

**Asylum and Immigration Tribunal**

SR (Iraqi Arab Christian: relocation to KRG) Iraq CG [2009] UKAIT 00038

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 6 November 2008**

**Date Sent  
On 29 July 2009**

**Before**

**SENIOR IMMIGRATION JUDGE ALLEN  
SENIOR IMMIGRATION JUDGE MATHER  
MR P BOMPAS**

**Between**

**SR**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms G Brown, Counsel instructed by Kingston & Richmond Law  
Centre

For the Respondent: Mr K Kyriacou, Home Office Presenting Officer

*An Iraqi Arab Christian at risk in his home area and throughout central and southern Iraq is likely to be able to obtain the documentation needed by a person wishing to relocate within Iraq, and is likely to be able to relocate to the KRG with the assistance of a sponsor, in particular, on the basis of the latest statistics available, in Erbil or Dohuk.*

## DETERMINATION AND REASONS

1. The appellant is a national of Iraq. He appealed to an Immigration Judge against the Secretary of State's decision of 18 September 2006 to remove an illegal entrant from the United Kingdom.
2. The Immigration Judge found the appellant to be credible and made the following findings. He found that the appellant and his family are practising Christians and had suffered from discriminatory remarks relating to their religion, although no direct threats of violence relating to his religion had been made. With the exception of a letter that was left in the appellant's shop, there was no evidence of any other written threats for either religious or political reasons. The appellant had travelled legally to the United Kingdom in March 2006 and had returned in accordance with the terms of his visa on July 5 2006. Following his return to Iraq from the United Kingdom the appellant did not receive any face-to-face threats of violence. He specifically told the Immigration Judge at the hearing that there had been no threats made to him directly. The letter referred to above was received at his shop on 27 July 2006 and he was warned to leave Iraq or be killed. He made arrangements to leave Iraq immediately. Since his return to the United Kingdom there has been no evidence that any of his family has been approached by the military group or any other group. One of his brothers had been shot at in the street but there was no evidence that that shooting was by the militia group in question nor was there any evidence as to why he was shot at. No one had visited the appellant's house or shop looking for him, despite him being told he must leave the country by 1 August 2006.
3. The Immigration Judge went on to consider relevant country guidance decisions and background evidence including a report by Dr Alan George. He concluded that the appellant did not face a real risk of persecution or ill-treatment giving rise to a breach of his human rights on return to Iraq.
4. The appellant sought reconsideration of this decision, arguing that in fact the evidence showed that conditions for Christians in Iraq were such as to engage the appellant's rights under the Refugee Convention. Reconsideration was ordered by a Senior Immigration Judge.
5. At a hearing on 6 November 2007 a Senior Immigration Judge identified an error of law in the Immigration Judge's determination as follows:

"While the Immigration Judge has not said so in terms, it may be inferred from the determination as a whole that he believes the appellant to have a well-founded fear in his home area of Mosul. He deals with internal flight at paragraphs 78 to 81 of the determination, but only gives reasons why relocation to another part of Iraq would be safe for the appellant. He gives no reasons why it would be reasonable to expect him to relocate. The reasons why the judge thinks that the appellant would be safe elsewhere revolve around the finding that the militia are not looking for him in Mosul, which appears to contradict the (implicit) finding that the appellant has a well-founded fear in Mosul.

Credibility as such has not been challenged in the 'reasons for refusal' letter, which takes the view that the appellant's account of what happened to him in Mosul amounts to discrimination, rather than persecution. A clear finding needs to be made at the 'second stage' of the reconsideration on whether the appellant has a well-founded fear of persecution in Mosul and, if so, whether relocation to either the Kurdish Regional Government or central and southern Iraq is feasible, safe and reasonable for this appellant, who is a Christian."

6. At a for mention hearing on 15 August 2008 it was accepted on behalf of the Secretary of State that the appellant had a well-founded fear of persecution in Mosul and perhaps other areas in Iraq as well and the appeal would therefore turn on the question of relocation to the KRG.
7. The hearing before us took place on 6 November 2008. Ms G Brown, instructed by Kingston & Richmond Law Centre, appeared on behalf of the appellant. Mr K Kyriacou appeared on behalf of the Secretary of State.
8. Ms Brown made an application under Rule 50 of the Procedure Rules for the exclusion of any or all members of the public from the hearing. This was on the basis of the appellant's concerns for his family members in Mosul and was essentially precautionary. Mr Kyriacou had no objection.
9. We considered the matter. It is provided in Rule 54(3) of the Procedure Rules that:  

"(3) The Tribunal may exclude any or all members of the public from any hearing or any part of a hearing if it is necessary –

  - (a) in the interests of public order or national security; or
  - (b) to protect the private life of a party or the interests of a minor.

(4) The Tribunal may also, in exceptional circumstances, exclude any or all members of the public from any hearing or part of a hearing to ensure that publicity does not prejudice the interests of justice, but only if and to the extent if that it is strictly necessary to do so."
10. There were no submissions made contrary to Ms Brown's submission. We concluded out of caution that in order to protect the private life of the appellant it was necessary to exclude members of the public from the hearing and accordingly we acceded to the request to order exclusion. In fact the matter was academic because there were no members of the public at the time or so far as we understand at any later stage wishing to attend the hearing.
11. Ms Brown said that she was not proposing to call the appellant unless the Tribunal wished him to be called as there was no extra evidence for him to give. She did however propose to call evidence from the appellant's sister, Dr EP. She did not propose to call the solicitor in respect of the evidence in the statement. There would be two expert witnesses.
12. Mr Kyriacou said that he would have no questions for the appellant and he accepted the solicitor's evidence in her statement.

13. We raised with Ms Brown the question of whether there was an issue as to how the appellant would behave on return in light of what had been said in HJ (Homosexuality: reasonably tolerating living discreetly) Iran [2008] UKAIT 00044. It had been held there that it was an objective test as to whether it was reasonable to believe that a person would behave subjectively as they said they would. It was a potential Article 9 flagrant breach point.
14. On considering the matter and taking instructions Ms. Brown stated that in her view the appellant did not need to give evidence.
15. Dr EP gave evidence. She is a British citizen and the sister of the appellant. The contents of her statement dated 22 October 2008 were true and correct and she was content for them to be considered as part of her evidence today. Likewise the contents of her letter of 6 November 2006 were true and correct and she was happy for them to form part of her evidence along with her brief letter at C12. She had formerly been a medical doctor and was now a herbalist.
16. In cross-examination the witness said that she had four brothers including the appellant, and one sister. She was asked where her brother, Mazin, was and she said she could not tell exactly where because he was not at one address. He was in Mosul or around Mosul. She had last had contact with him a few days ago by telephone. This was the only way but that was not easy and it could take a long time. She contacted him via a mobile number which was the number of the telephone belonging to Mazin. Sometimes he would switch it off as a precaution so she would try to contact him via his wife. He was with his wife and three children and also with the witness's and Mazin's mother.
17. Her brother Yunis was in Syria. Her brother Mahur was also in the Mosul area and lived with his wife but not with Mazin. Her sister was married. Her sister's husband had received a threatening letter and they had had to leave and again had no fixed address but again she believed they were in the Mosul area. Her sister's husband was a Christian.
18. She was asked whether they told her of any specific incidents or threats directly. She said that it had lasted a long time, for the last two years, and they had all experienced stress and fear and every day there was a new threat and it was more and more frightening. It was unclear whether a person would get back if they left their home. She was referred to the direct threat made to the appellant and the other e-mail threats and she was asked whether there had been any other direct threats to any other family member. She said that she did not know of anything like that. She was asked what she thought about the suggestion that the appellant could return and go and live in the Kurdish area where he would be safe. She said that that area had its own government and unless you were Kurdish and had ID to prove you were Kurdish you could not move there or live and get a job or buy a house. You might live as a refugee or fugitive but would not be living a proper life.
19. She was asked whether her family told her that they were approached by anyone asking if they were Christian and whether they had to pretend not to be Christian. She said she did not know, but there had been times when they were asked and they had had to cover their hair and this still happened and it was getting worse. It was

becoming more difficult to worship now and they were not able to worship as they wished to or as they used to. Worship took place mostly in the homes. She did not know if they went to church in Mosul. They used to. She was last there fifteen years ago.

20. We asked the witness whether there were any other relatives in Iraq and she said that there was an uncle and his wife but most of them had died. The uncle was old and ill and their two children were not with them any more. She did not know where they were. They lived in Mosul but did not get out except when her aunt went to get groceries. She did not have a postal address for her family and could not write to them but could only contact them via mobile. She did not know what area they were in other than being in the Mosul area. They mentioned places she did not know of when they told her. As to whether her family's worries were as to the general situation or because of problems specific to them, she said that it was a question of both but mainly their religion. It was the threat and the general situation against Christians. It was a matter of everyday life. They feared suicide bombers and did not know what to expect. After the killing of their parish priest most of the Christians in the area had left their houses. A lot had received threatening letters. They were more afraid to stay in the area after that and also after the Archbishop was killed. They were targeted as Christians. There was an atmosphere of fear. The family had nowhere else to go. While they moved around they stayed with other Christian families.
21. On re-examination she was asked how she knew that if a person went to the KRG they would need an ID card to be able to live a proper life. She said that she heard the news which she got from home and had asked about this question of whether the KRG was safe and they had said they were not Kurdish and had no ID to prove they were Kurdish so they could not go there. It would be possible to get a pass for a few hours but not possible to live there. She had asked her brother, Mazin and her mother. She had asked all of them.
22. She was asked whether they would be able to hide their religion e.g. by covering their heads and she said they might. They did not leave the house on their own but just got into the car and went out in order to do shopping. There was nothing that the men could do to avoid the risk. As regards her contact with Mazin, e-mail contact had stopped as they had lost contact which happened if you did not use your e-mail over a period of time. They had lost the ability to communicate by e-mail as they were not very familiar with computers.
23. The next witness was Dr Alan George. He had provided two reports dated 25 October 2006 and 23 October 2008 respectively. He was happy with the contents of the reports except that there should be a minor amendment to paragraph 108 of the second report to be rearranged as marked in the report. The reports stood as his evidence in chief.
24. When cross-examined by Mr Kyriacou, Dr George agreed that the bulk of the relevant evidence was in the second report. He had been to Iraq most recently in April 2008 for a week in the KRG area. There had been intelligence officers and checkpoints, thus evidencing the thoroughness of checks on entrance. He had flown to Erbil from Vienna.

25. He was referred to paragraph 117 of the second report with regard to the question of help to the appellant and he said that it was not said that everyone could be protected from everything. He agreed that he had said elsewhere in that paragraph and later on in the report that the KRG would be very unlikely to grant the appellant permission to reside there. He was referred to the Secretary of State's evidence in this regard including evidence from the KRG website where it was said that they welcomed Christians and were quite clear about this. Dr George did not resile from the view expressed in his report. He said that if they were so welcomed then he would expect to find a lot of Christians living in the KRG. Certainly there were some but they were mainly Kurdish Christians but not Arabic Christians. The KRG was very aware of its dependency on its alliance with the USA and understood the force of fundamentalist Christianity in US politics and therefore such speeches did not surprise him. He said there was a need to be sceptical about what politicians said. It was put to him that that was a matter of opinion: he said that was what he was here to give and it was a matter of fact also.
26. It was put to Dr George that with reference to paragraph 89 of his report that it appeared that the appellant could go to Northern Governorates and that this did happen. Dr George said that if the KRG Prime Minister was saying that this showed that the KRG was totally open to all Christians then this was rhetoric and not true. Some Christians had relocated to the KRG. He referred to the UNHCR Governorate Assessment Report of September 2007 for Dohuk, Sulaymaniyah and Erbil, by religion. Dohuk had the second largest concentration of post-February 2006 refugees. As of 31 August 2007 there were 54,797 IDPs most of whom, i.e. 81%, were Kurdish. There were 16% who were ethnic-based Christians (Assyrians, Chaldeans and Syriacs), 2% Arabs and others 1%. It was not clear what "ethnic based Christians" meant. A fair proportion of the Christians would be Kurds. It was known that many Kurdish Christians from just outside the KRG fled into the KRG. That was a supposition on his part, but not all the Christians could be Arabs and there were 2% Arabs. There were similar statistics for the other two governorates. He assessed that there were 11,000 – 12,000 Christian IDPs. He accepted that it could be the case that a number of the 16% were Arab Christians. There were certainly Arab Christians in the KRG, some of whom for example would be academics and professional people who would be welcome there or people who were rich enough to bribe their way in, or people who had family connections. Paragraph 129 of the report dealt with the reasons why the appellant would not be likely to be allowed in. As to the point that there were Arab Christians who were not Kurds who had been allowed into the KRG, it was put to him that he had not ruled that out. Dr George said that he dismissed it as rhetoric that all doors were totally open and said that a Christian who was an Arab did not automatically face a ban from the KRG and if they had the right characteristics they might get in, but there was a high probability that a person of average profile would not. There was not an enormous number of Arab Christians in the KRG despite the 2006 bloodbath.
27. With regard to the figures for Erbil, in September 2007 there was a total of over 230,000 IDPs, a large majority of whom, comprising nearly 197,000 people, were displaced after the bombing in February 2006; there were another 34,717 IDPs since the 2006 evaluation. 37% were ethnic Arabs, 32% ethnic based Christians (Assyrians, Chaldeans and Syriacs), 29% Kurds and 1.3% other ethnicities including

Turkmen, Mandaean/Saddean and Armenians who were likely to be Christians also, so there were some 11,109 Christians.

28. It was suggested to Dr George that this was a larger figure than the number of Kurds and that was quite significant. Dr George said that context was everything. It was unclear whether they were Kurdish Christians. They should be compared to the number of Christians in Iraq as a whole. Even if they were all Arabs, only 10,000 Iraqi Christians had got to Erbil. The fact that a lot had gone to other countries such as Syria meant it should be questioned why they would need to go there if they could go to the KRG.
29. With regard to Sulaymaniyah, in September 2007 there were over 360,000 IDPs, over 302,000 of those had been there before the summer bombings of 2006. There were 67,844 IDPs at the end of July 2007 who were displaced after the bombing. Of the new IDPs they were mainly ethnic Arabs who comprised some 65%, and 33% Kurds and about 1.4% ethnic based Christians and others who would be likely to be Turkmen. All three reports said that Kurds comprised a high proportion of the IDPs.
30. We asked Dr George whether there might not be geographical reasons, for example for the number of Christians moving to Erbil, noting that Erbil was near Mosul and therefore nearer the trouble. Dr George agreed and said it was relevant to see where a place was in relation to the adjacent areas. To the south and west of Sulaymaniyah were large Kurdish areas and likely to be Kurdish therefore. Also as some people moved to an area others might likewise move. It could reflect economic activity in the town also. There had been a construction boom for a time in Sulaymaniyah and at the time Erbil had also been active.
31. Dr George was referred to page 1 of the Secretary of State's bundle, being a KRG website report. This contained a reference to Christian families moving into Ainkawa. Dr George was asked whether he knew of other historic Christian areas in Erbil or elsewhere around the KRG and he said there were Christian villages. He agreed that this could reflect on why there were the numbers there were of Christians relocating to Erbil.
32. Going back to his report, at paragraph 133 and the last sentence there where he had said there were powerful social reasons why relocation to the Kurdish north would be very difficult for persons such as the appellant, he was asked whether nevertheless he would accept that any social reasons were unlikely to amount to persecution. Dr George said this was not for him to say and was a matter for the court.
33. Mr Kyriacou clarified that it was accepted that the appellant would be at risk in Mosul and also in Central and Southern Iraq. It was not accepted that there was risk for all Christians across Iraq but the Secretary of State's general position was that the matter had to be dealt with on a case-by-case basis. It was not expected that the appellant would be able to relocate elsewhere in Iraq other than the KRG: the matter would need to be dealt with, as had been said, on a case-by-case basis.
34. Dr George was referred to the OGN of 4 October 2008, at paragraph 3.12.5. He said that as far as it went he accepted it, but the Finnish report referred to in that paragraph also said that not all Christians were allowed into the KRG. In general

they did not get in. It was suggested to Dr George that reference to a "significant number" suggested more than he said. Dr George said that one could discuss the meaning of words for a long time. There were some thousands of Christians in the KRG. It was a matter for the court to decide. He referred to paragraph 6.1 of the Finnish report under section 5.2. There was a need for a sponsor. The implication in the OGN was misleading in implying that the Finnish report said that the doors were open. Footnote 74 at paragraph 3.12.5 was quoted as if it was fact and it was not. Mr Timmerman was an activist. Reference was made to the article of 26 October 2008 that had been put in today and should be contrasted with what Mr Timmerman had said in April 2008. His evidence was to be treated with some caution.

35. Dr George was asked, with reference to his paragraphs 97 and 98, about the question of travel for example if the appellant returned to Baghdad and was told to get to the KRG. Dr George questioned how the appellant could get to Baghdad City for a start from the airport and referred to what he had said at paragraph 146 to paragraph 152. It was put to him that the Secretary of State's policy in collaboration with the KRG was that she would not return a non-Kurd directly to the KRG area so the appellant would be returned to Baghdad and would internally relocate by his own efforts to the northern areas. Dr George said that if that was so it could be relevant in respect of Baghdad. He quoted the Baghdad correspondent of the Independent Newspaper, Patrick Cockburn, who had said there had never been such a difference between life as it was in Iraq and the perception of life there, especially in the USA. Baghdad was the most dangerous city in the world. There were 4.7 million refugees outside Iraq and 100,000 or so returnees. Everyday life was hard. There was dirty water and cholera and electricity for only five hours a day. He referred to various BBC reports on the situation of living with violence in Iraq. It had been described as a desolate, post apocalyptic maze. As regards travel from Baghdad to the north, the airport road had been described by the UNHCR as the most dangerous road in the world. That had been in August 2007 and it was now improved somewhat. Initially a person would need to travel through a mainly Sunni area and later it was more diverse and it was effectively a matter of war with al-Qaeda being very active. Christians had been targeted recently and Mosul was very risky. There were checkpoints manned by militias and it was very hazardous.
36. We asked Dr George whether he was saying that if the appellant could get into the KRG legitimately he would be all right. He said yes that was the case. He would experience problems from lack of a supportive family, but there were church organisations. He was asked about the checkpoints he had gone through to the north and said that there were checkpoints with floodlights and guard boxes.
37. On re-examination Dr George was referred to his visit to the KRG and what he said about Christians or people generally being admitted to the north and the nature of the restrictions. He said that there is a checkpoint at the airport at Erbil and it was very computerised with intensive controls and was efficient and disciplined. Once within the KRG there were frequent checkpoints and the Asayish Internal Security Force had an active presence, especially at major crossroads. All cars were stopped and there were searches and document checks and this occurred every 50 or 70 miles. He had interviewed the officer in charge at Kirkuk. They had computerised information and hard copy of the documents. He referred to an Arab man and his Kurdish wife who were there who were being interviewed quite seriously about their

bona fides. He got the impression that the authorities were highly efficient and serious.

38. He was referred to the IDP population in the KRG and the figures that he had given, for example in Sulaymaniyah and the number of Arab Christians there. He was asked whether it was not the case that there were a lot of children. Dr George said that in each Governorate Report there was reference to the high proportion of children. The Sulaymaniyah Report said that the majority of IDPs were children. This did not surprise him, as Iraqi families were large they were likely to have three, four or even five children, so if a family was fleeing, the majority would be children.
39. He was asked about the difficulties the appellant would face in getting into the KRG and he said it was mainly that he was Arab, and as the UNHCR had said, it was KRG policy to keep the number of Arabs in the KRG to a minimum. There would also be linguistic problems as he did not speak a Kurdish dialect and though some people in the KRG did speak Arabic, it was not in general use. Also he would suffer from a lack of family support which was unusual in Iraq. He was asked whether the appellant could hide his religion in the KRG and he said that his name was obviously Christian and he would have to present documentation and that would show his name.
40. Mr Kyriacou stated that the Secretary of State would not expect the appellant to use deception in order to enter the KRG.
41. Ms Brown asked Dr George about the conditions in Mosul and he said it was a war and there were very active hostilities. He was asked whether the appellant would need to pass Mosul and he said he was highly likely to go into Baghdad after leaving the airport though there were tracks. He had set out the Foreign Office travel advice in his report about travel around Iraq.
42. We asked Dr George whether the KRG drew any distinction between different Christian denominations and he said ethnicity was what mattered in the KRG rather than a person's faith or religious denomination. It was a question whether they were Arab or Kurdish.
43. The next witness was Dr Erica Hunter. She had put in a report dated 4 November 2008. She referred to paragraph 2.3 of her report and the lack of homogeneity of the Christian communities in Iraq. The church had separated on theological, political and linguistic grounds from the Great Church of Byzantium. She dealt with the question of risk at paragraph 1.5 of the report, in particular. All Christians were similarly at risk. An example was the recent lecture given by the Pope. The Syrian Orthodox Church had been told to denounce this around Mosul although they had never been in communion with Rome. They had pointed this out but had been told they had to do what was asked of them anyway.
44. With regard to paragraph 2.7 of her report, she said it was important to realise that Christians in Iraq had almost a century of displacement. Some Christians would be admitted if they could prove links with the KRG. It was not only a linguistic, but also a socio-economic division. The Assyrians tended to be concentrated in Kirkuk and the Chaldeans in Mosul.

45. She was referred to what the Deputy Prime Minister of the KRG had said about Christians being welcome in the KRG. She thought that he had referred to their Christian brethren and said that she took that to imply all the connotations of kin and ethnicity which were at the heart of Christian society. There was the question of tribal and clan links and it was not open. The statement was very adroit. She was referred to paragraph 3.8 of her statement and the provincial elections. She said it was not just the Christians but the Yazidis and the Turkmen who were also affected. It meant that effectively non-major players were marginalised. It was very disturbing for the minority communities. It amounted to an effective denial of even token participation in the democratic process. There had been small recent redress, but it was unsatisfactory to the Assyrians. She thought that this was Iraq-wide. It was necessary to realise the wide picture behind it. Iraq was between Iran and Saudi Arabia who funded insurgency groups, so both had a vested interest in Iraq. It was clear that Saudi Arabia feared Iran so the insurgency was not just internal. Minorities had been relegated to very marginal roles and would be overlooked. There was no concept of democracy for them.
46. She was asked whether she had any ongoing contacts with Iraqi Christians, having visited Iraq up to 2002. She said that she had worked in the Iraq Museum until then but it could not cope with scholars now as it was not functioning, and was closed. She was asked whether she could say anything about travel between Baghdad and Erbil. She said that when she was there the journey was by bus and it took four or five hours and was very arduous and it would now be a matter of Russian roulette if one travelled by bus. It would, however, be the safest method as a private car would be hijacked but even though a bus would be preferable to that, it could be stopped at any checkpoint, and passengers could be required to produce their ID card. There were attested cases of Christians showing their ID card being shot.
47. When cross-examined by Mr Kyriacou, Dr Hunter said that she had been to the KRG most recently in around 1992. Flights there had been initially banned but it was better going by bus as she had done when she went to Mosul. She thought that air travel would be safer than bus unless there were hijackers.
48. It was put to her that she had not referred to other expert reports and she said she had. Her reports had always led to success in appeals and this was a source of great pride. She had written eight or nine reports over two and a half years and was very selective in the cases she took and it was only if she was 100% sure that she could endorse that case that she would do so. They had all been Iraqis and only Christians and Mandeans and also she would provide reports for Jews if they were still there.
49. She was referred to paragraph 2.1 of her report. She said that given the lack of tribal and family ties and linguistic skills and being an Arab also she believed that the appellant would be refused entry to the KRG. She was referred to the document from the KRG website and what was said by the Deputy Prime Minister and Prime Minister in the bundle at page 2 and the reference to the government having opened special schools to meet the needs of Christian refugees who spoke Arabic and not Kurdish. She said that in 1915 there was active Kurdish participation in the massacre of Christians in Kurdistan, there had been a flight south of Christians.

Ba'athists had prevented use of Kurdish and they had to speak Arabic so many Kurds did not speak Kurdish as spoken in Baghdad for 50 years. The question of kin/tribe was central to Kurdish society. She was also referred to what she had said at paragraph 2.1 of her report concerning the lack of any protection for Christians. Her source for this had been a German diplomat in Istanbul, Herr Munch. She said it was a bold assertion but Herr Munch had been going back to Turkey regularly. She had been in Turkey last year. People she spoke to there were very worried about the rise in the prospect of Kurdish insurgency into Eastern Turkey and there was rising tension there. It was put to her that expressing this in terms of there being a real prospect of war was very bold and she was asked whether there was really enough evidence of that. Dr Hunter said that there were signs pointing to a real prospect.

50. She was referred to the evidence of Dr George where he had said that if the appellant could get in the KRG he would probably be all right. She disagreed with Dr George in this respect and she considered there would be no prospect of permanent protection as the situation was very volatile in the KRG quite apart from the job difficulties. As regards the safety or otherwise of a Christian in the KRG today, she referred to a conversation she had had with the Auxiliary Bishop of Baghdad who was very concerned about the placement and settlement of Christians in the KRG in very vulnerable regions which were prone to attack by the PUK. The KRG was like South Eastern Turkey twenty years ago. Christians there were between the government and the PKK. They were told to help the PKK and if they did not they were killed and the army said they aided and abetted them and arrested them so they were caught in the middle and she feared a similar situation.
51. She was asked about Ainkawa, an historic Christian city which was referred to at page 1 of the Secretary of State's bundle. Dr Hunter agreed that there were certainly historic settlements. The Assyrians saw themselves as descendants of the Assyrian Empire. These settlements emerged in the fourteenth century, they were not new settlements. She was referred to the contrast between a BBC Report of 15 October 2008 blaming Sunnis for attacks on Christians and the Syrian information news source she had noted referring to Kurds being behind attacks on Christians in Mosul recently. Dr Hunter said she understood the concerns about the AINA's (Assyrian International News Agency) objectivity, but made the point that the BBC sources were not necessarily good. Mosul was a very Sunni city and it was necessary to ask what groups were involved. It was very difficult to discern, but the Kurds were very keen to expand their territories. It should be asked why the Sunnis would do this and what they would gain from purging fellow Arabs like the Chaldeans. She did not necessarily have an answer. Also there was a question of why it would benefit the Kurds to purge Mosul of the communities. She agreed that there were two viewpoints and one could not be certain which, either Kurd or Sunni, it was. She was referred to the KRG's Prime Minister's answer at page 3 and she said that the underlying premise was that there was a real power bid at the moment and Christians were among the minority who were not traditionally armed and were an easy target for power politics.
52. She was referred again to her paragraph 2.7 and Mr Kyriacou suggested that where she said the "right of return" was exercised strictly on the basis of historic tribal and family affiliations, the use of the word "strictly" suggested that this was the only requirement. She said that the word "strictly" could be inappropriate. The Kurds did

look at other factors such as financial factors and as regards other evidence of wider requirements one could say that most things could be bought. In respect of the same paragraph it was put to her in connection with the Prime Minister and Deputy Prime Minister's statements that Kurds were discouraged from selling to Arab Christians and reference was made also to page 1 of the bundle. She said that it went back to who a person was and their family and ethnic background. It lacked substance. The actual facts did not show assistance and it was the churches and the communities, not the KRG, who provided the support. She was referred also to paragraph 3.12.5 of the OGN and the Finnish Report. Dr Hunter referred to paragraph 2.11 of her report and concerns about the PUK. It went back to her view about the possible conflict with Turkey. It could be a factor of relevance to Turkey's wishes to join the EU with changed attitudes to Christians there. She thought that this was part of that large equation.

53. We asked Dr Hunter where these Christians came from and she said that they were those who came back from the regions. The Bishop had expressed his worries about this to her. They were terrified of being corralled into such an area and as had happened before there was a risk of targeting and displacement. She was asked about her paragraph 3.9 and its contrast with what Dr George said at paragraph 97 concerning Christian militias. She said that there could be a slight oversight in the writing of her report. The Assyrians had militias and the Chaldeans had not. Traditionally, they were forbidden to carry arms as the price of protection under Islam. The Chaldeans were happy about this and this was indicative of the urban/tribal divide. The Assyrians were much more like the Kurds in their strictness.
54. We asked her if there was a name for the Kurdish community in Baghdad and she said they would not be Christian Assyrians and that those with ethnic links would not necessarily be Kurds. We suggested to Dr Hunter that an Arab could have historic links to the Kurdish area in order to be able to go back to it and she said that one would have to go back to the Middle Ages. The appellant, by his own statement, said his family had lived in Mosul for generations and he spoke Arabic and he would mean, several centuries. She thought that at the border a person would need a Kurdish sponsor. Even to visit a colleague it would be necessary to have a sponsor. She referred to the example concerning Dr Al-Jihouri that she had given in her report. She was asked whether other denominations of Christians would be likely to be regarded in the same way as Chaldeans and Assyrians. She said that expatriates and Iraqis attended St George's when she went there and there were Protestants, ex-Chaldeans. There used to be Jehovah's Witnesses also.
55. There was no re-examination.

### **Submissions**

56. In his submissions Mr Kyriacou relied on the refusal letter as being relevant to the issue of relocation to the KRG. It was not relied on in respect of the asylum and human rights issues. The appellant's credibility had been accepted and that he was at real risk in the Mosul area. On behalf of the Secretary of State it would be said generally that Iraqi Christians from outside the KRG could safely and reasonably relocate there and it would not be unduly harsh to do so. They could not be returned directly to the KRG as there was a joint policy with the United Kingdom Government

that the KRG authorities would not accept anyone directly from the United Kingdom without strong links with or being from the KRG so the appellant would have to be returned via Baghdad to the KRG. It was reasonable and possible to do so. At the KRG border he would be able to get residency as a Christian fleeing persecution. It could be a matter of direct flight as an alternative. Once in the KRG the appellant would be able to go about his normal life and worship freely. Dr George had accepted that if the appellant got into the KRG he would be all right.

57. The experts were very knowledgeable and credible but Mr Kyriacou could not agree with some bold and sweeping assertions they made especially with regard to the inability to enter or reside in the KRG as a Christian and a non-Kurd from outside the KRG. Dr George had expressed the view that it would be "very unlikely" with respect to permanent residence and Dr Hunter likewise, but there was quite clear evidence in the KRG website articles of April 2008 and the Prime Minister's interview to the contrary. The point made about this being rhetoric was noted, but it did not mean that what was said by the Prime Minister and the Deputy Prime Minister should be discounted. Reliance was placed on pages 1-3 of the bundle.
58. It could be seen from the statistics provided by Dr George and elsewhere that there were 2000 Christian families who had settled since 2003 in Ainkawa. That indicated a sufficiency of protection. In Erbil a significant proportion of IDPs were Christians. This was important evidence. That was as clear a rebuttal as one could hope for of the expert evidence. The Tribunal was referred to the OGN on this in respect of the Finnish report and the August 2007 paper and also page 140 of the second bundle. This evidence seemed to go against the argument that Arab Christians would be turned away. Reference was also made to the evidence in the OGN concerning ability to get to the KRG. There was some evidence of protection, for example at pages 6, 7, 9 and 10 of the bundle which would be relevant if the appellant had to travel through that area. There was a possibility of flights also which precluded the concerns attaching to road travel. As regards the process of crossing the border, reference was made to paragraph 2.14 of the OGN. The Home Office would look into the appellant getting the correct documents for return. He had an ID document at the moment and in Iraq he would be able to obtain any other necessary documents.
59. It was agreed that in light of the fact that we had raised with the representatives the possibility of flights being made directly from Baghdad to Erbil that there would be a period of fourteen days in which further submissions on this point could be made.
60. In her submissions Ms Brown made the point that Dr Hunter had commented on the documentation at the KRG border and the process of obtaining documentation in Iraq and again it was agreed that there would be an adjournment of seven days for any further evidence on that and a further seven days for Mr Kyriacou to comment.
61. Ms Brown relied on the skeleton argument. This went beyond what was now in dispute. The main issue was relocation within the KRG area which encompassed the question of how the appellant would get there since he would be removed to Baghdad and would have to make his way there. It was a question of what would happen when he got to the border and also what would happen if he were allowed to enter, and this was relevant to the reasonableness of relocation. Reliance was

placed on paragraph 14 of the skeleton and what was said there about the decisions of the House of Lords in Januzi v Secretary of State for the Home Department and Others [2006] UKHL 5 and in Secretary of State for the Home Department v AH (Somalia) and Others [2007] UKHL 49. There had to be an assessment as regards the appellant's personal characteristics. He had previously been targeted by insurgents and was seen in Mosul as a collaborator. This was relevant to the question of whether he could live a reasonably normal life. On behalf of the Secretary of State it was said that the appellant would be admissible to the KRG and welcomed there, with reference being made to the remarks of the Prime Minister and the Deputy Prime Minister. The Tribunal would want to analyse that evidence and Ms Brown argued that it had to be treated with caution. Both amounted to statements of intention rather than the actual reality with reference to what they would do and although these were not necessarily false intentions it was a question of what was actually happening rather than the will of the authorities. There was a contrast between this and the Newsmax article of two days previously from the same reporter in very different terms, which had been handed in today. It was relevant to bear in mind Dr George's comments also with respect to the author, Mr Timmerman. With reference to the OGN and COIR, there were deep distinctions between the different Christian groups and their ethnic make up and it was odd therefore for there to be such a blanket statement made. Reference was also made at paragraphs 2.17 and 2.19 of the UNHCR August 2007 paper and particularly the last sentence and the comments of Dr George and Dr Hunter on the risks involved in the journey. Dr George had also commented on the FCO advice and therefore a number of sources indicated an extreme risk in travelling to the KRG. It did not mean that the appellant could not do it, but there was a reasonable degree of likelihood that he would have some difficulties, given the evidence of the risk.

62. Reliance was placed on the new bundle in general and in particular with regard to the recent violence in Mosul. If the Deputy Prime Minister were correct, then it should be questioned why the people referred to had gone to Syria. Not all had gone to the KRG. Dr George's report was relevant to this. It was accepted with respect to the statistics he had provided concerning IDPs that Christians were part of this new wave, but it was relevant to the KRG authority's intention and why the offer was made now and not previously. The COIR of August 2008 was the one referred to and commented on by the experts, and neither COIR dealt with the new wave of violence against Christians. The tenor of the Home Office report was of a state of affairs of peaceful living for Christians in the KRG, but there was no evidence before the Tribunal as to why they had been displaced from Mosul. It had begun in early October but there was no confirmation that they had all gone to the KRG.
63. In summary, the appellant was unlikely to be able to enter the KRG or even travel safely back there and even if he could get in it would not be reasonable for him to relocate there and it would be unduly harsh. Ms Brown did not press the point of safety in the KRG but it was relevant to consider the safety of Christians there and the experts differed on this. The concerns of Dr Hunter should be noted. With regard to general country guidance issues, the objective evidence, if it showed a pattern, showed improvements in Iraq and in the KRG, but such were often followed by a period of deterioration and this was rather a pattern. The region was unstable and changing daily. Dr George had dealt with the United States' "surge" and noted that it was relative. There was a context of previous raised levels of violence.

Dr George referred to a risk of a period of protracted violence and renewed civil war and this was all part of the background of the situation of Christians generally in Iraq.

64. We subsequently received further submissions from both representatives concerning the outstanding issues. Ms Brown reminded us of the Secretary of State's stated policy concerning returns to the KRG. She argued that even if the appellant could take a flight from Baghdad the level of instability and insecurity there was such that it would not be safe or reasonable for him to be returned there with a view to travelling from the airport. In this regard a supplementary report of Dr Hunter was referred to and other aspects of the background evidence. Ms Brown also emphasised that as a perceived collaborator the appellant was at risk for this additional reason in Baghdad and also as a person with no links or support network in that area. She also referred to the documents the appellant would need in order to enter the KRG and the difficulties he would be likely to experience in that regard. Attached to the report is the note from Dr Hunter and her CV and also the Iraq Country Policy Bulletin of 17 December 2007.
65. Mr Kyriacou provided further submissions, developing his argument that there was a viable internal flight alternative for the appellant. On the one hand he argued that road travel, while not without its problems, was a perfectly viable method of travel for the appellant to reach the KRG area and in the alternative the appellant could avail himself of domestic air travel services to travel to the KRG from Baghdad Airport. He attached a schedule of flights from Erbil for a given week which indicated seven flights from Baghdad to Erbil between 24 November and 29 November 2008.
66. With regard to documentation, it was submitted that if the appellant were unsuccessful he would be provided with the relevant documentation required to undertake his removal to Baghdad. Once in Iraq it would be the appellant's responsibility to obtain any further documentation necessary for his relocation to any other area in Iraq. He would not be expected to have to visit his home area, where it was accepted that he had a fear of persecution, to obtain any documentation required for internal relocation. The difficulties involved were argued to fall well short of treatment engaging the Refugee Convention or Article 3 of the Human Rights Convention. Reference was made to a UNHCR Report of August 2008 which sets out the conditions for entry into each of the three Governorates (Erbil, Sulaymaniyah and Dohuk) and it was argued that on the facts of the case there was no reason why the appellant would not be able to benefit from the shelter and protection provided by the KRG Governorates.

## **Discussion and Conclusions**

### Exposition and Evaluation of Expert Evidence

67. The issues in this appeal are whether the appellant, who is at risk in his home area of Mosul and who, it is accepted, cannot reasonably be expected to relocate to the centre or south of Iraq, can effect internal relocation to the KRG. It is accepted that he is a Christian and an ethnic Arab and that he received a letter at his shop in Mosul on 27 July 2006 in which he was warned to leave Iraq or be killed. He had visited the United Kingdom previously, and his perception was that the threats were made

because by dint of that visit he was, by implication, seen as a collaborator and secondly on account of his religion.

68. We have two reports from Dr Alan George and propose to concentrate on the second one which was the main focus of his evidence though we shall refer to the earlier report where necessary. Dr George deals initially in detail with the situation in Iraq in light of its recent history, noting particular matters such as the Foreign Office travel advice for Iraq as at 26 August 2008 concerning the dangerous security situation in Iraq and consequential risks to travellers. As regards the particular situation of Iraq's Christians, he notes that some two thirds of Iraq's Christians are Catholics, these are mainly Chaldeans, the rest being Syrian Catholics, Roman Catholics and Armenian Catholics. Of the non-Catholics the most numerous by far are said to be adherents to the Church of the East (formerly known as Nestorian); the Assyrian Orthodox (also known as Syriac) Church and the Armenian Orthodox Church. The overwhelming majority of the Chaldeans and Nestorians are Assyrian by ethnicity. A census in 1987 shows that the country had some 1.4 million Christians but as a consequence of sustained emigration both before and after the 2003 invasion there were thought to be fewer than 1,000,000 Christians in Iraq and some estimates put the number as low as 400,000-600,000. Associated factors to that of their faith are that Christians are widely perceived to be collaborators with the US-led occupation forces and are widely perceived to be wealthy.
69. At paragraph 89 of the report Dr George quotes from the UNHCR's eligibility guidelines for assessing the international protection needs of Iraqi asylum seekers, published in August 2007 where among other things it is said that insecurity and targeted attacks had forced half of Iraq's Christian population to depart from the country since March 2003 and that those remaining were either too poor, old or sick to leave. It was said that many others sought refuge in the three Northern Governorates, mainly the Governorate of Dohuk and in the Ninewa Plain. At paragraph 98 Dr George notes the deterioration in the situation in Mosul which is the capital of Ninewa Province, and the flight of at least 1,300 Christian families from Mosul in October 2008 after an upsurge of violence against them by Muslim extremists. It was said that thousands of people had sought refuge in outlying villages since the murder of a dozen Christians the previous week.
70. Dr George, at paragraph 109 of the report, considers that there is abundant evidence that Christians face serious problems in Iraq. This is a matter that we think is common ground before us, especially in light of the acceptance of risk to the appellant in Mosul and his inability to relocate to the centre or the south of Iraq. We must bear in mind that the appellant would be returned to Baghdad and in due course we shall have to consider how it might be possible for him to travel from Baghdad to Erbil or elsewhere in the KRG and what risks he might face initially in Baghdad and in the course of travel. For now though we shall concentrate on the question of whether, as a Christian Arab with the background he has, he would be able to relocate to the KRG.
71. Dr George deals with the question of internal flight at paragraph 127 onwards in the second report. At paragraph 127, noting the serious security situation in all parts of Iraq, he states that physical safety is not the only point at issue when considering the scope of internal flight and that there are reasons other than those related to security

which would seriously hinder the appellant's ability to relocate anywhere within Iraq. He notes the UNHCR's December 2006 advisory that conditions in the KRG area while not ideal are far better than in the centre or south of the country. The UNHCR has consistently advised that the KRG authorities deny permanent entry to Iraqis who do not originate from the KRG area. The 2006 advisory which remains in effect reaffirms that Iraqis not from the KRG area face very serious obstacles to entry to the KRG controlled area. The aim is apparently to keep the KRG area "Kurdish" and there is therefore in principle reluctance to accept any increase of non-Kurdish populations. Strict controls are therefore implemented on the presence of non-Kurdish people. Depending upon the applicant, especially his or her ethnic and political profile, he/she may not be allowed to relocate to the three Northern Governorates for security, political or demographic reasons, though UNHCR's eligibility guidelines of August 2007 state that at times it is difficult to establish clear criteria to predict who will be admitted or rejected.

72. Dr George goes on to note at paragraph 130 of his report that regulations and practices differ between the three governorates within the KRG area, but the general position is that the restrictions are much tighter for Arabs than for Kurds and that in any event Kurds from outside the KRG zone do not have an automatic right to reside there. It is said in the UNHCR's eligibility guidelines that in the Governorate of Sulaymaniyah admission (as opposed to residency) into the governorate is generally not restricted and does not require a sponsor. However, persons from Arabised areas claimed by the PUK, i.e. Kirkuk and Khanaqeen in the Governorate of Diyala, are generally denied entry to the governorate for political and demographic reasons unless they only wish to come for a visit.
73. At paragraph 131 of the report it is said that people who wish to reside in the KRG Governorates must apply for what the UNHCR terms "quasi residence permits". It is said that a local sponsor is required for applicants for residency in all three governorates although the criteria governing the issue of quasi residence permits vary between the three. For example, applicants to Erbil Governorate would have to establish either political links to the region or that they have fled violence or persecution and likewise in Dohuk; and in Sulaymaniyah people originating from Kirkuk or Khanaqeen are not able to obtain a quasi residency permit for demographic and political reasons.
74. In the light of this evidence Dr George considers that the appellant would very likely be denied permanent entry to the KRG zone. He goes on to emphasise the fundamental feature of Iraq that its societies are organised on family, tribal, ethnic and religious bases and that the UNHCR explicitly refers to the significance of these family and community links in assessing the viability of relocation. The appellant would appear to lack a supportive family network in Iraq beyond his home city and he is not from the Kurdish controlled part of Iraq and therefore quite apart from matters of security Dr George considers there to be powerful social reasons why relocation to the Kurdish north would be very difficult for a person such as the appellant.
75. Having assessed the issue of relocation to Central and Southern Iraq with which we are not concerned, as noted above, Dr George addresses the issue of administrative obstacles to relocation. He considers that there is a real risk that insurgents through their contacts and sympathisers within administrative offices will learn a person's new

address, given the lengthy administrative process involved in relocation within Iraq. If a person does not register though, they will be unable to transfer their Ministry of State ration card entitling them to heavily subsidised food and other basic goods and also access to local schools, hospitals and other public services. A person who wishes to relocate must first apply for security clearance with the security authorities in their new location and having obtained that must submit the security clearance to the local Civil Court along with their nationality certificate, ID card, a letter from the mukhtar (mayor) of their previous locality confirming their identity and a letter of approval from the mukhtar of the new locality. Dr George notes the OGN of 12 February 2007 and the Iraq Country Policy Bulletin of 17 December 2007 concerning documentation.

76. As regards the practicalities of return to Iraq, Dr George comments that air travel to the Kurdish north is unsafe. As regards an attempt to return the appellant to Iraq via Baghdad Airport, Dr George considers this to be problematic. He comments that insurgents are targeting Baghdad International Airport, according to a report of August 2007, and that civilian and military aircraft arriving to and departing from the airport have been subjected to attack by small arms and missiles, and insecurity and lack of proper maintenance to Iraq's aircraft often lead to cancellations and delays. It is also said that insurgents reportedly have also targeted Erbil Airport. The road to Baghdad Airport, a twelve kilometre stretch of highway linking the airport to the international zone, has been a regular target for insurgents and was labelled the most dangerous road in Iraq. According to the UNHCR eligibility guidelines of August 2007, fatal attacks continue to take place on an almost daily basis. There are also references in both the UK and US authorities' reports to the dangers of using Baghdad Airport.
77. In his oral evidence, Dr George reasserted his view that the KRG would be unlikely to grant the appellant permission to reside there. The remarks of the Prime Minister of the KRG which appeared to go contrary to this were rhetoric. He said that if what the Prime Minister said were the case he would expect to find a lot of Iraqi Christians living in the KRG and considered that such as were there were mostly Kurdish Christians and not Arab Christians. He thought that the undercurrent of the Prime Minister's remarks lay in his awareness of the KRG's dependency on its alliance with the United States of America and he thought that such a speech should be regarded with scepticism. Dr George provided some helpful statistics on IDPs as of September 2007. As we have set out above, in Dohuk as of 31 August 2007 there were 54,797 IDPs of whom 16% were Christians. These were described as "ethnic based Christians", and Dr George thought that a fair portion of the Christians would be Kurds but that not all Christians could be Arabs. He assessed in total there to be some 11,000 to 12,000 Christian IDPs. He accepted that a number of that 16% would be Arab Christians and he thought that some would be academics and professional people who would be welcomed into the KRG or people rich enough to bribe their way in or having family connections. Being an Arab Christian did not automatically bar a person from entry to the KRG and if they had the right characteristics they might get in but for a person of an average profile there was a high probability that they would not get in.
78. As regards the other Governorates, in Erbil of the IDPs in 2007 some 32% were ethnic based Christians, he thought there would be a total of something slightly over

11,000 Christians. It was unclear whether they were Kurdish Christians and even if they were all Arabs, it would seem that only 10,000 Iraqi Christians had got to Erbil. The number for Sulaymaniyah was very much lower, showing only about 1.4% ethnic based Christians. As we have seen, Dr George accepted that there might be geographical reasons for the disparity, bearing in mind that Erbil is near Mosul and therefore they would be likely to have experienced the troubles which caused a lot of Christians to flee. To the south and west of Sulaymaniyah were largely Kurdish areas and therefore there were likely to be Kurds fleeing from there. The movement of some members of an ethnic group might lead to the movement of others and the figures could also reflect economic activity in a particular town.

79. Dr George referred to relevant paragraphs of the OGN of October 2008 and accepted what was said there as far as it went, but he referred to the Finnish report which he noted also said that not all Christians were allowed into the KRG and commented that in general they did not get in. As regards the reference in the Finnish report to "a significant number" of Christians having sought refuge in the region, Dr George accepted that there were some thousands of Christians in the KRG and also accepted that it was a matter for the court to decide. He referred to other aspects of the Finnish report such as the need for a sponsor and argued that the implication in the OGN was misleading if it suggested that the Finnish report said the doors were open.
80. We shall return to other aspects of Dr George's evidence subsequently but it is relevant at this point also to note his views that if the appellant entered the KRG legitimately then he would be all right subject to the problems he would experience from lack of a supportive family network, but he would receive the support of church organisations.
81. The other expert is Dr Erica Hunter. She is a lecturer in Eastern Christianity in the Department of the Study of Religions at the School of Oriental and African Studies at University of London and lived in Iraq between 1987 and 2002. In her report Dr Hunter refers to the general background of problems for Christians in Iraq and the risk that Christians face throughout Iraq. On the question of possible relocation by the appellant to the north, she notes that he is an Arabic speaking Iraqi Christian born in Mosul and with no demographic, linguistic or ethnic credentials to support his resettlement to the north of Iraq. She considers that without tribal and family ties and without the requisite linguistic skills and coming from an alien ethnic group, the Kurds would have robust grounds to refuse the appellant the right to live in the KRG. She also said that there is no prospect of permanent protection for Christians in the KRG which faces the increasingly real prospect of war with Turkey.
82. Dr Hunter goes on to note a deterioration in the relationship between Christians and Kurds during the last century or so. Though there has been a well publicised exodus of Christians from Mosul to villages on the Ninewa Plains, this does not indicate a long term willingness on the part of the Kurds to accommodate the Christians, but is rather a measure of expediency and emergency. Dr Hunter goes on to consider that as a Chaldean whose family has been Catholic Christian for generations, the appellant would not have the requisite pedigree for the right of return to the areas controlled by the KRG. She makes the point that the Christian communities of Iraq should not be treated as a homogeneity: there are real differences between, for

example, the socio-economic profile of the Assyrians and that of the Chaldeans. She goes on to note that the Kurdish authorities have permitted some Christians (Assyrians) to return to Kurdistan but states that this is not an automatic right but is a "right of return". She says this is exercised strictly on the basis of historic, tribal and family affiliations. She says that this is implicit in the UNHCR statement:

"In the three Northern Governorates of Sulaymaniyah, Erbil and Dohuk the rights of Christians are generally respected and a significant number of them have sought refuge in the region, in particular in the Governorate of Dohuk (from where many originate) and the Christian town of Ainkawa, near the city of Erbil".

Dr Hunter emphasises the phrase "from where many originate". She states that the right of settlement for Christians is not automatic but is determined by the Kurdish authorities on the basis of ethnicity and that Arab Christians are discouraged from settling in the KRG because of their ethnicity and suspicions about their possible affiliation with other Arabs, notably Sunnis. She goes on to state that the appellant's linguistic, ethnic and kin profile is totally alien to the Kurds and that he has no family or religious ties to anchor any claims to residency, as well as being linguistically and ethnically alien to the Kurds. She says there is no guarantee that officials would accept him and allow him to stay, as acknowledged by the UNHCR, and that he would require a sponsor. She gives an example of an Iraqi academic colleague of hers who had to have a sponsor to enable him to talk with colleagues at the University of Erbil.

83. Dr Hunter goes on to state that where the right of return has been exercised Christians face a very uncertain and insecure future. She says that villagers have been discriminated against by the Kurdish authorities and do not share reconstruction funds and oil revenues, and farms and villages have been confiscated. She says that far from the welcome portrayed by Kurdish officials, notably by the Regional governor of Erbil, Christians living in the Ninewa Plain in which Mosul is situated, Erbil and Kirkuk have come under de facto control of Kurdish parties and militias since the fall of the former regime, and have resisted attempts by Kurds to assimilate them into Kurdish culture, language and political parties. She states that many Christians who had the right of return to their ancestral homes in the KRG have left and gone to Syria or Jordan due to the dire economic situation. She considers that in the KRG there is a deteriorating security situation and that the prospect of conflict with Turkey is real and escalating. She refers to the Finnish report where it is stated that Christians were worried about the PKK conflict which also touched areas near the border where Christian people were settled and where shelling had occurred. She considers the resettlement of Christians on border areas adjacent to Turkey to be a pragmatic move on the part of the Kurdish officials, providing a "human shield". She quotes the Chaldean Bishop of Baghdad as stating that these settlement patterns place the Christians in a very vulnerable situation, being caught between the Kurds and the Turks.
84. Dr Hunter goes on to state that the appellant's names clearly indicate his ethno-religious identity and that people would know immediately that he is Christian in origin and this would be clear from his identity card in any event. She considers that there is the highest probability that as a Christian "collaborator", elsewhere in Iraq and also in the KRG the appellant would be abducted and/or murdered at the hands

of Islamic extremists. Thereafter Dr Hunter goes on to deal with various matters with which we are not directly concerned today since they relate to aspects of the risk which it has been accepted exists in Mosul and the centre and south of Iraq. Her comments are, however, relevant to the issue of risk in Baghdad on return there and prior to or during any attempt to relocate to the KRG.

85. We have set out above Dr Hunter's oral evidence. There she emphasised the very lengthy time during which Christians in Iraq had been subject to displacement. She had doubts about the genuineness of what was being said by the Deputy Prime Minister of the KRG about welcoming Christians to that area. She emphasised her selectivity in choosing cases in which she was prepared to provide a report stating that it was only if she was 100% sure of that she could endorse the particular case.
86. In passing, in respect of what Dr Hunter said on this, we do not consider it is necessary for an expert to take the view either that they have to be confident they can support the case in question or, as she also said, that they should take pride in their success record, as it were, in appeals. The role of an expert is to give objective unbiased evidence concerning a particular case and it should not be a matter of concern to the expert thereafter whether the person in respect of whom the report is provided is successful or unsuccessful in their appeal; nor should it be a matter of concern to them whether the person's case is one in which they believe. Credibility findings and conclusions on risk of return are, of course, for the Tribunal, though we accept that experts can give opinions relevant to credibility, for example as to the plausibility of a claim. This is not said by way of criticism of Dr Hunter, but rather by way of clarification and encouragement to experts not to feel that their reputation should stand or fall by the success or lack of it of particular appellants in respect of whom their reports are provided. Nor do we consider that any momentum attaches to an expert's report as a consequence of their reports having been regarded favourably in previous cases. The reputation of an expert is not an irrelevant consideration but in general a report has to be considered in the context of a particular case rather than having acquired some extra weight because of success of appellants in previous cases in which reports have been provided by that expert.
87. Returning to Dr Hunter's report, we address first of all the issue which arose as to the lack, as she said, of permanent protection for Christians in light of the threat as it would seem to be from Turkey. She quoted a German diplomat, Herr Munch, in this regard. She accepted that this was a bold assertion but said that he is experienced in the area and she had spoken to Turks who were concerned at the rise in the prospect of a Kurdish insurgency into Eastern Turkey escalating. The view expressed at paragraph 2.1 of her report that there is a real prospect of war with Turkey is not one that we have seen echoed in any other reports. Certainly it did not appear to form any part of Dr George's report and in our view it is a somewhat isolated opinion. Bearing in mind the absence of evidence in this regard from other sources we find it unduly speculative.
88. A further issue of concern in respect of Dr Hunter's evidence is the disagreement, as we think it can properly be characterised, between her and Dr George as to the conditions the appellant would face in the KRG were he to succeed in obtaining entry, and that relates to the previous point. Dr George, in effect, considered that if the appellant was able to effect entry for the purpose of residence in the KRG then

he would not experience problems beyond those stemming from lack of a supportive family network. He thought the appellant would be able to receive support from church organisations. Dr Hunter took a much dimmer view of this, for example at paragraph 2.10 of her report, and effectively said that there was no prospect of permanent protection given the very volatile situation she identified in the KRG.

89. Again we consider there is weakness in Dr Hunter's evidence in this regard. Hers is again an isolated voice in this respect in contrast to what is said by Dr George and what is to be found in the other background reports, for example the Finnish report discussed at paragraph 95 below. We think that she has somewhat overstated the position in this regard and this is a matter that we shall go into in greater detail subsequently.
90. Dr Hunter provided a further comment concerned firstly with the very problematic general conditions in Baghdad, secondly the dangers of travelling on the road from Baghdad International Airport to the centre of Baghdad, thirdly noting the possibility of a flight from Baghdad to Erbil, the difficulties in respect of documentation that the appellant would face in order to relocate, including problems with Iraqi bureaucracy and difficulties of staying in Baghdad. She considered that if he took a flight from Baghdad to Erbil he should arrive safely at his destination though his difficulties would begin at the airport in the light of the thorough checks carried out there. She attached also the comments of Professor Harrak, who is a Professor at the University of Toronto, together with a copy of his CV, making similar points.

#### Other Evidence

91. In the Secretary of States' bundle there is a Newsmax article by Kenneth R Timmerman which contains a quotation from the Deputy Prime Minister of the KRG, Omar Fattah, who says: "Christians in Iraq need special attention, because they have been suffering because they are Christians." He is also quoted as stating: "Those people are our citizens, and when they are coming to Kurdistan they are most welcome, and we will provide them with all possible assistance." The Governor of Erbil Province states that today for Christians Kurdistan is an option and that his government has opened special schools to meet the needs of Christian refugees who speak Arabic and not Kurdish and he states, "We have done everything we can to integrate Christians into Kurdish society. We are not going to refuse them. They are Iraqi. We know what they are running from." The Prime Minister of Iraq, Nuri Al-Maliki, is quoted on October 12 2008 as having vowed to protect Christians in Mosul. In the Operational Guidance Note (OGN) of October 2008, there is a section on the situation for Christians at paragraph 3.12 and subsequent paragraphs. At paragraph 3.12.5 there is reference to the Finnish Government's Fact Finding Mission Report of 2007 where the government reported that the KRG had become a safe haven for internally displaced persons including Christians who were welcomed by the local population in the Northern Governorates and respected by their moderate Muslim neighbours. It is said that UNHCR has corroborated this position. It is also said that, according to UNHCR, the rights of Christians in the KRG are generally respected and a significant number of Christians have sought refuge in the region. Reference is also made to the Newsmax interview of Omar Fattah.

92. It is also relevant to remind ourselves of the figures provided by Dr George concerning IDPs in the three Northern Governorates. Of particular significance appear to be the 11,000 to 12,000 Christian IDPs in Dohuk at least some of whom Dr George accepted would be Arab Christians though he thought they would be likely to be academics and professional people welcomed there or rich enough to bribe their way in or having family connections. Also of some significance are the 11,000 or so representing 32% of the IDPs in Erbil. Dr George said that it was unclear whether they were Kurdish Christians but even if they were all Arabs it would mean that only 10,000 Iraqi Christians had got to Erbil. In this regard we can see no reason why Kurds should be listed as a separate category of IDPs (29% in Erbil) if some of the Christians are also Kurds. We think it is reasonable to assume that all of the 32% are Arab Christians. Dr George also made the point that it needed to be considered why Christians would go to other countries such as Syria if they were able to go to the KRG freely. In this regard, though, it is relevant to note that the Syrian border is pretty much as close to Mosul as Erbil and Dohuk are, and considerably closer than Sulaymaniyah is. No doubt Christians leaving the area would have a variety of reasons for choosing the particular destination, e.g. joining family or friends, and we do not think that the fact that a number of Christians have gone to Syria can be said ipso facto to demonstrate a lack of willingness on the part of the KRG authorities to receive them. We also do not think it can be assumed from the UNHCR paper quoted at paragraph 86 above that it is only Christians exercising a 'right of return' who have sought refuge in the KRG. The fact that many are from Dohuk does not appear to entail a requirement of historic, tribal and family affiliation, and we can see no reason why UNHCR would not have qualified their remarks in the way suggested by Dr Hunter if such were the case.
93. It is also relevant to note the interview with Prime Minister Barzani of 5 November 2008 with krg.org about the attacks on the Iraqi Christian community, in which he states among other things that the KRG has provided as much assistance as possible to the Christian families, 20,000 of whom he said had fled to the KRG and settled in the Dohuk and Erbil Governorates. He says that this assistance has included employing them within the KRG, reconstructing approximately 100 villages and helping around 10,000 families with monthly stipends. He also said that the KRG has been helping Christian families with assistance through churches and cultural and community centres. He said that the government had taken these actions based on feelings of brotherhood and out of responsibility as a constitutionally recognised federal region of Iraq and considered it to be a political and moral obligation to assist these displaced families and to work with the Federal Government to end terrorism against the Christian community. He states that the Kurdistan region is home to a large and peaceful Christian community and that their Christian brothers are welcome there and they participate in the government's society and economy and are as much a part of Kurdish history as the many other ethnic and religious groups living there in peace and harmony.
94. There is another Newsmax piece from Mr Timmerman referring to the thousands of Christians fleeing persecution in other parts of Iraq having returned since 2004 to ancestral lands in the Ninewa Plain just north east of Mosul but they now face a new battle confronting poverty, joblessness and despair. He says that the KRG are seeking to annexe this fertile land where Christians have lived for 2000 years, because it is believed to contain rich oil resources. It is said that while the Kurds are

providing much needed security and emergency refugee housing they are also seeking to manipulate the Christians for political gain through a sophisticated system of patronage, local officials, refugees and international aid. The CEO of Christian Solidarity International is quoted as saying that the Christian community in Iraq is on the verge of extinction. People are quoted as saying they could not get work in Erbil unless they knew somebody and that they were told to join the KDP of President Barzani if they wanted to find a job. The Kurdish officials are said to have acknowledged that discrimination against Christians existed, but insisted that it was not official government policy. A further article by Mr Timmerman on 26 October 2008 refers to Christian refugees he met in Amman in April 2008 not expressing any confidence in the Iraqi Government and none wanting to return to Iraq. Again, there is reference to efforts by the KRG to win more territory in the Ninewa Plain and the fact that, though Kurdish leaders say they have made efforts to protect the freedom of religion and have allowed Evangelical Christians to proselytise in Muslim areas, nevertheless they are said to be engaged in a cynical effort to use the Assyrian Christians as political pawns to expand their own power.

95. The Fact Finding Mission to Iraq's three Northern Governorates carried out by the Legal Service and Country Information Unit of the Directorate of Immigration in Finland took place between October and November 2007. At paragraph 6.1 it is said that the situation for the Christian population in Iraq is very serious. Many Christians are said to have fled to Dohuk or Erbil. It is said that due to the stable situation, the three Northern Governorates have become a safe haven for Christians and there, according to the Chaldean Culture Society, the situation of Christians resembled something like a normal life. Christians are said to have been welcomed by the local population in the three Northern Governorates and there has been substantial immigration of Christians to Dohuk and Erbil. The Fact Finding Mission was told that all Christians were not able to enter the three Northern Governorates. According to the Chaldean Culture Society, everybody needs a sponsor to enter the region. A trusted sponsor can be a sponsor to many internally displaced persons. At page 25 of its report, the Fact Finding Mission quotes the IOM as stating that it is fairly easy for an ordinary person without problems (it is not specified what "without problems" means) to migrate to the three Northern Governorates. UNHCR confirmed that basically anyone can act as a sponsor. In Sulaymaniyah (but not in Erbil or Dohuk, where a sponsor is needed) it has been possible for Christians to obtain residency by obtaining a recommendation from a local church and taking the recommendation to the Asayish. It is said that displaced Christian families receive only nominal support and that Christians in the three Northern Governorates have a committee through which families receive a monthly amount of US\$80, but in practice the money lasts for about four days and due to inflation and high prices people have trouble getting married and starting a family. According to UNHCR, Christians do not get money grants in Sulaymaniyah. According to UNHCR, mentioned in this report, the situation of Christians in the three Northern Governorates is generally good. UNHCR mentions 36 Christian families living in difficult conditions in a place called Koy Sanjaq.

#### Existing Tribunal Authority

96. Previously it was said by the Immigration Appeal Tribunal in RA (Christians) Iraq CG [2005] UKIAT 00091 at paragraph 63 that it had not been shown that it would be

unduly harsh for a Christian to relocate to the north in Iraq. Subsequently in LM (Educated women – Chaldo-Assyrians – risk) Iraq CG [2006] UKAIT 00060, this Tribunal said as follows at paragraph 69:

“69. KDG links and the Northern Governorates. Persons with links to the KDG may be able to mitigate their position by internal relocation, but entry to the Northern Governorates is restricted. The Governorates of Kirkuk, Sulaimaniyah and Dohuk are now only accepting those who have a proven link to their territories, or for whom (and in this respect, specific evidence is required) someone in the territory is prepared to sponsor them. In general, those who are admitted to the KDG will be of Kurdish origin and will be Kurdish speakers, particularly as the evidence shows that the Northern Governorates have tightened entry controls to these areas.”

More recently, in NS (Iraq: perceived collaborator: relocation) Iraq CG [2007] UKAIT 00046, at paragraph 38 the Tribunal said:

“38. In the UNHCR Guidelines of October 2005 relating to the eligibility of Iraqi asylum seekers it is suggested that relocation in the three Northern Governorates will depend on a variety of factors, the main one being whether the claimant would be allowed to enter and legally reside in the area of relocation and whether he/she has family, community and/or political links that would allow for his/her protection, economic survival and integration. Later in the same guidelines (at p.51, paragraph 8) it is said that the Kurdish authorities aim to keep the area “Kurdish” and are in principle reluctant to accept any increase of non-Kurdish populations in their areas of influence. Hence the KRG authorities implement strict controls on the presence of non-Kurdish people in their areas. Whereas certain factors such as former Ba'ath Party membership or a criminal record would clearly entail denial of admission, otherwise it is difficult to establish clear criteria to predict who will be admitted or rejected. At times decisions seem to be taken in a discretionary manner. There are checkpoints at the unofficial borders between Central Iraq and the KRG-administered area, and the area is regularly patrolled and heavily mined. Hence entry via the checkpoints is, practically, the only option available. At p.53-54, paragraph 21, somewhat contrasting with what was said at p.51 paragraph 8, it is said that the Kurdish parties will reject anybody who does not originate from the respective Governorate and does not have a Kurdish sponsor to guarantee his/her entry and stay (Governorates of Erbil and Dohuk), or may be considered to pose a security risk or is found to have links with the former government. It seems that there is a difference between being admitted to the KRG area and obtaining a residence permit, which has to be applied for by anyone not from the Governorate in question.”

97. It is necessary now to bring together the evidence and the conclusions in earlier Tribunal decisions in assessing whether the appellant, an Arab Christian, would be able to access the KRG and whether it would be unduly harsh for him to exercise relocation there. The statistics provided show that a not insignificant number of Christians have been able to access the three Northern Governorates, in particular Dohuk and Erbil. It seems that a person may need a sponsor, and Dr George emphasised the significance of the necessary cultural and perhaps professional links as did Dr Hunter, particularly with respect to the former. We bear in mind the cautions expressed by Dr George and Dr Hunter concerning the extent to which one should accept what is said by the Prime Minister and Deputy Prime Minister as to the extent to which Christians generally, it would seem from the evidence emanating from them, are welcomed into the KRG. We accept that there must be an element of such caution in respect of that evidence in light of the other evidence referring to

such matters as the need for sponsors in certain situations and the difficulties otherwise that may exist for Christians in relocating to the north. We must bear in mind also the points made by the experts concerning the appellant's ethnicity and lack of any historic links to the KRG. But, taking the evidence overall, we consider that it has not been shown that the appellant would not be able to access the Northern Governorates. There is no indication as to why, for example, if sponsorship were needed he would not be able to obtain a sponsor from a local church were he to seek to enter Sulaymaniyah. It would seem at least in that region (and, it would seem also in Erbil and Dohuk (see paragraph 95 above) according to UNHCR), sponsorship is a relatively nominal matter requiring no more than that kind of recommendation. We are impressed by what is contained in the Finnish report which, as is made clear in the background statement at paragraph 1, contained the findings of representatives of the Finnish Government and the NGO community. A number of sources were interviewed over a six day period and as can be seen, the team managed to secure important meetings with the Kurdish administration dealing with immigration issues and the KRG's General Directorate of Displacement and Migration despite not being officially welcomed by the KRG administration. This is a recent and objective report which clearly is deserving of having significant weight attached to it. That is not to denigrate the quality of the report of Dr Hunter and in particular the reports of Dr George. We have identified as set out above two respects in which we have concerns about Dr Hunter's report. Where there is the contrast identified between her evidence and Dr George's we prefer Dr George's report for the reasons given. Dr George was in the end perfectly happy to leave the matter to the Tribunal on the basis of the evidence he had provided and that is a very proper approach. In light of the numbers identified by Dr George and in particular entering Dohuk and Erbil Governorates, it does not seem to us that the issue of sponsorship is likely to pose any great difficulty. There is no evidence other than supposition to suggest that a Christian would only be allowed in on the basis of professional or family links. In light of the numbers identified we consider that the appellant would not experience any particular difficulty in obtaining sponsorship to enable him to enter the KRG, and we conclude that it would not be unduly harsh for him to be expected to do so. In general we conclude that the same applies to any Christian Arab Iraqi who is at risk elsewhere in Iraq.

98. On the issue of conditions that the appellant would face in the KRG having been admitted, we prefer Dr George's evidence to that of Dr Hunter. We do not find support for any of Dr Hunter's particular concerns elsewhere in the background evidence, whereas Dr George's evidence is consistent with the view we have come to as to the appellant's ability to enter the KRG. No doubt the absence of family and clan links would be a disadvantage to the appellant in the KRG, but Dr George's evidence was that, though it would be difficult, he would be able to manage, particularly with church support. In this regard we bear in mind also some of the evidence we have considered above from the KRG Government concerning the welcome that they say is afforded to Christians and although, as set out above, we have taken that with a pinch of salt as regards the general extent of acceptance into the KRG of Christians that appears to be set out in that evidence, nevertheless we consider that once a Christian such as the appellant has been admitted to the KRG there is no reason to suppose that he will be regarded adversely and, subject to the general difficulties of living there without family and clan support, we consider that he

will be able not only to enter the KRG but also will be able to live there without this being unduly harsh.

99. Since the decision of the Court of Appeal in GH [2005] EWCA Civ 1182, the Tribunal has taken the view that, as its assessment is only hypothetical, practical issues to do with the manner and means of return are not for it – see e.g. AM & AM (Armed conflict risk categories) Somalia CG [2008] UKAIT 00091, and KH (Article 15(c) Qualification Directive) Iraq CG [2008] UKAIT 0023, except where the manner and method of return are known. It is however sufficiently clear what the route of return would be in this case (via Baghdad) and hence it is appropriate to deal in with these issues as part of our determination. We should say that we have not found it necessary to ask for further submissions in light of the decision of the Court of Appeal in QD (Iraq) v Secretary of State for the Home Department [2009] EWCA Civ 620, concluding that KH was wrong in law, since there is no issue of civilians in the KRG succeeding under Article 15(c) of the Qualification Directive, and in any event we have found the appellant to be at risk in his home area..
100. As regards the issue of travel to the KRG, it seems clear from the post-hearing evidence provided by Mr Kyriacou that there are regular (on average one daily) flights to Erbil from Baghdad. Clearly, as a mode of travel, this is likely to be the safest option (in contrast to bus or car travel by road, which we accept, would clearly be problematic). We bear in mind the evidence referred to in Ms Brown’s additional written submissions in particular at paragraphs 3-6, but we do not consider, bearing in mind the limited amount of time the appellant would need to be in Baghdad, that the conditions he would face would place him at real risk and/or would render that aspect of internal relocation unreasonable.
101. Clearly there would be difficulties in obtaining the necessary documentation to enter the KRG. According to the Iraq Country Policy bulletin of 17 December 2007, a person wishing to relocate within Iraq must possess:
- the personal identification number which is issued by the General Directorate of Citizenship in accordance with Iraqi Civil Law number 65(1972);
  - the Iraqi National Certificate which shows that the holder is Iraqi;
  - a letter of confirmation from the place of work in the intended relocation town and/or the approval of the Mukhtar of that town;
  - a declaration from the security services that the person is not involved in criminal activities.

Without this documentation supporting official relocation, individuals would be unable to access food which is rationed and would be denied access to work. A person wishing to relocate away from their home town does not have to visit their home town in order to obtain the requisite documentation for a relocation application. It is said that obtaining an Iraqi Civil Status Identity Card is a simple process. FCO advice is that it generally takes approximately one day to obtain the necessary documentation on return to Iraq. Although in 2005 UNHCR stated that returnees often faced

difficulties in obtaining documentation, in 2006 the IOM said that they were unaware of any problems experienced by returnees in obtaining the necessary documentation on return, and had not been called on to help in that regard. Dr Hunter says in her supplementary report that Iraqi ID cards are not recognised as valid by the KRG who issue their own documents, but the Finnish Fact Finding Mission at page 25 of its report states that according to the IOM after arrival a person needs to visit the police in a few weeks' time in order to receive a residency card, and they need to have an Iraqi ID card, a birth certificate and a PDS card in order to apply for the residency card. We prefer the evidence of the Fact Finding Mission on this point, as being recently obtained, and sourced. Taking all this together, we conclude that difficulties in obtaining documents would not be such as, either separately or cumulatively with the other matters considered, to make relocation to the KRG unreasonable.

The appeal is dismissed.

Signed

Date