm (or flagrant denial of another ECHR right) in a particular part of the country of return, the decision maker should consider whether the applicant could avoid the harm by staying elsewhere in the country. If so, consideration must also be given to whether it would be reasonable to expect the applicant to stay in the safe area.

**Enquiries to:** Further enquiries should normally be made in writing via a Senior Caseworker to Policy Group C, APU.