

H-TW-V1

Heard at Field House

AZ (risk on return) Ivory Coast CG  
[2004] UKIAT 00170

On 4 May 2004

**IMMIGRATION APPEAL TRIBUNAL**

Date Determination notified:

23 June 2004

**Before:**

**Mr P R Lane Vice President  
Ms D K Gill - Vice President  
Miss J Grimmett**

**Between**

**APPELLANT**

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**RESPONDENT**

**Representation:**

For the Appellant: Mr A. Barcello, Counsel, instructed by Messrs  
Douglas & Partners Solicitors

For the Respondent: Mr G. Phillips, Senior Home Office Presenting  
Officer

**DETERMINATION AND REASONS**

1. The Appellant, a citizen of Ivory Coast, appeals with permission against the Determination of an Adjudicator, Mr D M Page, sitting at Cardiff, in which he dismissed on asylum and human rights grounds the Appellant's appeal against the decision of the Respondent on 16 June 2003 to give directions for the Appellant's removal from the United Kingdom.

2. According to the Appellant, he left Ivory Coast on 15 April 2000. He travelled first to Mali and then to Senegal and Mauritania, whence he took a boat to Spain, arriving there in May 2000. Having spent a week in Spain, he travelled on to France. He lived in France for five months. He told the Interviewing Officer that he did not wish to claim asylum there and was told that it would "be better for me to claim [asylum] in England or Ireland" (A6; question 27).
3. The Appellant next went to Holland, having been told that he could get a job there in order to earn money to get to the United Kingdom. He said he did not seek asylum in Holland "because of the language" (question 30). In March 2001 the Appellant travelled by coach from Amsterdam to Victoria Coach Station in London. He utilised a Portuguese passport, to which he was not entitled. When encountered on 17 March 2001 in the United Kingdom, he stated that he came from the Democratic Republic of Congo. When asked why he had said this, the Appellant replied, "I didn't really know where I was from. Everything was getting on my nerves". (A9; question 39). The Appellant indicated that his intention was to travel on to Ireland. However, upon being detected in the United Kingdom, he claimed asylum here.
4. That claim can be summarised as follows. The Appellant said that he had been a member of the RDR Party in Ivory Coast since 1994. Although apparently originating from West Ivory Coast, the Appellant lived in Abobo, a suburb of Abidjan (A6; question 5). On 24 December 1999, there was a coup in Ivory Coast. The Appellant had been working in a shoe factory "But once the coup happened, there was no more work for us, and I had to fend for myself" (A3; question 3). The Appellant lost his job on 2 February 2000 (A6; question 9).
5. As a member of the RDR, the Appellant said that he took part in a rally, with thousands of others, and although many at the rally were arrested, he himself was not. Whilst running away from the rally, he stumbled and fell, injuring his face and neck. The Appellant said that he felt lucky not to have been arrested "because he did participate in many rallies and demonstrations. At the rally where he fell over and injured his neck there were some ten thousand people in attendance. Under cross-examination the appellant claimed that he had been stood over by soldiers when he fell at this rally and [was] hit with wooden clubs" (determination, paragraphs 12 and 13).
6. At paragraph 14, the Adjudicator recorded that the Appellant claimed to have been a member of the committee of the youth wing of the RDR in Abobo Samake in Abidjan. Since arriving in the United Kingdom, he had not done anything to support the RDR "because there are, according to the appellant, no RDR activities

taking place in Bristol. Also, the appellant intended going to Ireland to get away from politics" (paragraph 14).

7. At paragraph 15, the Adjudicator recorded that the Appellant was asked how many RDR members were in the current government's cabinet. He replied that he "knew their names but did not know these RDR members by sight". The appellant was asked about the amnesty where RDR members who had been captured had been released during the year 2000. The appellant claimed that he did not know about this amnesty but claimed that the leader of the RDR was in exile (paragraph 15).
8. Asked under cross-examination why he would be of interest to the authorities in the Ivory Coast at the present time, given that there were members of the RDR in government, he replied that he would be of adverse interest to the authorities upon return because he had been residing at Abobo and had been a member of the RDR. Members or supporters of the RDR, the Appellant claimed, "are seen as rebels or rebel supporters" (paragraph 16). At paragraph 17, the Adjudicator records that the Appellant said he had been baptised into the Catholic Church in May 2002.
9. The Adjudicator sets out his conclusions at paragraphs 19 to 25 of the determination. From this, it would appear that the Adjudicator accepted that the Appellant had been a member of the RDR in Abobo, Abidjan and that the Appellant may have attended a demonstration on 14 February 2000, together with thousands of others, at which he fell down and hurt himself. That much seems to be apparent from paragraphs 19 and 20 of the determination, where the Adjudicator records (without any comment on his own part) the Appellant's case as being "that he would be at risk upon return as a former RDR member with no profile and someone who has never been arrested by the authorities" (paragraph 19).
10. At paragraph 20 the Adjudicator has this to say: -

"20) I have been referred by the respondent to objective evidence which contradicts the appellant's alleged fear of return and confirms the appellant's evidence that there are RDR members in government in the Ivory Coast at the present time. I judge the appellant's claim against the objective background evidence and find that there is no serious possibility, or reasonable likelihood, of this appellant being of the slightest interest to the authorities upon return. The appellant's evidence when viewed against the objective background evidence does not engage this country's obligations to provide him with international protection".

11. Permission to appeal to the Tribunal was given on the basis that it was arguable that the Adjudicator had erred in law by failing to address the findings "of the expert report by Thalia Griffiths".
12. The report of Thalia Griffiths which was before the Adjudicator is a two and a half page document dated 30 August 2003 and entitled "Expert Report in the appeal of" the Appellant.

**Background to recent events in Ivory Coast:**

13. Before the Tribunal turns in detail both to that report, to the subsequent report of Miss Griffiths served in connection with the Tribunal hearing, and the oral evidence given by her to the Tribunal, it is necessary briefly to give a description of the background to recent events in Ivory Coast. In doing so, we draw primarily upon Part 1 of the UNHCR Position on Return of Rejected Asylum-Seekers to Cote d'Ivoire of 20/01/2004, submitted by the Appellant, and the Home Office Bulletin of March 2003 on Ivory Coast, which was before the Adjudicator.
14. Since becoming independent from France in 1960, Ivory Coast was for some three decades seen as "an island of relative calm and prosperity in a region which has been turbulent since the late 1980s" (UNHCR paper). During that period of prosperity and calm, citizens of neighbouring countries were encouraged to live and work in Ivory Coast. There are at present now more than 60 ethnic groups in the country.
15. Following the death of the first President, Felix Boigny, in December 1993, an era of political tension began. There were disputes over the succession to Mr Boigny, culminating with the military coup of 24 December 1999, which removed the government of Henri Bedi, the second President.
16. Prior to that coup, President Bedi had sought to disqualify from the forthcoming elections, Alassane Ouattara, a former Prime Minister, who had become a leader of the RDR. On 9 December 1999 a warrant had been issued for Mr Ouattara's arrest. However, following the coup, on 29 December 1999, a court "cancelled the arrest warrant and decreed that there was no justification for pursuing the investigation. Ouattara returned to the country, immediately following the decision, having spent the previous three months in France" (Home Office Country Assessment of October 2001).
17. Following almost a year of military administration, headed by General Guei, Laurent Gbagbo came to power in October 2000, in the wake of what was said to have been a disputed presidential election. Mr Ouattara had again been barred from standing in those elections and, as a result, a significant part of the

population, who were sympathisers of the RDR and its leaders, felt that they had been deliberately marginalised from the affairs of the nation.

18. On 19 September 2002, a group of soldiers protesting against their planned demobilisation by the government successfully organised themselves into a rebel movement and attempted a coup. General Guei lost his life in the immediate aftermath of this rebellion. A month earlier, four RDR members had, in fact, taken up ministerial posts in the government, at the invitation of President Gbagbo.
19. The rebels, mostly concentrated in the centre and northern parts of Ivory Coast, intended to march towards Abidjan. However, the rapid deployment of French forces stationed in the country resulted in the rebels' advance being halted. Since then, Ivory Coast has effectively been split into two main parts: the northern part under the control of the rebels of the "Mouvement Patriotique de la Cote d'Ivoire" (MPCI) and the southern part under the administration of the elected government. In the west of the country, two other rebel movements, "Mouvement Patriotique Ivoirien du Grande Ouest" (MPIGO) and "Mouvement pour la Justice et la Paix" (MJP) were established. These three rebel movements are currently grouped under the "umbrella" name of "Forces Nouvelles" (FN), under the leadership of the MPCI.
20. The government and the MPCI signed a ceasefire agreement in the autumn of 2002. In an effort to consolidate this, and to prevent violations of the ceasefire by both sides, France convened in January 2003 peace talks in Marcoussis, near Paris, to which all the protagonists were invited. As a result, a Peace Agreement was signed on 24 January 2003 (the Linas-Marcoussis Peace Agreement).
21. That agreement provided for, amongst other matters, the creation of a transitional government to include representatives of all sides, regroupment, disarmament and demobilisation of all armed forces, a revision of the nationality law and preparation for presidential and parliamentary elections to be held in October 2005.
22. A Ceasefire Agreement between the armed forces and rebel groups was signed in May 2003. In July 2003 an Amnesty Law was passed. However, in September 2003, the FN suspended their participation in government, after President Gbagbo appointed two ministers to his government, in contravention of the Linas-Marcoussis Peace Agreement. Following further negotiations, the FN rejoined the government in December 2003.

23. Between November 2003 and January 2004, there was an increase in the number of demonstrations and political rallies in Abidjan (Country Bulletin 1/2004 paragraph 2.9). There were also "concerns about militias and youth groups, such as the 'Young Patriots' and the Group Patriots for Peace ("Groupement des Patriotes pour la Paix" (GPP)). However, in October 2003 a government decision was taken to impose an immediate three-month ban on public demonstrations and marches and the government also ordered the immediate disbanding of the GPP (paragraph 2.10). The UNHCR paper of January 2004 describes the situation in Ivory Coast at that time as remaining "fragile, with frequent violent incidents of killing, intimidation and robbery, occurring on both sides". These incidents were "attributed to uncontrolled armed elements, particularly in the rebel-held areas". Nevertheless, in December 2003 the Armed Forces of Ivory Coast (FANCI) and the FN began dismantling their respective checkpoints and withdrawing heavy weapons from the "zone of confidence" (a weapons-free zone established pursuant to the Linus-Marcoussis Agreement).
24. During early 2004, it appears that the various political parties opposed to President Gbagbo became increasingly concerned at the latter's apparent reluctance to engage in a full implementation of the Linus-Marcoussis Peace Agreement. These political tensions culminated on 25 March 2004 in a protest march in Abidjan. According to the opposition parties, government security forces opened fire on the protesters, killing between 350 and 500 people. Government figures put the number of fatalities at 37, including two police officers (Bulletin 1/2004; paragraph 2.18). The Ivorian Movement for Human Rights estimated that about 200 people had died and another 400 were injured. The most severely affected districts of Abidjan included Abobo, Port Bouet, Youpougon, Adjamen and Koumassi.
25. Immediately following the demonstration, both the FN and the RDR announced that they were suspending their participation in the Government of National Reconciliation.
26. According to a report of 14 April 2004 (noted in Bulletin 1/2004 at paragraph 2.23) President Gbagbo is continuing to press for negotiations to be held with opposition parties. That report also noted that "in response to the many reports of exactions in the poorer neighbourhoods of Abidjan, committed by police forces and unidentified 'parallel uniformed forces', the government has requested international military forces (LICORNE and UNOCI) to conduct mixed patrols alongside the Ivorian armed forces to help maintain law and order" (paragraph 2.24). At paragraph 2.27, it is noted (from the OCHA report) that there have been numerous reports of abuse and raids carried out by the security forces in various districts of Abidjan and that roundups have occurred in

poorer neighbourhoods, inhabited primarily by west African immigrants and northern Ivorians, often perceived as supporters of the RDR.

### **The evidence of Miss Griffiths:**

27. We can now turn to the first report of Miss Griffiths. This states that “the very fact that there have been so many separate ceasefires, agreements and other declarations of peace proves how ineffective the peace process is”. Although the government of national unity “has nominal jurisdiction over the whole country” the President “has shown himself deeply reluctant to implement the Marcoussis Peace Accord. President Gbagbo and his supporters in the Front Populaire Ivoirien feel that peace undermines their sovereignty and was imposed by France, the former colonial power”. Miss Griffiths expresses the view that the Government of National Unity “is something of a lame duck, and the presence of a few rebels in minor Cabinet posts will not stop the kind of atrocities that have been well-documented on both sides of the conflict”. Miss Griffiths refers to an NGO Human Rights Watch Report of August 2003 which she says “describes systematic and indiscriminate attacks on civilians, summary executions of non-combatants, arbitrary arrests and detentions, ‘disappearances’ and torture carried out by three groups on the government side: government forces themselves, Liberian and other mercenaries working with the Ivorian government and state-supported civilian militias”. In many cases the names of the victims alone were “considered grounds for arbitrary arrest, detentions, torture and executions, based on the identification of the names of potential northern or immigrant or political opposition members. Victims have also been targeted on the basis of religious affiliation, for instance, Muslims have often been assumed to be supporting the rebel forces”.
28. Later in the report we find that “those connected with the RDR, whether leading figures or ordinary members, have been singled out for particularly harsh treatment. Members of [the] RDR are seen as a security threat”. Miss Griffiths considers that “at the moment [the RDR] are equated with the rebels in the minds of many southerners. When RDR ministers came to Abidjan in March [2003] to join the Government of National Unity, they stayed at a city centre hotel guarded by West African peacekeepers because they feared attack in their own homes”.
29. Turning to the Appellant's particular case, Miss Griffiths observes how the Appellant “says he fled Cote d’Ivoire in 2000 because he feared he would be arrested as an RDR member”. She then says that “if he returned now, he would be in real danger not of arrest but of being killed by loyalist militias”. If he arrived in Abidjan “as a failed refugee applicant, he would come immediately to the

attention of the security forces". Reference is then made to the destruction of shantytowns in Abidjan. The report concludes by saying that "the amnesty law would not protect [the Appellant] from a revenge attack, nor would the French and West African peacekeepers, since they cannot be in every village and on every street corner".

30. Miss Griffiths's second report is in fact a letter dated 12 March 2004, in which she comments on the Determination of the Adjudicator. She is "not sure that it takes account of my report." She refers to loyalist militias that "carry out attacks with impunity" and that "RDR members are still being harassed". In October 2003 "eleven RDR activists from Abidjan's Abobo district were arrested on trumped up charges of plotting to kill senior political, administrative and military officials. They were freed on 21 October after a court found that they had no case to answer". The letter ends by noting that, in late February 2004, the United Nations "agreed to send a force of 6,240 peacekeeping troops to Cote d'Ivoire, plus police to protect the UN operation. This is in addition to the 4,000 troops already there". Whilst Miss Griffiths expresses the hope "that the situation will soon stabilise to the point when refugees can safely return home, I do not feel that this point has yet been reached".
31. Miss Griffiths gave oral evidence before the Tribunal. She said that she is the Deputy Editor of *Africa Confidential*, a fortnightly publication sold on a subscription basis, and which has been in existence for over 40 years. She has written on African affairs for eleven years. Between 1993 and 1996 she was based in Abidjan with the Reuters News Agency. Her most recent visit to Ivory Coast occurred in March 2003.
32. Miss Griffiths was asked about the fact that her reports appeared to be generally unsourced. She said that she was in contact with friends in Ivory Coast and that she also talked with the Associated Press correspondent in that country. In addition, she read Ivory Coast newspapers on the Internet. She was in contact with the Ivorian Human Rights League and researchers with Human Rights Watch. She considered that she had a good knowledge of security affairs in Ivory Coast.
33. Miss Griffiths was asked about the position of the Appellant who, even on his own account, could only be described as a low-level member of the RDR. Miss Griffiths replied that as a returning failed asylum seeker he would come to the attention of the security forces. Arrivals were closely monitored by the authorities at Abidjan. She did not, however, know what travel documents the Appellant would be using. There was, nevertheless, a large police presence throughout the Airport. Plain-clothes security police would question anyone who looked as if they might be of interest.



She herself had been taken aside for questioning, despite having a letter of invitation to the country from the wife of the President.

34. Miss Griffiths said that, if it was discovered at the airport that the Appellant was a member of the RDR, he could be detained and questioned. She then said it was likely that this would occur. People with the Appellant's profile had suffered beatings and been taken away and killed. She considered that the more senior members of the RDR were less at risk than low-level members. After the demonstrations in March 2004, the authorities started taking people away in the night.
35. Whilst Miss Griffiths considered that in the past there had been lists of RDR members, she could not say whether the authorities would today have a list of such members available to them at the airport. She did not imagine that that would be the case. They might, however, have access to an old list.
36. Miss Griffiths said that she had never met the Appellant. She noted, however, that he was the child of a father from the south of Ivory Coast and a mother from the north. His surname would not indicate to the authorities that he was a northerner. His mother's people could be described as, in general, thinner than persons from ethnic groups originating in the south. It was, however, observed that the Appellant said that he had not personally come from the north of Ivory Coast but, rather, from the west.
37. Miss Griffiths did not consider that there was anything else which would mark out the Appellant as someone of interest to the authorities, at the airport.
38. Miss Griffiths said that Abobo, where the Appellant had previously lived, was a working class district of Abidjan, with a large population of northerners and migrant workers. This area had been subjected to "night raids" in the aftermath of the March 2004 demonstrations. Abobo was seen as an RDR district. If he returned to Abobo, Miss Griffiths considered that the Appellant might be recognised and denounced as an RDR member. She believed that there were cases where such things had happened. The authorities operated what in effect was a reign of terror.
39. Miss Griffiths said that, despite the existence of the Government of National Unity, the security services were still in practice under the control of the Presidency. The gendarmerie was overwhelmingly loyal to the President. Furthermore, following the March 2004 demonstrations, the RDR ministers in the government, including the Justice Minister (Henriette Diabate) had withdrawn from the government. But even if the RDR returned to government, this would not, in Miss Griffiths's opinion, make much difference. Real power still resided only in the President.

40. Turning to the effect of the introduction of the UN Peacekeepers, Miss Griffiths considered that these were being deployed to oversee the disarmament of the government forces and the rebels. The peacekeepers could not stand on street corners in Abobo and protect civilians from the actions of loyalist militias.
41. In answer to a question from the Tribunal, Miss Griffiths confirmed that, in her view, in the present climate, a returning failed asylum seeker was as such at risk of detention or worse, upon return. The attitude of the authorities would be that such a person should be "locked away to be on the safe side". Miss Griffiths did not think that the authorities would infer that he had simply tried to get a better life for himself abroad because she said that would be the rationale of a country at ease with itself, whereas, in the case of the Ivorian authorities, the situation was one of paranoia.
42. As for denunciations, Miss Griffiths referred to an incident that she had read about in the Human Rights Watch Report whereby in 2003 some people in a shared taxi had been regarded by bystanders as looking as if they were foreigners. The occupants of the taxi were beaten and possibly killed.
43. If the Appellant returned to Abobo, Miss Griffiths considered that he would be at greater risk than the majority of the population of that district, as he was an RDR member. If he should choose to go to another suburb, he would be regarded as a stranger and liable to be investigated.
44. Cross-examined, Miss Griffiths confirmed that the Appellant would in her opinion be at risk merely as a returning failed asylum seeker. She was not aware of any returning failed asylum seekers who had come to the adverse attention of the authorities in Abidjan Airport. She did not know if there had been any returns made by the Secretary of State to that country.
45. At this point, Mr Phillips informed the Tribunal that the Secretary of State had no policy of refraining from returning failed asylum seekers from the United Kingdom to Ivory Coast.
46. Asked what would happen if the Appellant told the authorities, if questioned at the airport, that he was merely an economic migrant, she replied that he would be questioned at length and they would try to find out more about his background and if it transpired that he was the child of a northern mother "it might count significantly against him in their eyes". Whilst she was unaware of any current lists of suspected persons being held at the airport, this did not mean that such lists did not exist.

47. Asked about the absence of sources from her reports, Miss Griffiths said that she had not been asked to supply sources. She had written sourced reports, however, for other asylum appellants.
48. Re-examined, Miss Griffiths said that she did not know of anyone who had returned as a failed asylum seeker to Ivory Coast.

**Assessment of the evidence of Miss Griffiths:**

49. In this appeal, we have to assess the oral and documentary evidence of Miss Griffiths, which is being relied upon in this case as expert evidence. Such evidence is an increasing feature in asylum and human rights appeals. Claimants' representatives generally imply that such "expert evidence" is synonymous with "independent and reliable evidence". Whether expert evidence is to be regarded as independent and reliable is a matter which should be the subject of careful assessment in each case. The Tribunal has frequently stated that expert evidence should be sourced. This is a necessary part of the Tribunal's function to assess the reliability of the evidence adduced. In order to test the independence of the person put forward as an expert, the Tribunal will generally compare the opinion with information contained in other reports. It is self-evident that different inferences may be drawn from the same sets of facts, even when those facts are proven to be reliable. Inferences drawn by someone with a certain perspective may well be very different from inferences drawn by someone who is objective. As the Tribunal, we have to be careful in placing reliance on opinions of those who fall within the former category, although this is not to say that such a person's personal integrity is called into question as he or she might genuinely hold the opinion he or she has.
50. We have difficulties with Miss Griffiths' evidence. Her written reports are largely unsourced. In her oral evidence, she informed us that she obtained the information she gave us at the hearing from "conversations with friends in the Ivory Coast" and she also talked with the Associated Press correspondent. This is highly unsatisfactory, as we have no idea of the "expertise" of those to whom she speaks, whether they are providing factual information to her or their own opinions of events, whether she has independently verified any factual information she was given, or whether there was any room for any misunderstandings to arise. It is therefore difficult for us to assess the reliability of the factual information upon which she bases her opinions.
51. We are, however, able to assess whether she can be accepted as an impartial expert. We accept that she genuinely believes that a returning failed asylum seeker would as such be at real risk of detention (or worse) at the Airport. The Tribunal made it a point to ask Miss Griffiths when, in her view, such a risk to failed asylum

seekers *per se* arose. She replied that it was in the period following the September 2002 coup attempt, which led to the *de facto* division of the country between rebel-held and government-held areas.

52. Miss Griffiths's view runs counter to that of the UNHCR. In its May 2003 Position Paper on Unsuccessful Asylum Seekers from Cote d'Ivoire (Appellant's bundle, page 14) the UNHCR states that "unsuccessful asylum seekers remain... at real risk of suffering from the indiscriminate effects of violence and disruption to public order if forcibly returned to Cote d'Ivoire. Consequently, UNHCR's current advice to governments is to suspend enforced returns of unsuccessful asylum seekers to Cote d'Ivoire". The basis upon which the UNHCR considered that there are risks of "indiscriminate effects of violence" is contained in the preceding paragraph of the paper. This refers to skirmishes taking place in the western part of the country and the rebel positions in the north having not changed. The UNHCR does not suggest that, as of May 2003, low-level members of the RDR or returning failed asylum seekers as such, faced a real risk of persecution for actual or imputed political opinion. Nor does the UNHCR assert that the "indiscriminate effects of violence and disruption to public order" constitute a real risk of inhuman or degrading treatment occurring to anyone who is forcibly returned to Ivory Coast.
53. We also noted Miss Griffiths' response to our question as to whether the authorities in the Ivory Coast would infer that the Appellant had simply been trying to make a better life for himself abroad. She said that this would be the rationale of a country at ease with itself, whereas, in the case of the Ivorian authorities, the situation was one of paranoia. Miss Griffiths' perception that it is only in the case of a country at ease with itself that security officials would think that a failed asylum seeker's motive for leaving his country was economic betterment is not one that accords with the Tribunal's general experience of hearing and determining appeals involving a very wide range of countries. To take one example, we know from CIPU Reports on Turkey that the Turkish authorities are aware that many of their citizens who leave Turkey do so in order to make a better life for themselves abroad and not because they genuinely fear persecution.
54. For the reasons we have given in paragraphs 51 to 53 above, the Tribunal is unable to accept Miss Griffiths's views as evidence that compels the conclusion that returning RDR members and supporters are at real risk of persecution in Ivory Coast. We must, however, emphasise that we accept she is not driven by any motive other than a genuine desire to assist the Tribunal.
55. In her first report, Miss Griffiths considered that the Appellant, if returned, "would be in real danger not of arrest but of being killed

by loyalist militias". This contrasts with his stated fear in 2000, which was that "he would be arrested as an RDR member" (Appellant's bundle page 5). Miss Griffiths's conclusion is at variance with what she said in her oral evidence where, as we have noted, she considered it likely that the Appellant would be detained by the authorities. Even in August 2003, however, when the first report was written, there is no sourced material to show that RDR members were all as such at real risk of being killed by loyalist militias. Indeed, as previously noted, in October 2003 the government ordered the immediate disbanding of the GPP militia.

56. It is undoubtedly the case that tensions in Ivory Coast remain at a high level. There are documented reports of raids being carried out by the authorities and their unofficial supporters in areas of Abidjan, such as Abobo, where there are concentrations of persons emanating from the northern parts of Ivory Coast and of RDR members and supporters. The evidence, however, is in the Tribunal's opinion far from showing that there is either a presidential policy of targeting low-level RDR members and supporters or an unchecked campaign on the part of non-government militias against such persons, on such a scale as to put at real risk any low-level RDR member or supporter.
57. In short, were the Appellant to be returned today to Abidjan, he would return to a turbulent atmosphere. He would not, however, on the evidence face a real risk of targeting, whether by the authorities of the President or non-government militias. That is the case, even on the basis that the Appellant decides to maintain his membership of the RDR. Since, however, he told the United Kingdom authorities that he wished to go to Ireland in order to get away from politics, it must be extremely doubtful whether the Appellant would choose to retain that membership.
58. Having considered all of the evidence, the Tribunal does not consider that the oral and documentary evidence of Miss Griffiths constitutes evidence that this Appellant, a low-level member of the RDR who has never been arrested or detained by the authorities, and who left Ivory Coast in 2000, would be at real risk on return today, either of persecution for a Refugee Convention reason or of inhuman or degrading treatment or punishment, contrary to Article 3 of the ECHR.

**Assessment of the UNHCR's position:**

59. In connection with the Tribunal hearing, the Appellant submitted a January 2004 UNHCR Position on the Return of Rejected Asylum Seekers to Cote d'Ivoire. Apart from setting out the background to the current difficulties in that country, this paper notes that there is "a state of insecurity" in the country and a "volatile security situation" (paragraph 16).

60. The UNHCR's conclusions are to be found at paragraphs 20 to 22. Noting that the situation "is precarious and may remain fluid for some time to come, UNHCR is of the opinion that the question of return of rejected asylum seekers should be approached with caution". Paragraph 21 reads as follows:-

"21. As regards individuals originating from Abidjan, where a relative level of security has been established, such persons may be returned there, provided that family members have been identified, to avoid creating a situation of internal displacement".

61. The situation for those originating from outside Abidjan is dealt with in paragraph 22:-

"22. With regard to individuals originating from outside Abidjan, where uncontrolled armed elements continue to pose a serious threat to the security of the population and private property, return to Cote d'Ivoire should be avoided, lest it may increase further the number of internally displaced persons and/or their physical safety is put in jeopardy. States should therefore refrain from forcibly returning such persons to Cote d'Ivoire and grant them complimentary forms of protection instead, until further notice. This position will be reviewed in the second half of 2004".

62. It is clear from UNHCR's conclusions as set out above that the reason why UNHCR considers that individuals who originate from Abidjan may be returned if their family members have been identified is because family members can reasonably be expected to shelter them, whereas individuals who originate from outside Abidjan would be likely to become internally displaced in Abidjan – a situation which UNHCR considers should be avoided. This does not, however, mean that conditions of internal displacement in Abidjan are sufficiently severe as to reach the Article 3 threshold, nor does it mean that the security concerns they face in internal displacement are such that they are reasonably likely to be at risk of Article 3 ill treatment.

63. It must be borne in mind that UNHCR has a range of interests that goes beyond the relatively narrow questions that Adjudicators and the Tribunal must answer in determining whether the return of a particular individual to his or her home country would be contrary to the obligations imposed by the Human Rights Act 1998. In particular, the mass return of those who have sought asylum in a neighbouring state to their own could well overstretch

the reception facilities available in the home state. That does not, however, necessarily mean that the return of a particular individual from the United Kingdom would put that person at real risk of inhuman or degrading treatment. In the present case, if UNHCR considered that anyone who is internally displaced in Abidjan faces as such a real risk of treatment that would violate Article 3 of the ECHR or any similar relevant international instrument, they can be expected to say so. They have not. Whilst we have no reason to suppose that conditions faced by those in internal displacement in Abidjan would be anything other than difficult, the evidence does not establish that they would be sufficiently severe as to reach the Article 3 threshold. We therefore conclude that, in general terms, the return of individuals to the Ivory Coast (whether or not they originate from Abidjan) would not be in breach of Article 3.

64. Insofar as the general security situation in Abidjan is concerned, it should be noted that, despite the difficulties which existed there in January 2004, the UNHCR concluded that “a relative level of security has been established” in that city. This should now be read in the light of the recent developments we have summarised at paragraphs 24 to 26 above. Whilst we note that certain (poorer) neighbourhoods have been subject to raids and roundups, the evidence is that individuals face a generalised risk in these areas. We accept that persons in internal displacement in these areas are at greater risk of being subjected to raids and abuse. However, 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 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 this case, the objective evidence does not show that raids and incidents of abuse by the security forces against persons in internal displacement are even occurring frequently or routinely, let alone that there is a consistent pattern of gross and systematic violation of fundamental human rights.

65. Given that the Appellant last lived in a suburb of Abidjan, the Tribunal sees no basis upon which it can be successfully claimed that the Refugee Convention or the ECHR currently precludes his return to that city. This is despite the fact that, as far as can be ascertained from his evidence, the Appellant does not have family members in Abidjan. The Appellant is a man of 32. There is no evidence that he is suffering from any medical problem that would preclude him from obtaining employment. He has shown himself to be possessed of the resources and, indeed, resourcefulness to undertake a protracted journey through many countries, before arriving in the United Kingdom. In any event,

the fact that he may, initially at least, face internal displacement is not in any sense to be equated with a real risk that he would suffer Article 3 ill treatment.

**Failed asylum seekers:**

66. There is nothing in the UNHCR documents to show that returning failed asylum seekers have been ill treated in Abidjan Airport or have disappeared upon arrival there. There is no evidence before the Tribunal that no one is at present being forcibly returned to Ivory Coast from Western Europe. Miss Griffiths's views upon what might happen to the Appellant at the Airport are, in essence, speculation, unsupported by any particular evidence. We have already noted how her views on the position of returning failed asylum seekers relate to the period beginning with the September 2002 coup attempt, thus putting those views at variance with the UNHCR pronouncements to which we have just referred. The demonstrations of March 2004, serious though they were, have not been shown to be qualitatively different from other setbacks in the peace process, as detailed earlier in this Determination. Accordingly, the Tribunal does not accept that the evidence shows that there has been such a change of attitude on the part of the Ivorian authorities since March 2004, as to render otiose the earlier pronouncements of the UNHCR on the position of returning failed asylum seekers.
67. This appeal is dismissed.

**P R LANE  
VICE PRESIDENT**

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