

REFUGEE STATUS APPEALS AUTHORITY
NEW ZEALAND

REFUGEE APPEAL NO 76078

AT AUCKLAND

Before: A N Molloy (Member)

Counsel for the Appellant: D Mansouri-Rad

Appearing for the Department of Labour: No Appearance

Dates of Hearing: 11 & 13 September and 17 & 19
October 2007

Date of Decision: 19 May 2009

DECISION

[1] The appellant (the husband) and his wife (the wife) appeal against decisions of the Refugee Status Branch (RSB) of the Department of Labour (DOL), declining their applications for refugee status.

[2] The husband is a national of the State of Israel. He claims that he is at risk of being persecuted in that country because of his conscientious objection to completing compulsory military service. His objection to military service is, according to counsel, two-fold: first, he claims that it is against his Christian beliefs to serve in the military; second, he claims that he objects upon the basis of the human rights record of the Israeli armed forces.

[3] He also claims that he has faced, and will face in the future, discrimination which cumulatively amounts to being persecuted because of his conversion to Christianity.

[4] The wife is stateless. Her country of former habitual residence is Israel, where she claims that she, too, will experience discrimination tantamount to being persecuted for reason of her Christian conversion. Her appeal is related to that of

the husband but their backgrounds and the basis of their claims are not identical. Accordingly her appeal is dealt with in a separate decision of the Authority, *Refugee Appeal No 76077* (18 May 2009). That decision should be read alongside this appeal. Both appeals were heard simultaneously and it was agreed that all of the evidence heard would be taken into account in connection with both appeals. The Authority regrets the delay attendant upon publishing these decisions, which was contributed to in part by the need to consider additional country information submitted from time to time following the hearing.

[5] The husband's appeal turns, in part, upon whether his account is credible and in part, upon whether it is well-founded. An assessment of the husband's credibility will be made following the summary of his account which appears below.

THE APPELLANT'S CASE

[6] The husband is of Kazakh and Jewish ethnicity. He was born in Kazakhstan, which was then part of the USSR, during the early 1980s. The husband's parents moved to Israel in 2001 after enduring years of bullying and discrimination within the predominantly Muslim population of Kazakhstan. The husband's parents separated within a year or two after the family moved to Israel, and he is presently estranged from his father.

[7] The husband met the wife in around 2002, while he was working as a security guard near her workplace. They moved in together towards the end of 2002, and lived in her apartment in X, where they remained until they left Israel to come to New Zealand in 2006.

[8] The wife was part of a small Christian community in X which had experienced discrimination at the hands of the Israeli government during the mid to late 1990s. She and her family members had been stripped of their citizenship and several of the wife's family had left Israel under threat of deportation.

[9] In the aftermath of the government initiative in X, many members of the wife's community had publicly foresworn their faith. The remaining core of practising Christians was discrete about the manner in which they manifested their beliefs. The husband recalls that there was always a contingent of government soldiers stationed near the village. It was not uncommon for the soldiers to enter private homes uninvited. This was ostensibly for security purposes; however the soldiers also kept watch on the local community, and the Christians within the town

felt that they were under surveillance.

[10] However the husband began attending the services conducted by the remaining community members and, under the influence of his wife, he gradually came to regard himself as a Christian. The husband's developing faith caused him various problems over the next few years. For example, although he was circumspect about manifesting his faith in X because of the presence of soldiers, the husband felt less constrained about sharing his faith at his workplaces in Jerusalem. This created friction within some workplaces and the husband was fired from his job as a security guard in 2003 after talking to co-workers about his Christianity. The husband sought assistance from one organisation in connection with his dismissal, however he was told that they could not help.

[11] The husband was later fired from another job and his attempt to enrol at a university in Jerusalem met with a similarly arbitrary end. He was expelled after two weeks, which the husband again attributes to his Christianity.

[12] The husband and wife also ran into complications when they wanted to marry in 2003. They were not permitted to marry in Israel in anything other than an orthodox Jewish ceremony, which was out of the question for them. They managed to travel to Cyprus in late 2003, where they were able to marry before returning to Israel. This was not without some difficulty as the wife had no Israeli passport and the Israeli travel document with which she was issued was viewed with some suspicion by the immigration authorities in Cyprus.

[13] Later in 2003 the husband found another job in a small company, where he worked for about six months. At the end of that year the husband was notified in writing that he was required to commence his compulsory military service the following year. The husband is strongly opposed to serving in the armed forces. His opposition pre-dated his family settling in Israel. The strongly anti-military views he had held since his childhood were reinforced by his objection to killings conducted by the Israeli armed forces in the Israeli Occupied Territories.

[14] After receiving his draft notice the husband went to the headquarters of the Israeli armed forces to tell them of his personal convictions. He stated that he did not wish to serve in the military because he felt strongly that his Christian convictions would not allow him to take the life of other human beings. The husband was informed that if he did not perform his military service he would go to prison and would then have to perform his military service upon his release.

[15] He therefore complied with the draft notice. However after beginning his military service in mid-2004, the husband experienced significant difficulties because of his Christianity and because he refused to participate in arms training. He told his unit commander that he could not kill people and he could not serve in the army because of his objection, on moral grounds, to the actions of the Israeli armed forces in the Israeli Occupied Territories. As a result, the husband was routinely yelled at by his commanding officer, beaten by other conscripts and subjected to physical training regimes additional to those required of other soldiers. During one such session, the husband experienced severe burns to his hands.

[16] After somehow completing his basic training, the husband was told he was to be deployed to serve in Gaza, which was regarded as a highly dangerous posting. He was continually berated by the officers under whose command he served, all of whom ignored his protests. Eventually he was given the opportunity to speak to a psychiatrist. The psychiatrist agreed to grant the husband a temporary exemption from military service but required him to sign a document agreeing to resume his military service after two years. The husband obliged and was issued with a military service exemption card in mid-2004.

[17] After his reprieve the husband returned to X. He eventually found new work but he was fired after about six months because his employer and fellow employees objected to the manner in which he spoke to them about his Christianity. Three or four months later the husband obtained work as a technician in a town around an hour from X.

Departure from Israel and applications for refugee status

[18] Various events which occurred in 2006 convinced the husband and the wife that they had to leave Israel. They visited the Ministry of Internal Affairs early that year in the hope of legitimising the wife's status in Israel. They were unsuccessful in their attempt to do so and became convinced that the wife would never be able to regain her citizenship.

[19] In addition the husband was told by the Ministry that, because he is a Christian, his own citizenship could be taken from him. Then later that year the military contacted the husband's mother to remind the husband of his liability to resume military service. The husband was not prepared to comply. He and the wife decided to leave Israel, which they were able to do in late 2006 after obtaining visas to travel to New Zealand.

[20] Prior to leaving Israel, the husband contacted the police to find out if there were any concerns about him. He was told that there were not. The policeman to whom he spoke was simply uninterested in him.

[21] After interviewing the husband and the wife in March 2007 a refugee status officer of the RSB issued decisions dated 12 June 2007 declining their applications for refugee status. It is from those decisions that they appeal.

SUMMARY OF THE HUSBAND'S CLAIMS

[22] The husband claims that his military service obligation has not expired. As a result, if he were to return to Israel, he would be arrested at the border and forced to complete his military service or face imprisonment. He also claims that he cannot serve in the military because of his conscientious objection due to his personal beliefs because the Israeli armed forces commit crimes against humanity in the Israeli Occupied Territories.

[23] The husband also claims that he will face ongoing discrimination because he is a Christian. He claims that his passport will not be renewed, he may lose his own citizenship and he would never be able to find work.

SUPPORTING EVIDENCE

Letter from husband's mother

[24] The INZ file contains a copy of a letter from the husband's mother dated 14 February 2007, together with a translation into English. The letter records that the husband's family moved to Israel from Kazakhstan in the early part of this decade because of the difficulties they experienced there as Jews. In it the mother states that the husband had been intolerant of cruelty and violence from the time he was a child and confirms his opposition to serving in the military on ethical grounds.

[25] The mother confirms in the letter that she accompanied the husband to an interview with an army psychologist in 2004. She confirms that the psychologist excused the husband from service in the army for two years on condition that the husband confirmed in writing that he would report to the army as soon as summoned.

[26] The letter states that the mother was telephoned by the military in late 2006. The person who telephoned asked where the husband was and reminded the mother that he was due to be summoned to resume his service.

Evidence of the wife

[27] The wife's evidence is set out in more detail in *Refugee Appeal No 76078* (18 May 2009). It was broadly consistent with the account related by the husband. She confirmed his evidence with respect to his employment problems, and said that he had become a Christian. The wife also supported his claim that he has a fundamental ethical objection to performing military service, confirmed that he was mistreated when he began his service, and claimed that he was granted a temporary discharge in 2004.

Evidence of Pastor DD

[28] The Reverend DD has been the pastor of an Auckland Church since the early 1990s. He met the husband and the wife when they began attending his services in 2007. They have visited Pastor DD at his home twice and have attended services at his Church. He does not doubt the sincerity of their claim to be Christians, although he said that the extent of their knowledge was rudimentary. He said that language barriers made an independent assessment of their knowledge difficult.

[29] Pastor DD made general observations about his impressions of the treatment received by Christians in Israel, based upon two brief trips he had made in the 1970s and 1980s. He explained that the impression he gained was that Christians were, at best, tolerated in Israel at most times.

Evidence of EE

[30] Mr EE met the husband and the wife in New Zealand and subsequently learned that they were attending the same church that he attended. While he recounted aspects of their accounts which had been relayed to him, he had no first hand knowledge of any aspects of their lives prior to their arrival in New Zealand.

[31] He said that the husband and the wife have discussed their faith. At the time he gave evidence EE stated that their discussions had been limited because of language difficulties.

MATERIAL PROVIDED

[32] Mr Mansouri-Rad relies upon submissions which were made to the RSB on behalf of the husband and the wife. He also provided the Authority with a

memorandum of submissions dated 10 September 2007, under cover of which he provided statements by the husband, wife and witnesses, together with items of country information.

[33] At the end of the first day of the hearing, Mr Mansouri-Rad was asked to consider various matters, which he addressed in additional submissions provided under cover of a letter dated 17 October 2007, prior to the resumption of the appeal interview on 19 October. Mr Mansouri-Rad also forwarded various other documents. These include an extract from the Israeli military service law, a translation of the husband's Israeli driver's licence, translations of other documents which appear on the INZ file and items of country information.

[34] At the beginning of the third day of the appeal interview counsel provided the Authority with the original translation of the deportation order served upon the wife's sister BB in 1997, a copy of which had been forwarded under cover of the letter dated 17 October 2007. Towards the end of the hearing, counsel provided the Authority with a DVD containing various items of country information downloaded from the Internet and from other sources by the husband.

[35] On 15 November 2007 counsel forwarded additional documents, including copies of two internet articles with respect to the Israeli military, a copy of an extract from the expired Israeli passport of BB, and an article relating to an arson attack on a church in Jerusalem.

[36] On 12 December 2007 counsel forwarded the Israeli passport issued to the wife's brother, FF, who had forwarded this from Australia, where he now lives.

[37] Counsel wrote to the Authority on 5 August 2008, enclosing copies of three articles relating to Messianic Jews in Israel.

[38] The Authority wrote to Mr Mansouri-Rad on 2 October 2008, enclosing a copy of *Refugee Appeal No 75995* (31 October 2007), and inviting counsel to comment upon that and to provide any additional country information which may have come to light since the appeal hearing.

[39] After obtaining an extension of time Mr Mansouri-Rad replied under cover of a letter dated 18 November 2008. Accompanying that letter was a memorandum of further submissions together with several items of country information and a supplementary statement by the husband.

[40] Mr Mansouri-Rad wrote to the Authority again on 15 January, 20 January,

26 March and 27 April 2009, enclosing further items of country information.

[41] All of this material has been considered by the Authority.

THE ISSUES

[42] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a person who:

"... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

[43] In terms of *Refugee Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

ASSESSMENT OF THE APPELLANT'S CASE

CREDIBILITY

[44] Before addressing the principal issues identified it is necessary for the Authority to assess the credibility of the husband, wife and witnesses.

[45] While the Authority finds that the husband's evidence is credible in part, for reasons which are elaborated upon below, it finds that key aspects of his account have been exaggerated or fabricated in an attempt to strengthen his refugee claim.

[46] This includes the husband's evidence in connection with the primary basis upon which his appeal is advanced, namely that he would be required to perform the remainder of his compulsory military service if he returns to Israel. The Authority finds that his evidence in this connection is untruthful.

Military service obligations

[47] The husband provided a copy of a document which is (according to the English translation provided by counsel) a “Military Service Exemption Card” (the exemption card). It was issued in mid-2004 pursuant to the “Military Law (1986)”. The exemption card describes the husband as “exempt” from military service for “Health Reasons”.

[48] The husband claims that the exemption was temporary. He says that the period for which his obligation was suspended has come to an end, and that he has been called upon to resume his military service.

[49] The Authority does not believe him. His claim is not consistent with the documentary evidence provided or the applicable Israeli legislation and is contradicted by his ability to leave Israel without any difficulty.

Israeli Defence Service Law 746-1986

[50] Mr Mansouri-Rad provided the Authority with a copy of an English language version of the “Military Law”, which is in fact the Israeli Defence Service Law 746-1986 (the Defence Law). It provides that military service obligations may be modified in various different ways.

[51] Under paragraph 36(3) of the Defence Law, military service may be deferred for a prescribed period. That is effectively what the husband claims happened to him. Alternatively, Mr Mansouri-Rad referred to paragraphs 5 and 6 of the Defence Law under which a person may be found “temporarily unfit for service”.

[52] However there is no objective evidence that the military temporarily suspended or deferred the husband’s military service, whether on health grounds or otherwise. The exemption card states simply that the husband is exempt from performing compulsory military service. The term “exempt” is not qualified by the word “temporary” and the exemption card in no way indicates that the husband’s obligation to perform military service has been deferred.

[53] If the husband had been found to be temporarily unfit for service the Authority would expect subsequent events to be consistent with the provisions of the Defence Law, which sets out a clear process in connection with such persons. The fitness for service of any person found to be “temporarily unfit for service” under paragraph 5(c) may be re-evaluated under paragraph 6, which provides that

a “calling up officer” may “by order” call upon the person concerned to report for re-examination “for the purpose of determining his fitness for service”. It is worth noting that the term “Order” is provided for under section 55 and anticipates a communication in writing in that it is either to be delivered to that person or sent by registered post.

[54] There are other methods listed, such as publication in a newspaper, but there is no reason why such methods would be resorted to in preference over personal service of the husband, given that the initial notification of his military service obligation had been forwarded to the husband at his address in X, and they therefore clearly knew where he lived.

[55] Once a person is re-examined under those provisions, paragraph 7 provides that the person will be notified “in writing” as to whether the medical board finds him or her to be “fit for service, unfit for service or temporarily unfit for service”.

[56] In the present instance, just as there is no evidence that the husband’s exemption was temporary, there is no evidence that he has been summoned for re-examination or that the question of his fitness for service has been the subject of further evaluation under the Israeli Defence Law.

[57] Nor does the husband’s account of subsequent events support his claim.

[58] Paragraph 43 of the Defence Law provides that individuals designated for military service, or persons of military age who belong to the Israeli Defence Forces, are prohibited from travelling abroad without a permit from the Ministry of Defence.

[59] The husband has never suggested that he obtained such a permit. On the contrary, he claims that at the time he left Israel he was the subject of enquiries by the military in connection with the resumption of his compulsory military service. If that were true it is inevitable that he would not have received a permit, yet he was able to leave Israel with his wife, without any difficulty, and without any concern being expressed at the airport or elsewhere.

[60] The husband accepted that his ability to lawfully leave Israel using his own passport, without difficulty, two months after the military began to look for him again was remarkable. He could not offer any explanation for this, save that he believes that it may have been due to the preoccupation of the Israeli state with the conflict with Lebanon at the time of his departure.

[61] That explanation is rejected. A heightened state of alert would inevitably have made departure from Israel more rather than less difficult for someone who was not only potentially subject to recall, but who, according to the husband and to the letter from his mother, was supposedly the subject of actual recall at the time of his departure.

[62] The Authority has not overlooked the evidence presented in the form of the letter from the husband's mother, and the testimony of the wife, both of which purport to corroborate the husband's testimony in this connection.

[63] Dealing first with the mother's letter, the Authority finds that it can be given no weight. It does not address any of the concerns already outlined, and creates additional concerns.

[64] The husband claims that the military first telephoned his mother, then visited her at her home. Mr Mansouri-Rad forwarded country information which provided an example of reservists being called to active service by telephone during an emergency: "Dozens of IDF reserve soldiers recruited" www.ynetnews.com (7 July 2006). However the circumstances referred to in that article are entirely different from the circumstances which the husband referred to.

[65] First, paragraph 27 of the Defence Law specifically permits a commander to summon persons subject to reserve service "in such manner as the commander may think fit", which presumably includes contact by telephone. That is different from the requirements pertaining to a person who was to be summoned for re-evaluation of their fitness for service, as referred to in [53] – [55] above.

[66] Further, before he would be required to be available for reserve service, the husband would need to be found "found fit for service" (para 27(a) of the Defence Law). For reasons already set out, the Authority finds that he has not been so found.

[67] In addition, the military imperative behind summoning reserve soldiers; a specific military emergency in the case referred to within the article supplied by counsel; is entirely different from the circumstances the husband is referring to, in which he says that he was summoned to resume military service which he had left after (he says) only two months.

[68] Finally, there is no apparent reason why the Army would try to make contact with the husband via his mother, without making any apparent effort to contact him directly. At that time the husband had not lived with his mother for a number of

years. He was a grown man living with his spouse. The military clearly knew where the husband lived, as he received his initial advice with respect to his military service in writing when he was living in X.

[69] Turning to the wife's testimony, the Authority has not overlooked the fact that it found her to be a credible witness in connection with the core aspects of her own appeal. Despite this, the Authority is satisfied that her evidence is unreliable insofar as it purports to corroborate the key aspects of her husband's claim.

[70] First, the Authority noted in respect of the wife's appeal that her testimony included elements of exaggeration. Further, there is a clear distinction between the nature of the evidence in support of the wife's claim and that available in connection with the husband's quite different claim. The wife's core account was amply supported by country information and by documentary evidence. In contrast, the evidence with respect to the husband's military service obligation is contradicted by available country information and also by the documentary evidence provided.

[71] In short the wife's testimony relating to this aspect of the husband's claim does not outweigh the serious substantive concerns identified in connection with the husband's account. To that extent, her evidence is rejected along with the husband's.

Conclusion in respect of military service obligation

[72] Paragraph 36 of the Israeli Defence Law provides that a person may be exempted from performing military service altogether. The exemption card expressly states that the husband is "exempt" from any further performance of his military service. The Authority therefore finds that the husband's claim that he will be forced to perform a further period of military service is untrue.

[73] The Authority also notes that the military service exemption card states that the husband's exemption is for "health reasons". Taking the exemption card into account in light of the applicable Israeli statute, it is apparent that the husband was found to be unfit for service. He is also therefore "exempt" from the performance of "Reserve Service" which is provided for under Chapter Four of the Military Law. While it is theoretically possible that the husband could at some time in the future be called upon for re-examination under the Defence law, the chance of this occurring is entirely speculative and remote.

The husband's Christianity

[74] The Authority accepts that the husband may have become interested in Christianity through his wife while they were living in Israel. It also accepts that he has (together with the wife) become part of a Christian Church community in Auckland. His evidence to that effect was corroborated by the pastor of the community who gave evidence at the appeal hearing along with other members of that community.

[75] However the Authority finds that the husband's level of knowledge about his faith at the time he arrived in New Zealand was rudimentary at best. It finds further that the husband has exaggerated the manner in which he manifested his Christianity in Israel and also the problems which he experienced as a result.

[76] His evidence in this context was somewhat self-serving. For example the husband claimed that his faith derived from that of his wife and that it was fostered within the tight-knit community in X where he attended regular church services for four years or more. According to him the community comprised approximately 15-20 church-attending members (two of whom were himself and his wife). Despite this, when asked the names of his fellow worshippers by the Authority, the husband could not recall any.

[77] His inability to do so is simply inconsistent with the level of zeal with which he claims to have tried to share his faith. His claim to have antagonised workmates at more than one place of employment is rejected as an embellishment aimed at bolstering his claim for refugee status.

SUMMARY OF FACTUAL FINDINGS

[78] Having considered the evidence in totality, the Authority finds that the husband is not subject to any further obligations with regard to the performance of military service in Israel. In addition the Authority does not accept that the husband experienced the level of difficulties as a result of his Christianity before leaving Israel that he has claimed.

[79] However the Authority's task is of course to assess the husband's claim upon the basis of the facts which are found, rather than upon the aspects of his account which have been rejected.

[80] The Authority finds that the husband is an Israeli citizen of Kazakh origin, who travelled to Israel with his parents in the early part of this decade. The

Authority finds that he met the wife in around 2002. She had emigrated to Israel from the former USSR during the early 1990s. Her Israeli citizenship, granted on her arrival in Israel, was subsequently stripped from her in the mid-late 1990s because she was part of a community of Messianic Jews. The husband moved in with the wife in her flat in X and they married in Cyprus in 2003. It is accepted that the husband became interested in Christianity because of his relationship with the wife, and that he may have experienced some discrimination as a result of becoming a Christian.

[81] The Authority finds that at the time he came to New Zealand, the husband's Israeli citizenship remained intact. No steps had been taken to remove his citizenship at that time and there is no credible evidence that any such steps have been taken by the Israeli state.

[82] The Authority also finds that when the husband left Israel to come to New Zealand in 2006, he was able to do so lawfully and without difficulty, using his own Israeli passport. Although his passport has now expired there is no credible evidence to suggest that he will be unable to renew it.

[83] It is on that basis that the husband's claim for refugee status is to be considered.

OBJECTIVELY, ON THE FACTS AS FOUND, IS THERE A REAL CHANCE OF THE HUSBAND BEING PERSECUTED IF RETURNED TO ISRAEL

[84] For the purposes of refugee determination, "being persecuted" has been described as the sustained or systemic violation of basic or core human rights, such as to be demonstrative of a failure of state protection; see *Refugee Appeal No 2039/93* (12 February 1996) and *Refugee Appeal No 74665/03* [2005] NZAR 60; [2005] INLR 68 at [36] to [125]. Put another way, it has been expressed as comprising serious harm, plus the failure of state protection; *Refugee Appeal No 71427* (16 August 2000).

[85] In respect of this appeal it is important to note that discrimination in itself is not sufficient to establish a case for refugee status, nor does every breach of a claimant's human rights amount to being persecuted; *Refugee Appeal No 71404/99* (29 October 1999) [65] to [67]. The Authority has consistently adopted the approach set out in *Chan v Minister for Immigration and Ethnic Affairs* (1989) 169 CLR 379 (HCA), in which it was held that a well-founded fear of being persecuted is established when there is a real, as opposed to a remote or

speculative, chance of such persecution occurring. The standard is entirely objective.

[86] In considering the husband's claim the Authority bears in mind the decision of the High Court, *A v Chief Executive of the Department of Labour* (CIV 2004-404-6314, 19 October 2005). Winkelmann J found that when conducting its forward looking assessment of whether an appellant faces a real chance of being persecuted, the Authority must consider "whether ... individual[s] having all of [the appellants'] characteristics" would face a real chance of serious harm for a Convention reason (para 38).

[87] All of the husband's characteristics have been taken into account, not only in connection with his own claim for refugee status, but in the context of his wife's appeal. These include the fact that the husband is an Israeli Jew who has become a Christian, and who is married to a stateless woman who has been stripped of her Israeli citizenship after becoming a Messianic Jew. It also takes into account the fact the he is from a former Soviet state.

[88] The husband advanced his claim for refugee status before the RSB in part upon the ground that he was at risk of being seriously harmed for reason of being a Christian. The RSB rejected his claim, relying in part upon the decision of the Authority in *Refugee Appeal No 75449* (31 October 2005), in which the Authority found, after considering a range of country information, that there was no evidence that the risk to Christians, would be anything other than remote and speculative. The Authority found that to be the case even if they were to manifest their faith "fervently".

[89] Having reviewed all of the country information available, the Authority reaches the same conclusion with respect to the husband's appeal.

[90] He has provided the Authority with a limited amount of additional country information in this respect. Mr Mansouri-Rad provided a copy of an article which reported an arson attack on a church in West Jerusalem: "Church set on fire" *Compass Direct News* (6 November 2007). He also provided copies of articles obtained from the internet which outlined problems faced by members of minority religious groups. Two articles were written by Michael Decker, described as a "Senior Legal activist" of the Jerusalem Institute for Justice; "Messianic legal analysis" (01 January 2008); and "Citizenship of Israeli Messianic Jews under threat" (25 February 2008). These were general and non-specific pieces about steps taken to undermine and question the immigration status of Israeli citizens

upon the grounds of their religious affiliation.

[91] Another article refers to an incident in which copies of the New Testament were apparently burnt by the Mayor of the town of Or Yehuda after they were distributed by Christians in an exercise in proselytising; “ Israel Hit by Bible burning row” *BBC News* (21 May 2008).

[92] None of the information indicates that the level of risk of serious harm to the appellant as a Christian, even as the spouse of a Messianic Jew who has lost her citizenship, is any more than remote or speculative.

[93] The Authority has accepted that the wife was stripped of her Israeli citizenship in 1997 because of her membership of a small community of Messianic Jews. It has also accepted that her subsequent attempts at remedial action have been stymied by official intransigence, again on the grounds of her Christianity.

[94] The husband is in an entirely different category. He too is a Christian, however he has been an Israeli citizen for several years and has not been stripped of his Israeli citizenship. While he asserts that he was once verbally threatened that his citizenship could be taken from him, there is no objective evidence that his citizenship has ever been the subject of scrutiny on the grounds of his religion, and the suggestion that he might be targeted in this manner in future is entirely speculative.

[95] The Authority has not overlooked the evidence of DD in connection with his experiences in Israel. However those experiences were those of an individual with no particular expertise in this connection, and comprised personal observations from visits as a tourist on two occasions two and three decades ago. The Authority gives those views no weight.

[96] The Authority bears in mind the content of country information provided by counsel which indicates that some Israeli citizens have been summoned to the offices of the Ministry of the Interior to review their civil status. One article suggests that the subject of such letters have included evangelical Christians and Messianic Jews; Michael Decker “Messianic legal analysis” (January 1 2008). However it does not indicate how many people have been subjected to such practices, or over what period this has happened. There is no analysis of the outcomes except in general and non-specific terms. Accordingly, while information of this nature may support the wife’s assertion that she will not be able to recover her citizenship, it is not evidence that there is any more than a remote

or speculative chance that the husband is personally at risk of being stripped of his citizenship.

[97] No steps have ever been taken by the Israeli state to compromise the husband's citizenship and there is no credible evidence to suggest that the possibility that this could happen to him is anything more than remote or speculative.

[98] The Authority accepts that it is possible that the husband has experienced some discrimination in the past because of his Christianity and because of his relationship with the wife. It is also possible that he may have experienced some discrimination as an immigrant from a former soviet state, although his appeal was not put forward on that basis and no country information was produced to suggest that he would experience prospective harm for that reason.

[99] Whatever discrimination the husband has experienced in the past has not risen to the level of serious harm such that it can be characterised as being persecuted.

[100] The husband claimed that if he were to return to Israel, he would never find work. In large part he based his claim upon his assertion that he had outstanding military service obligations, which the Authority has rejected. In any event, the Authority finds that he is an Israeli citizen. In the past he has been able to obtain work. During periods when he was without work he would have been eligible for whatever social welfare benefit is available to the unemployed. If he returns to Israel now he will be in no different a position. He would also be able to express his religious faith, take part in civic life and participate in society. While he may experience further discrimination because of his ethnicity or his religion, the Authority is satisfied that this will not rise to the level of serious harm such that it can be characterised as being persecuted.

SUMMARY OF FINDINGS

[101] The Authority finds that objectively, on the facts found, there is no real chance of the husband being persecuted for a Convention reason if he were to return to Israel. Any risk to the husband is essentially random and speculative. It is not well-founded.

CONCLUSION

[102] The first principal issue framed for consideration is answered in the negative. Accordingly the second principal issue does not arise for consideration.

[103] The Authority finds that the appellant is not a refugee within the meaning of Article 1A(2) of the Refugee Convention. Refugee status is declined. The appeal is dismissed.

"A N Molloy"
A N Molloy
Member