

# IN THE IMMIGRATION APPEAL TRIBUNAL

LB (Article 3 – Monrovia – Security) Liberia CG [2004] UKIAT 00299

Heard at: Field House Decision number:  
Heard on: 24th March 2004 Appeal number:  
Date typed: 14th April 2004  
Date promulgated: 28<sup>th</sup> April 2004

Before:

MS. D. K. GILL (VICE PRESIDENT)  
MRS. J. HOLT

Between:

Appellant

And

The Secretary of State for the Home Department

Respondent

## **DETERMINATION AND REASONS**

### **Representation:**

For the Appellant: Mr. B. Nauman, of Counsel, instructed by Duncan Lewis & Co. Solicitors.  
For the Respondent: Mr. P. Deller, Senior Home Office Presenting Officer.

1. The Appellant (a national of Liberia, born on 3rd May 1983, who entered the United Kingdom illegally on 17th October 2002) has appealed, with permission, against the determination of Mr. G M Perry, an Adjudicator, who (following a hearing on 11th July 2003 at Hatton Cross) dismissed his appeal on asylum and human rights grounds against the Respondent's decision of 28th November 2002 to give directions for his removal to Liberia.
2. The Respondent disputed the Appellant's nationality. The Adjudicator accepted that the Appellant is a Liberian national.
3. Given the terms of the grounds of application and the terms in which permission to appeal was granted, the issues before us are whether the Appellant's removal to Monrovia would be in breach of his rights under Articles 2 or 3, bearing in mind the general security situation in Monrovia and the humanitarian conditions in Monrovia.
4. The Tribunal in its reported decision in [2003] UKIAT 00164 T (Liberia) considered the issue of safety in Monrovia and concluded that Monrovia is safe. In that case, the Tribunal did not consider whether the general humanitarian conditions in Monrovia are such as to give rise to a breach of Article 3.

5. **This Determination is being reported because:**

- (a) with regard to the security situation in Monrovia, we have had our attention drawn to a report from UNHCR dated 8th August 2003, which was not before the Tribunal in the **164 T case**.

Our conclusion on the security situation is set out at paragraph 17.12 below.

- (b) we consider whether the general humanitarian conditions in Monrovia are such that removal to Monrovia would give rise to a breach of Article 3.

Our conclusion on the general humanitarian conditions is set out at paragraph 18.6 below.

6. **The Appellant's accounts:** The Appellant is a Muslim by religion. He was born in Foya in Liberia. His mother is a Mandingo by ethnic origin. He claimed to have experienced problems in Liberia on account of his father's involvement with the Liberia Action Party (LAP) and his father's former position as a town warden. He claimed that his father was replaced by a new chief warden, after Charles Taylor came to power. He claimed that he and his family had problems with rebels fighting against the government of Charles Taylor, when the rebels attacked Foya. He claimed that, when government troops returned to the area, he and his family also had problems from the government troops because the new chief warden reported to them that the family's home was a base for the rebels. He claimed that his parents were shot by the government troops and that he and his brother managed to escape. He claimed to fear persecution from the government troops or the rebels. He also claims to fear persecution because of his Mandingo ethnic origin.

7. **The Adjudicator's Determination:** The Adjudicator rejected the Appellant's accounts of his alleged problems in Liberia on account of his father's political association or position as a town warden. It is clear from paragraphs 32 to 38 of the Determination that the Adjudicator did not believe the Appellant's story. He found that the Appellant's accounts of the problems facing his family had been free of any reference to any ethnic issue. It is clear, from paragraph 39 of the Determination, that the Adjudicator did not accept that the Appellant had ever suffered any problems on account of his half-Mandingo ethnic origin.

8. We quote paragraphs 40, 41 and 42 of the Determination:

40. Given these facts I find that the Appellant has no well-founded fear of persecution were he to return to Liberia. I do not find that such a return, subject to my observation below, would be unreasonable or unduly harsh.

41. I bear in mind the submissions made in relation to Article 3 of the ECHR and the Appellant's right not to suffer torture or inhuman or degrading treatment and for the reasons set out I do not find that to return the Appellant to the [sic] Liberia would cause the United Kingdom to be in breach of its obligations under the Convention or at all.

42. I am still mindful of the daily news that emerges of the situation in Liberia. It is clear that the situation is unstable and there is considerable loss of life - much of it civilian. Whilst I have found that the Appellant has neither established a well-founded fear of persecution nor engaged the articles of the ECHR I invite the Respondent to consider whether it would [sic] appropriate, in all the circumstances, to suspend its power to give removal directions.

9. **In the grounds of application**, it is asserted that the Adjudicator's recommendation that the Respondent suspend removal directions is an acknowledgement of a real risk of Article 3 ill-treatment and that the Adjudicator therefore erred in dismissing the

human rights appeal. It is asserted that the Adjudicator had failed to deal with the submission made to him that, if the Appellant's human rights appeal were to be allowed, then (absent a challenge to the Adjudicator's decision) the Appellant would have been granted humanitarian protection for a specified period, under a caution that, if the situation changes, he would be liable to be removed.

### Oral submissions

10. At the hearing before us, both parties agreed that the Adjudicator had erred in his assessment of the risk on return in relation to the Article 3 claim – firstly, because he had apparently taken into account “daily news” reports which were not adduced to him by way of evidence; and secondly, because his recommendation that the Respondent suspends removal directions undermines his finding that removal would not be a breach of the Appellant's Article 3 rights.
11. We drew Mr. Nauman's attention to the fact that the UNHCR report is dated 8th August 2003 – i.e. only four days after the arrival on 4th August 2003 of the peacekeeping troops in Monrovia. Furthermore, we noted that the UNHCR report appears to provide a general history of the conflict, and the human rights situation, in Liberia since December 1989. We asked Mr. Nauman to draw our attention to any parts of the UNHCR report which *specifically* deal with the situation in Monrovia since the arrival of the peacekeeping troops on 4th August 2003.
- 12.1 With regard to safety in Monrovia, Mr. Nauman submitted that there is no information concerning human rights abuses in Monrovia since the arrival of the peacekeeping troops. In his submission, one can only assume that the arrival of the troops means that protection is available. Mr. Nauman referred us to the following parts of the UNHCR's report (page numbers refer to the Appellant's bundle) and the following parts of the CIPU Report dated October 2003:

page 11E  
para 19  
(UNHCR)

Reports from IDPs indicate serious maltreatment of displaced persons both within Monrovia and in the counties by all sides of the conflict, but particularly by the Government-allied forces. **Reports continue to be made** of systematic lootings, extortion, harassment and intimidation within Monrovia and the rest of the country. IDPs are robbed and forced to labour, oftentimes subjected to sexual abuse.

page 11F  
para 22  
(UNHCR)

There are consistent allegations of abductions for forced labour or sexual slavery and forced recruitment by all parties in the conflict, especially government allied militia. Humanitarian agencies have documented many incidents of forced abduction of young men and women from displaced persons and refugee camps, some of which have implicated Government troops. **As of the start of the year and towards the recent escalation of the conflict**, abductions from IDP and refugee camps took place on a seemingly regular basis with camp residents reporting such incidents as their major concern. Abductees were allegedly used for purposes of portage, sexual slavery, or other forms of forced labour. Forced recruitment is also known to have taken place in several locations and even within Monrovia in broad daylight, purportedly by Government allied forces.

(our emphasis)

page 11F  
para 24  
(UNHCR)

This states that crippling poverty, multiple displacements and continuous war has decimated Liberia's health infrastructure. At the height of the recent attacks on Monrovia there was not a single public hospital functioning in the whole of Liberia. In addition, the continuing conflict and looting of relief items has greatly reduced the capacity of the humanitarian community to respond to the current challenges in the health sector.

- para 5.18  
CIPU report                    This states that there has been a reduction in violence in areas where peacekeepers have been deployed, particularly in Monrovia, but the situation remains tense.
  
- para 6.30  
CIPU Report                    ..... There have also been incidents of rape, and theft from IDPs is common. Both forces loyal to the Government and rebels have committed these crimes, which appear to have been mainly perpetrated by members of the various militias.
  
- para 6.52  
CIPU Report                    On 4th August 2003, the first units of the peacekeeping forces began into arrive. Both rebel and Government forces have withdrawn from Monrovia, and are allowing peacekeepers to operate within the city.
  
- para 6.53  
CIPU Report                    However, this paragraph states that fighting is continuing in many areas. This violence is marked by looting and rape, mostly by rival Government and rebel militias.
  
- para 6.54  
CIPU Report                    In the country generally, violent clashes between rebel and Government supporters has made the provision of aid and reporting on conditions in these areas very difficult. In July 2003, the UNHCR requested that Governments do not enforce the removal of failed Liberian asylum seekers for a period of six months. This was in response to an upsurge in violence, and the resulting difficulties in providing protection to the general population.

12.2 Mr. Nauman acknowledged that paragraph 22 of the UNHCR on page 11F of the Appellant's bundle refers to the situation before the arrival of the peacekeeping troops. In Mr. Nauman's submission, the reference in paragraph 24 of the UNHCR report to looting is a reference to the situation after the arrival of the peacekeeping troops. In Mr. Nauman's submission, paragraph 5.18 of the CIPU Report only says that there is a reduction in violence in Monrovia. It does not say that all the problems have been resolved. Paragraph 6.30 of the CIPU Report shows that, as at September 2003, rebels and government forces were creeping into Monrovia. Paragraphs 6.52 and 6.53 of the CIPU Report show that fighting is continuing around the city of Monrovia. In Mr. Nauman's submission, the six-month suspension recommended by the UNHCR (paragraph 6.54 of the CIPU report) would have covered the period up until January 2004. Only two months have elapsed since the end of that period. In Mr. Nauman's submission, the situation in Liberia as a whole or in Monrovia would not have improved during this period of two months.

12.3 We asked Mr. Nauman whether he was saying that any general risk in Monrovia means that the Appellant is at real risk of ill-treatment. Mr. Nauman asked us to take into account the fact that the Appellant is half-Mandingo. The government forces suspect persons of Mandingo origin of being rebel supporters. Although the Appellant has not referred to any specific problems on account of his ethnicity, he referred us to paragraph 6.33 of the CIPU report, which states:

- para 6.33  
CIPU Report                    Many members of the predominantly Muslim Mandingo minority encountered hostility when they sought to return, after the end of the civil war, to their villages .....Many Mandingos were unable to reoccupy their homes .....Mandingo citizens faced growing discrimination, arbitrary arrests, and violence based on their ethnicity.

12.4 With regard to the general humanitarian conditions in Monrovia, Mr. Nauman submitted that the arrival of the peacekeeping troops would not have improved the humanitarian conditions. He referred us to the following parts of the UNHCR's report (the page numbers refer to the Appellant's bundle) and the CIPU report dated October 2003:

- page 11B  
(UNHCR)                    This refers to violations of the Cease-fire Agreement signed between the Government and two rebel groups on 17th June 2003.

- page 11A (UNHCR) This states that a humanitarian disaster has ensued as international aid agencies have been unable to reach most of the country, including the capital, Monrovia, with food and medical aid that many people require. The lack of food, sufficient water and sanitation facilities has led to the outbreak of contagious diseases like diarrhoea and cholera. (This is repeated at page 11E, paragraph 18.)
- page 11C (UNHCR) This states that, despite the signing of the cease-fire agreement, fighting resumed on 24th June 2003 in Monrovia. Since then, the city has been under siege, several denied humanitarian access and means to their livelihood.
- page 11F (UNHCR) Ninety per cent of Liberians live in absolute poverty (less than \$1 per day); of these, half live on less than \$0.50 per day. This has translated to a serious situation of hunger, malnutrition and lack of access to the basic necessities of life.
- para 5.29 CIPU Report This states that, in Monrovia, the lack of medical supplies, food, adequate sanitation, and damage to the city's water supply caused by fighting, has made the health crisis much worse. Large numbers of people are seeking shelter in the city, which has added to the difficulty in providing adequate assistance. Civilians have also been caught up in the fighting in Monrovia. While it is not clear if they have been deliberately targeted, there have been a large number of casualties, possibly in the thousands.
- para 6.29 CIPU Report This states that recent fighting would mean that the present figure of IDPs can only be estimated, and this was given as 500,000 in September 2003.
- para 6.39 CIPU Report The recent fighting has also caused more people to seek shelter in Monrovia. In September 2003, there was an estimated 300,000 IDPs sheltering within the city, with only limited provisions for their care. The lack of medicine, food, access to clean water and shelter has resulted in a serious health crisis, which international agencies are attempting to address.
- para 6.50 CIPU Report Conditions in Monrovia itself remain poor. There is a lack of medical supplies, food, and adequate sanitation, and these factors have made the provision of health care difficult. Many thousands have been displaced by the recent fighting, and have no access to adequate shelter, they are either living rough, or seeking refuge in schools, churches or other temporary shelters.
- para 6.51 CIPU Report This refers to the looting of the port of Monrovia in early August 2003 by rebels withdrawing from the city and Liberians desperate to obtain food. The loss of supplies has made distribution of aid much harder for NGOs operating within the city. Peacekeepers have attempted to restore order to the port area, so as to permit the arrival of aid by sea.
- para 6.54 CIPU Report Conditions in Monrovia have improved, but the provision of basic services remains poor.

12.5 Mr. Nauman drew our attention to the fact that a previous cease-fire attempt was not successful. Mr. Nauman submitted that the above passages show the general humanitarian conditions as at the date of the report of the UNHCR. In his submission, the mere arrival of peacekeeping troops on 4th August 2003 would not have improved the humanitarian conditions. The situation in Liberia got to a very serious point both in terms of general security as well as in terms of the general humanitarian conditions, before the peacekeeping forces moved in. In his submission, the situation would not have improved sufficiently since then. Although the rebel troops and the government forces have withdrawn from Monrovia, this only applies to Monrovia. In his submission, the general humanitarian conditions and the situation as to safety in Monrovia do reach the Article 3 threshold as explained by Laws LJ in the **N. case**, as the Appellant would be returned to a situation where there is insufficient food and where basic resources such as water and medical care are lacking. Contagious diseases are rife. If the Appellant were to become ill, he would not be able to obtain adequate medical treatment.

- 12.6 In Mr. Nauman's submission, the Amnesty International Report dated 24th November 2004<sup>3</sup> referred to in the **164 T case** concentrated on the protection available in Monrovia. It only states that there is an uneasy calm in Monrovia. This does not mean that the situation is satisfactory or that protection is available in Monrovia. The word "uneasy" does mean that the situation is 100% perfect. Although the report states that adequate logistical support is needed beyond Monrovia, it would be dangerous to read this as meaning that adequate logistical support is available in Monrovia.
13. In Mr. Deller's submission, there was no reason for the Tribunal to take a different view from that taken by the Tribunal in the **164 T case**. The Amnesty International Report referred in the **164 T case** is the most up-to-date before us. It is clear from the Amnesty International Report that Monrovia is now safe. In Mr. Deller's submission, the humanitarian conditions in Monrovia were not such as to reach the Article 3 threshold.
14. In response, Mr. Nauman acknowledged that Amnesty International is a loud voice in relation to the Liberia but, in his submission, the report of Amnesty International Report quoted in the **164 T case** was not as detailed as the UNHCR report dated 8th August 2003. In any event, the Amnesty International Report did not consider in detail the general humanitarian conditions in Monrovia, neither had the Tribunal in the **164 T case**.
15. We reserved our determination.

### **DETERMINATION AND REASONS**

16. We have decided to dismiss this appeal, for reasons which we now give.
- 17.1 Permission to appeal was not granted in respect of the Adjudicator's finding that the Appellant is not at real risk of ill-treatment on account of his half-Mandingo ethnic origin. However, Mr. Nauman asked us to take into account the Appellant's ethnic origin and paragraph 6.33 of the CIPU report. We are prepared to do so. We acknowledge that paragraph 6.33 refers to Mandingos facing difficulties in Liberia, growing discrimination, arbitrary arrests and violence based on their ethnicity. We make two points – firstly, there is no mention of any difficulties experienced by Mandingos in Monrovia, which is the place where the Appellant will be returned to. Secondly, the Adjudicator rejected the Appellant's claims that any of his alleged problems had anything to do with his part-Mandingo ethnicity. That is a finding which is fully sustainable, for the reasons the Adjudicator gave (see paragraph 39 of the Determination). We have to determine the issues before us on the basis of that finding. Given that the Appellant did not experience any problems on account of his part-Mandingo ethnicity in his home area of Foya, it is not reasonably likely that he would have any problems in Monrovia on account of his part-Mandingo ethnicity, and we so find.
- 17.2 This means that there is nothing about the Appellant's personal circumstances which places him at risk of ill-treatment in Monrovia. His situation is the same as anyone else in Monrovia.
- 17.3 It is clear, from the Court of Appeal's judgement in **Hariri v. The Secretary of State for the Home Department [2003] EWCA Civ 807**, that absent anything personal to a claimant which puts him at real risk of serious ill-treatment, it is not enough to show

that the ill-treatment feared occurs frequently or routinely in Monrovia. In order to satisfy the “real risk” standard, it must be shown that there is a consistent pattern of gross and systematic violation of fundamental human rights in Monrovia (see paragraphs 4, 8 and 9 of the judgement). We bear this in mind in deciding whether the Appellant is at real risk of any ill-treatment which the general population in Monrovia may experience.

17.4 We now consider what the general security situation is in Monrovia.

17.5 We have carefully considered the UNHCR’s report dated 8th April 2003. As we pointed out to Mr. Nauman, this report is dated 4 days after the peacekeeping forces began to move in. It is important to read the report as a whole to understand that this report gives detailed background about the situation in Liberia since 1989 and makes conclusions and recommendations in part IV of the report (see page 11H of the Appellant's bundle). We can find no mention in this report of the fact that, on 4th August 2003, the first units of the Economic Community of West Africa Mission in Liberia (ECOMIL) peacekeeping force began to arrive. This is surprising given that the report does mention (see paragraphs 28 and 30 on page 11G of the Appellant's bundle) the adoption of resolution 1497 (2003) by the United Nations Security Council on 1st August 2003 - just 3 days before ECOMIL arrived in Monrovia and 7 days before the date of the report itself. We have also carefully considered paragraphs 19 and 22 of the report, which we have quoted above. Mr. Nauman glossed over paragraph 22 and said that he would not be making submissions on it because it clearly refers to the position before the arrival of ECOMIL in Monrovia. We do not gloss over it. We consider that paragraph 22 sets into context what is said elsewhere in the report. It is clear from the text we have emboldened in paragraph 22 above (see paragraph 12.1 of our Determination) that the references to abductions and forced recruitment, even within Monrovia, clearly relates to the situation prior to the arrival of the peacekeeping forces in Monrovia.

17.6 We then have to set the UNHCR report next to the other objective material we have – namely the CIPU report dated October 2003 and the Amnesty International Report of 24th November 2003 which is referred to in the **164 T case**.

17.7 The CIPU report is dated October 2003. It states at paragraph 6.52 (see above) that rebel and Government forces have withdrawn from Monrovia and are allowing peacekeepers to operate within the city and at paragraph 5.18 (see above) that violence has reduced in areas where peacekeepers are deployed particularly in Monrovia. The reference in paragraph 6.53 to fighting continuing in many areas does not help us to decide the situation in Monrovia, since we know that there is violence outside Monrovia in areas where there are no peacekeeping forces. Similarly, the reference in paragraph 6.54 to “violent clashes between rebel and government supporters” “in the country generally” does not help us the decide the situation in Monrovia.

17.7. The Amnesty International Report (an extract of which is quoted at paragraph 6 of the **164 T case**) states:

Although the capital Monrovia enjoys an uneasy calm after the devastating events of June and July attacks on the civilian population by former government forces and the two armed opposition groups ..... are continuing in Bong, Nimba and Grand Bassa counties.”

17.8 There is no mention of attacks continuing in Monrovia. Indeed, the words “uneasy calm” means that Monrovia is calm, albeit that it is an uneasy calm. The report continues (see the final paragraph on page 3 of the Tribunal’s Determination):

“It is clear the presence of United Nations troops offers protection to the civilian population in a few areas where they are currently deployed”

..... Amnesty International said “what is needed urgently is swift deployment of additional forces with adequate logistical support beyond Monrovia and the main route to Gbarnga”.

17.9 However, there is no mention in the UNHCR report of any United Nations troops in Monrovia or, for that matter, in any part of Liberia. We have had our attention drawn to UNHCR’s recommendation in June 2003 that removals be suspended for six months. This sixth-month period ended in January 2004. Mr. Nauman submitted that, as only two months have elapsed since the expiry of the six-month period, it cannot be said that the situation would have improved sufficiently during the two months. However, UNHCR must be perfectly aware that the six-month period ended in January 2004, and yet it has chosen not to recommend an extension of the period of suspension.

17.10 We conclude that the UNHCR report dated 8th August 2003 is not representative of the situation in Monrovia today, although it is helpful in setting out the history to the conflict in the country since 1989, except for the two years from 1997 to 1999 (see paragraph 1 of the UNHCR report) and the suffering of the population since 1989. Amnesty International is not known to be reticent in voicing its concerns (if it has concerns) on the general human rights situation in any country. Mr. Nauman acknowledged that Amnesty International has been a “loud voice” (to use Mr. Nauman’s own description) in voicing concerns about Liberia. It is inconceivable that, if there are human rights violations and abuses in Monrovia, if the situation in Monrovia was dangerous, Amnesty International would not have said so in their report. If they had, then those aspects of the report would have been drawn to the Tribunal’s attention in the **164 T case** and the Tribunal would have referred to them. The Tribunal did not.

17.11 Paragraph 6.30 refers to there having been “incidents of rape”. We agree with Mr. Nauman that this appears to be a reference to Monrovia, having regard to the paragraph as a whole. The paragraph also states that theft from IDPs is “common”. The final sentence states that forces loyal to the Government as well as rebels have committed these crimes. In Mr. Nauman’s submission, this shows that Government forces and rebel forces are able to infiltrate Monrovia. This may be so. However, the fact that the October 2003 CIPU refers to “incidents of rape” and theft being “common” does not mean that Monrovia is not safe, nor that it is reasonably likely that the Appellant would be subjected to any such ill-treatment.

17.12 We conclude, from the evidence before us, as did the Tribunal in the **164 T case**, that the situation in Monrovia is safe. We have considered the UNHCR report but, for the reasons given above, find that it does not help us to determine the situation in Monrovia now. On the evidence before us, the up-to-date evidence is that contained in the Amnesty International Report referred to in the **164 T case**. We adopt the conclusions of the Tribunal in that case (see paragraph 8 of the Tribunal’s Determination) – namely, that the situation in Monrovia is tense but it is under control, that Monrovia is an area where there are UN troops in numbers and they are



able to keep the peace in that city; that IDP camps around Monrovia function and are open to outside scrutiny and that the people in those camps are safe.

17.13 In the **164 T case**, the Tribunal concluded that the Appellant, a Mandingo and a Muslim, could safely return to Monrovia as he would be at no particular enhanced risk over and above that run by any other Liberian citizen. We see no reason to take a different view in the instant appeal, the Appellant being only half-Mandingo and not having experienced any problems in the past in his home area on account of his half-Mandingo ethnicity.

18.1 We now turn to consider the general humanitarian conditions in Monrovia.

18.2 For the reasons we have already given above, we consider that the UNHCR report of 8th August 2003 does not reflect the current humanitarian situation in Monrovia. However, the reference in the UNHCR report of 8th August 2003 to the outbreak of contagious diseases such as diarrhoea and cholera may still be relevant, because it takes time to bring such diseases under control. In other respects, the CIPU report of October 2003 is more up-to-date. We also take into account the fact that the UNHCR has not recommended a suspension of removals for a further period, at the end of the sixth month period covered by its position of June 2003. We accept that the IDP population in Monrovia is large— an estimated 300,000 (paragraph 6.39 of the CIPU). As paragraphs 6.29 and 6.39 state, conditions in Monrovia are poor. There is a lack of medical supplies, food, and adequate sanitation. Many thousands have no access to shelter and are living rough. We acknowledge that, in early August 2003, the port of Monrovia was looted. There have no reports of looting since then of aid supplies.

18.3 We accept that the general humanitarian conditions in Monrovia are very bad. We acknowledge that, if the Appellant is returned to Monrovia, he would experience difficulties in obtaining food supplies, shelter and other basic necessities. The objective evidence indicates that there are NGOs operating in Monrovia, although we acknowledge that they experienced difficulties in distributing food after the port of Monrovia was looted. The Appellant does not have any medical problems and has not indicated a need of any medical supplies. Nevertheless, we accept that, if the Appellant is returned to Monrovia, his situation would be very difficult. We do not underestimate his difficulties.

18.4 However, the Article 3 threshold is a high one, as the decision of the European Court of Human Rights (ECtHr) in **Bensaid v. The United Kingdom [2002] INLR 325** shows. In that case, the ECtHr said (paragraph 40 of the judgement):

40. *The Court accepts the seriousness of the applicant's medical condition. Having regard however to the high threshold set by Article 3, particularly where the case does not concern the direct responsibility of the Contracting State for the infliction of harm, the Court does not find that there is a sufficiently real risk that the applicant's removal in these circumstances would be contrary to the standard of Article 3. It does not disclose the exceptional circumstances of the D. case (cited above) where the applicant was in the final stages of a terminal illness, AIDS, and had no prospect of medical care or family support on expulsion to St. Kitts.*

18.5 Whilst the Claimant does not rely on any medical condition, the principle in **Bensaid** is also applicable where the Article 3 claim is based solely on the general conditions in the receiving country.

18.6 On the whole of the evidence before us, we are satisfied that the conditions the Appellant would face in Monrovia would not be of such severity as to reach the

threshold for a breach of Article 3 or be in breach of Article 2. Accordingly, we agree with the Adjudicator's decision that removal would not be in breach of the Appellant's protected human rights.

19. It follows that we must dismiss this appeal.

Decision

**The appeal is DISMISSED.**

Ms. D. K. GILL  
Vice President

Date: 25th April 2004