

Asylum and Immigration Tribunal

THE IMMIGRATION ACTS

Heard at Field House
On 6 & 7 March 2008

Before

Senior Immigration Judge Allen
Senior Immigration Judge Eshun
Mrs G Greenwood

Between

WD

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Blum, Counsel, instructed by Knights Solicitors
For the Respondent: Mr G Saunders, Home Office Presenting Officer

DETERMINATION AND REASONS

The Abu Nidal Organisation (“ANO”) exists now as no more than separate cells and individuals operating on their own, and hence is very unlikely to pose a real threat to an individual who has in the past been the object of its hostility.

1. The appellant is a Palestinian, a former resident in Lebanon. He appealed to an Adjudicator against the Secretary of State's decision of 11 August 2004 to remove him as an illegal entrant from the United Kingdom. In a determination promulgated on 16 December 2004 the Adjudicator dismissed his appeal. The appellant subsequently sought permission to appeal to the Immigration Appeal Tribunal. A Vice President refused permission on 22 February 2005. The appellant thereafter sought statutory review, and on 7 April 2005 Silber J reversed the decision of the Tribunal refusing leave. The appeal then came before a panel of the AIT on 9 May 2006 as a reconsideration of the Adjudicator's decision. The Tribunal did not find

there to be a material error of law in the Adjudicator's decision and accordingly ordered that his decision dismissing the appeal was to stand. The appellant thereafter sought permission to appeal to the Court of Appeal. This was refused by a Senior Immigration Judge on 22 June 2006, but on application to the Court of Appeal permission was granted by Neuberger LJ on 16 August 2006. Subsequently by consent, in an order made by Laws LJ on 26 September 2006, the order of the Tribunal of 10 May 2006 was set aside and the matter was remitted to the Tribunal for a consideration of whether the determination of the Adjudicator disclosed an error of law.

2. The matter came before a panel of the Tribunal on 24 November 2006 and it was determined that the Adjudicator's decision was materially flawed and that there must be a full reconsideration in the case. It stated:

“1. (repeats the above paragraph 1)

2. The appeal came before us on 24 November 2006. Mr P Richardson, instructed by Knight Solicitors, appeared on behalf of the appellant. Mr C Hearsam appeared on behalf of the Secretary of State.
3. We heard submissions from Mr Richardson and Mr Hearsam. It was agreed that all the issues that were argued as errors in the Adjudicator's determination were before us for consideration. In addition Mr Richardson argued, and Mr Hearsam did not disagree, that it was open to him to argue the issue of whether Fatah could be regarded as an agent of protection. Mr Richardson argued that a basis for this could be found in the broad challenge to the findings on risk on return in the original grounds, in that arguably, the finding on sufficiency of protection was related to that issue. Mr Hearsam agreed that there was a material error of law in that regard as well as with regard to the other matters contended for in the original grounds.
4. The grounds of appeal against the Adjudicator's determination contend firstly that the credibility findings are flawed. In this regard it is said that paragraph 11 of the Adjudicator's determination provided no reasoning for the conclusion that the appellant was not a courier for Fatah as he suggested. The point is made that there was an error in the refusal letter upon which the Adjudicator relied, at paragraph 11, wrongly stating the date of Abu Nidal's death as being August 2003 when in fact it was August 2002. In addition, the Adjudicator had not addressed his mind to the answers given by the appellant in his statement of 18 August 2004 at paragraphs 23 to 37 to the respondent's challenges to his credibility in the refusal letter.
5. The next ground concerns the failure by the Adjudicator to take account of the evidence of the appellant's wife, Mrs HW. Thirdly it is argued that the findings on risk on return at paragraph 11 do not deal with the essential issues in the case. It is argued that the objective evidence referred to by the Adjudicator was contradictory and it was unclear what objective evidence he was referring to in the relevant part of his determination and it was therefore impossible properly to analyse his approach to the

appellant's case in the light of the objective evidence. The fourth ground comprises in effect a challenge to the IAT in KK [2004] UKIAT 00293. As is noted, the Adjudicator did not rely on this decision but decided the appeal in line with the guidance given in that decision. Reference is made to the fact that permission had been sought to appeal KK to the Court of Appeal and it was argued that the conclusion of the Adjudicator in stating that the systematic discrimination suffered by Palestinians in Lebanon did not cross the Article 3 or persecutory threshold was an error of law.

6. We agree that all of these matters identify errors of law in the Adjudicator's determination. The grounds are terse and coherent, and we see no particular benefit in paraphrasing them as they make the points contained within them perfectly clearly. The only comment we might make with regard to ground 4 is that subsequently the Court of Appeal refused to grant permission to appeal in the case of KK. That in no sense however precludes the issue being revisited given the fact that by the time this appeal is heard again the best part of three years will have elapsed between the consideration of the evidence in that regard in KK and that hearing and it may well be appropriate for the issues to be revisited. We also consider that an error of law was identified as agreed between the representatives and as noted above with regard to the issue of the ability of Fatah to protect the appellant against the Abu Nidal organisation as a matter of law. We make the further comment that it is in our view necessary or at the very least highly desirable for there to be expert evidence to deal with several of the issues that will arise on the stage two hearing of this appeal. Evidence is needed on the influence and reach of the Abu Nidal organisation and also of the ability of Fatah to protect against the Abu Nidal organisation. Also expert evidence is needed on the question of the extent to which Fatah has de facto control over parts of Lebanon which arguably is the relevant test in assessing whether as a matter of law it is able to afford protection to a person such as the appellant.
7. For the above reasons we conclude that the Adjudicator's determination is materially flawed and as a consequence there must be a full reconsideration in this case."

3. The stage 2 hearing took place before us on 6 March 2008. Mr D Blum, instructed by Knights Solicitors, appeared on behalf of the appellant. Mr G Saunders appeared on behalf of the Secretary of State.
4. The appellant, WD, gave evidence as follows. He confirmed his name and his address as on the file. He had made three statements, the SEF statement of 21 June 2004, a further statement on 18 August 2004, and a third statement of 15 November 2006. These had all been translated and read back to him and he was aware of their contents and to the best of his knowledge they were true and accurate and he was willing to have them stand as his evidence-in-chief today.

Discussion

5. In his first statement, the SEF statement, dated 21 June 2004, the appellant said that he had lived in Al-Rashidieh camp in the Lebanon all his life. He had decided to join and support Fatah at the age of fourteen. He was sent for training in east Sidon and after that he became a fully fledged member of Fatah in 1995 when he was nineteen years old. After the year 2000 he became a messenger for Fatah and at that time his leader was IK who was in charge of security, and who was the personal guard to Soultan Aboul al Nein. His task as messenger was to deliver letters, photographs and messages for Fatah between the different refugee camps in north and south Lebanon. He described the people to whom he delivered items and messages in the camps. He had to deliver items about two times a week and he did this by hiding the letters under his clothes and took taxis and buses to the different camps and went by various routes also.
6. He married his wife on 13 January 2002. He said than she came from a family with a strong history in Fatah and was also a member of Fatah.
7. He said that his problems began when the Fatah Revolutionary Council (which, as is noted at paragraph 14 below, we refer to as the ANO, and will be referred to hereafter as the ANO) became aware of him. He said that they were another refugee group in Rashidieh and knew he was a messenger for Fatah and wanted him to divulge confidential and sensitive information to them. He said they wanted to know the identities of the people he dealt with in the other camps. He said that the first time he was approached by the ANO was about a month before he left Lebanon, may be some time in April 2004. He said he received a letter from them, slotted through the door to his house, asking him to attend a coffee shop in Tyre. He did not go. About a week after he received the letter he was telephoned by a person calling himself Abo Rad, who said that the appellant had not responded to the invitation to attend the coffee shop. He threatened him in respect of his daughter and wife and said that they would be kidnapped if he did not cooperate. The appellant hung up. He told IK about the call and he gave him a gun and told him to protect himself. He had asked for protection but this was all he was able to do.
8. On 19 May 2004 a guard at the kindergarten where his daughter attended told him that a person had been there and asked him "Do you know WD's daughter?". He became very suspicious and even more fearful then.
9. He said that two days later, about a week before he left Lebanon, the ANO tried to kill him. He was walking home from his parents' home. The electricity had gone out and it was about midnight. He was walking near a canal and heard two shots fired at him but as it was pitch black he did not seen anyone. He jumped into the canal and hid there for two or three minutes and then came out and ran home. He realised that the ANO were serious about killing him so he decided he had no option but to take his family to safety and arrangements were made over the next few days during which he hid at his own home and at his father-in-law's house and they left Lebanon with an agent on 28 May 2004, arriving in Turkey on 30 May and in the United Kingdom on 13 June 2004. He said that they did not inform Fatah that they were leaving because they knew that they would never be allowed to leave with all the information that they had. He also said that he could not obtain protection from the Lebanese government.

10. The appellant made a further statement, it seems on 18 August 2004, in response to the reasons for refusal letter of the Secretary of State which is dated 6 August 2004. In that he responded to various points made by the Secretary of State in the refusal letter. First of all he said that although he said that he did not work outside the camp before 2000 it did not mean that he had never been outside the camp before that year. He provided an explanation for an alleged discrepancy as to the number of camps that he said that he mentioned. He admitted that he did not know who killed Abu Nidal but said that this was not something he thought that he should have known. He denied that he collected intelligence but said that he was a messenger who was involved in delivering messages and not collecting information and that he had not said that he collected information. He denied the relevance of his stating at interview that the ANO wanted him to give them a CD with information on him, a matter that he had not mentioned in the SEF, on the basis that it was simply another formal method of carrying information. With regard to the point made by the Secretary of State that killing him would not enable the ANO to get information on Fatah, he said that the ANO would only kill him as they saw this as a form of punishment for failing to cooperate. He disagreed that the ANO would not have the capacity to attack him in Rashidieh camp.

11. The appellant made a third statement on 15 November 2006 in response to findings of the Immigration Judge. He made the point that if he returned to Lebanon at present he would be killed by the ANO's active agents who work in secret cells. He referred to a recent incident of a Fatah agent who worked in two of the camps being killed by the ANO. He also said that as he left Fatah without their permission he had betrayed their oath and the punishment for betraying their oath was that he would be killed. He said he strongly believed that they would view him as a traitor and hold him responsible for passing confidential information to the ANO. The fact that he had left Lebanon without their permission or at least telling anyone, would prove to them that he had betrayed them. Fatah had a significant presence in all the Palestinian camps in Lebanon as well as an active intelligence and security system. As a traitor to them he could never expect to receive their protection. He also considered that the Lebanese authorities would seek to investigate his real intentions if he returned to Lebanon and he would not be treated in a fair manner because he is Palestinian. He said that the ANO is a very dangerous and secretive undercover organisation who can find whatever information they are seeking due to the structure of their organisation. He said that they have a presence in all the camps in Lebanon and active agents who operate with ruthlessness. He also said that as a well known Fatah member it was not possible for him to relocate within any of the other refugee camps or elsewhere in Lebanon. He said that his activities with Fatah for a significant period of time were considered as illegal and there was every risk that he would be detained and interrogated by the Lebanese authorities and treated as an enemy of the state. He referred also to the fact that his wife's position is similarly dangerous as she was responsible for downloading confidential information into the computers of Fatah's offices in Rashidieh via CDs. His involvement had been to collect the CDs from Fatah agents in other camps and forward them to Fatah. He referred also to photographs he received in 2005 from his mother after the hearing in November 2004. He had left the photographs in the safekeeping of his mother as he knew that it was too dangerous to bring the photographs by himself to the United Kingdom.

12. Mr Blum had a few questions for the appellant. He was asked to identify the people in the photograph at page 13 of the bundle A. He said that they his wife, himself and Soultan Aboul al Nein who was the leader of Fatah in the Rashidieh camp.
13. He was asked whether he had ever learned or been told about the specific details of the information that he couriered and he said, no, he just transferred the information. He had never been told by anyone as to the general nature of the information that he couriered.
14. He was referred to his answers at question 15 and question 18 at interview. He had said that he used to bring information about the Revolutionary Council and his job was to collect information about the Revolutionary Council. He said that he had not collected information. His role was to bring and carry this information to them. He was asked how he knew that the information related to the Revolutionary Council/the Abu Nidal Organisation (The appellant referred to the Abu Nidal Organisation by another of its names, the (Fatah) Revolutionary Council. We shall refer to it for the sake of brevity, as the ANO). He said he knew as the information he carried was from the camps that were controlled fully by the ANO. He was asked whether any of the people he delivered messages to and from ever indicated to him that the information ever related to the ANO and he said yes, of course, and he had been told this by his superior, IK. It was correct that he had not personally gathered information himself about the ANO or other factions.
15. He was referred to his answer at question 41 at interview where he said that the Lebanese authorities had become aware that he had monitored them and collected information about their people. He was asked how he had become aware of that. He said that usually when he moved around he took a taxi and on one occasion he was stopped and investigated and searched and they looked up his ID. IK had told him that he would need to go around on secret paths and not the normal path. IK was the bodyguard of Soultan Abu al-Einein (the leader of Fatah in Lebanon). He was asked whether he knew whether the Lebanese authorities knew he was a courier, and he replied of course, as they had agents in his area and in his camp and IK had told him this. He had become aware of this when he fled in April. He was asked whether it was before or after he received the first communication from the ANO and he said it was before he received the letter.
16. He was referred again to the incident when he said his taxi was stopped and his ID was looked at. He said that the Lebanese authorities had checkpoints around all the Palestinian camps and anyone going in or out would be searched. He was asked whether this was the incident that caused him or IK to realise that the Lebanese authorities knew he was a courier. He replied no and said his problems began with the ANO, and not only with the Lebanese authorities. He agreed that he was saying that IK had told him the Lebanese authorities suspected or knew that he was a courier. IK became aware of this as he had a security network in Lebanon which informed him. He was asked what was the relevance of the time when he was stopped in the taxi and his ID was checked. He said it could be that it was to ascertain that he was himself a person entering or leaving the camp, as he used to do so twice as week. There was a routine check on all inhabitants in the camp as well. He had been allowed to go on with his business and leave the camp. Subsequently he used to leave the camp on secret paths.

17. He was referred to a point made at paragraph 11 of the reasons for refusal letter in connection with him not having initially said that the ANO wanted him to locate one of their members. He was asked why he had not mentioned this in his initial statement and told his solicitors about it. He said that he had not been asked specifically about this piece of information and had not thought it was important information he should tell his solicitors about.
18. The letter from the ANO had been given by him to his leader. He had known it was from the ANO as it was written in it and illustrated that they needed to meet him in a coffee shop in Tyre. It was handwritten and signed and stamped with the logo of the ANO.
19. He was asked why he thought Fatah would think he had passed on information to the ANO and he said it was as he had fled without telling his leader and he had been afraid. He had not told his leader as he would not have allowed him to go as he was in the security division. He did not think his wife would have been allowed to leave as well. She had special designated room on the computer and she knew what type of work she put on to the computer but he did not know as he was not allowed to. It was confidential information.
20. The appellant was then cross-examined by Mr Saunders. He confirmed that he had left Lebanon on 28 May 2004. He was asked how long before that had he been stopped in a taxi by the Lebanese authorities and he said his problems began in April 2004 when he was stopped and searched and then he had to change his plans. This had therefore happened in April and he said that it was in the early middle of April. It was put to him that being stopped and having their ID checked happened all the time to Palestinians in Lebanon and he said yes, in general, but anyone suspected had to get from the car and they were searched. He was asked whether they did not do that all the time at checkpoints, carrying out harassment, and replied yes. He had been acting as a courier since 2000. He had therefore been working as a courier for about four years when this happened. He had not been stopped before. When he was stopped and checked he had been allowed to go on his way. He had carried on with his duties as a courier thereafter but he had done this secretly, using unusual paths and routes. After the time when he was stopped he continued to make trips twice a week. This went on up until 21 May when he received the ANO letter. He was asked when he had received the letter and said it was the week before the shooting. He agreed that he was shot at on 21 May. It was put to him therefore that it was on about 14 May that he got the letter and he said that that was approximately so. The letter was the initial contact he had had from the ANO. He had received the telephone call a week after he got the letter.
21. He was referred to his SEF statement dated 21 June 2004, at paragraph 13 of which he said that he got the letter maybe in April 2004. It was put to him that he had today said it was approximately mid-May and he was asked which it was and he said it was not around mid-May; rather his problems started with the ANO in April. He agreed that his evidence was that after he had been stopped by the Lebanese authorities he continued as a courier by secret paths and did this twice a week up to 21 May when he was shot at. He had received the letter about a week before that and he said that that was approximately the case. He agreed that he would have received the letter a day or two either side of 14 May and that that letter was the first communication he had from the ANO. He was asked why therefore in the statement had he said, and

he had now just said, that his problems with the ANO began in April. He said that the ANO had learned that he was courier in April. He was asked what had happened after they learned that and he said that they sent the letter to him asking him to meet them at the coffee shop in Tyre. He had got that letter in April two weeks before he left Lebanon. He agreed that he had left Lebanon on 28 May. He was asked what had happened in April to do with the ANO and he said in April after they had learned that he was a courier they established communication with him around mid-May, a week or two weeks before he left Lebanon. His leader told him they had learned that he was a courier and he was to be careful.

22. He was asked what communication if any he received from the ANO in April and he said in April the ANO approached him before he left Lebanon. He was asked who told him the ANO had discovered he was a courier and he said when the message was received, IK told him. He had told him this in May. IK had known this because he had a security network. He was asked when IK told him that the authorities also knew he was a courier and he said this happened after he was stopped and searched. He was asked whether that was in April and he said it could be in April.
23. He agreed that he said someone shot at him on 21 May. He had heard two shots. He was asked how he knew they were fired at him and he said that there was nobody else in the street. They were fired from relatively close, up to 10 – 15m. He was targeted. Up to then he had just been walking along the street on the way home holding his automatic gun. He had reported the matter to IK afterwards and he had told him to be careful and to look after himself. He had told IK about the shooting. IK had believed him and had given him the automatic to defend himself with.
24. He was asked whether, since he had left Lebanon, he had heard of any measures that Fatah had taken against him or to find out where he was, or to indicate that they suspected him of acting against them. He said he did not know and he had left and he had no communication with anyone at all in Lebanon. He had worked for Fatah since he was fourteen, in 1990. His wife also worked for Fatah but he did not know when she had joined. He was asked whether she had family connections with Fatah, and initially said no, but then said that her father was in Fatah and that was all he knew.
25. On re-examination he was asked whether he became aware that the ANO knew he was a courier before or after he gave IK the letter he had received from the ANO. He was unsure which information was meant. He was asked whether, before he received the letter from the ANO and showed it to IK, IK had ever before then said the ANO were interested in him. He said that IK had never mentioned it to him and if he had told him he would have stopped working as he would have been afraid. He did not know whether IK knew before the appellant got the letter that the appellant had worked for the ANO. He had only said be careful and look after himself.
26. The next witness was the appellant's wife. She confirmed her name and address. She had provided two statements of similar content, one at page 29 of bundle A and one at page 80 of bundle B. They had both been translated and read back to her and they were true and accurate and she was willing to have them stand as her evidence-in-chief today.

27. The appellant's wife was asked by Mr Blum what type of information she had processed on behalf of Fatah and she said it was movement of individuals of ANO, and where meetings had been held for the ANO about prisons the groups abducted people to, and people from ANO working for Fatah at the same time. The most important information was about a person from the ANO who had been recruited from Fatah to kill and poison the leader of Fatah. This information was ascertained by Fatah and approved and the person was arrested and detained. She did not discuss all this information with her husband but sometimes they spoke briefly about general matters.
28. She was asked when her husband received the letter from the ANO and she said it was in very late April. It was put to her that he had said today that he got the letter around 14 May and she said no, it was not in May and his problems with the ANO began in late April. He had showed her the letter and then he had shown it to IK and it had remained with IK. She was asked why she thought her husband gave evidence today that he received the letter around mid-May and she said she knew her husband and he had problems with dates and she was sure he had been confused about dates and that could be the reason. She was asked how she could be sure that it was late April and she said she was sure of that and after a week he was telephoned by the ANO telling him he did not come to the meeting in the coffee shop and that was a week after the receipt of the letter.
29. When cross-examined by Mr Saunders the witness was asked whether anything happened to her husband after the letter and the telephone call. She said yes, there was an assassination attempt on 21 May, and on 19 May there had been an attempt to kidnap her daughter from the nursery. There were 22 or 23 days between the receipt of the letter and the assassination attempt. It was put to her that her husband had said it was about a week and she said no, that was not correct.
30. She was asked whether she was in touch with anyone in Lebanon, and she said with her father. Sometimes he went to Dubai. When she had been in Lebanon she had lived with her father but he did not live there now. She had a sibling in Dubai and her father would go there for about six months and then back to Lebanon to make sure his house there was all right and then back to Dubai. He lived mainly in Dubai. She spoke to him on feast days and on family occasions such as the occasion when she gave birth to her son. She also spoke to her mother-in-law, by telephone. She lived in the camp in which they had lived in Lebanon. She was asked whether her mother-in-law had said anything about the consequences of her and her husband fleeing and said yes, and her father had spoken to her about it after their arrival in the United Kingdom and he had said that IK was very angry about their actions as they had not told him they would be leaving and they were now in very serious trouble with Fatah.
31. On re-examination the witness was asked why, with regard to the last piece of evidence, this was not in her statement and why had she not told the solicitor at the time. She said that mainly all the questions were directed to her husband when taking this statement and she was dependent upon his asylum claim and they had not asked her much. She had never been asked specifically by the representatives if she had spoken to or contacted anyone in Lebanon or to her father after she had left.
32. The next witness was Professor Yezid Sayigh. He has provided a report dated 26 March 2007 and also a brief supplementary report in the form of a letter dated 18 July

2007. Professor Sayigh has provided a detailed cv which shows that he is at present working as Professor of Middle Eastern Studies in the Department of War Studies in the School of Social Science and Public Policy at Kings College London. He has previously been an Assistant Director of Studies at the Centre of International Studies at the University of Cambridge between 1994 and 2003, has been a Visiting Scholar at Pembroke College Cambridge from 2004 to 2005, and has been a Visiting Professor in the Department of Political Science and Public Administration at the American University of Beirut between 2003 – 2004, and between 2005 - 2006. He is the author of a significant number of books and articles and chapters in books. He lived in Lebanon between September 2003 and June 2004 and again between September 2005 and June 2006 and at the time of writing his report had most recently been in Lebanon between 13 and 16 January 2007. In his evidence he said that he was due to go to Lebanon in two weeks time for a four month period and was most recently there in June 2007.

33. He had recently read his report and to the best of his knowledge it was accurate, and likewise with the letter of 18 July 2007. He currently taught a course on the international politics of the Middle East and a course on conflicts, security and development. He was aware of his duties to the Tribunal.
34. As regards the information he had on the camp in which the appellant lived in Lebanon at Rashidieh, he got this information, as he did generally with regard to the camps in Lebanon, mainly from personal contacts who were Palestinians working in such jobs as social work and were activists working and living in the Lebanese camps. As to how he ensured the information he obtained was accurate, although he could not be sure, he obtained the information mainly from people he had known for a long time and independent of each other so he obtained a convergence of information which would sometimes be corroborated by information in the media.
35. He identified the person at page 13 of bundle A as Soultan Abu al-Einein who was the military commander of Fatah in Lebanon and could be the political representative also now.
36. He was asked whether he knew if there was actual infiltration or fear of infiltration by factions of the Lebanese government into Fatah. He thought that there was real infiltration as well as the fear of it. The various factions infiltrated each other for information. The Syrian and Lebanese intelligence organisations were interested in the Palestinian factions and there had been active recruitment recently. There had been particular problems last year in the Nahr El-Bared camp between the Lebanese army and Palestinian Islamists who had broken away from the Fatah-Intifadah group and some of those people would previously have been members of Fatah. It was an illustration of how Fatah members would be recruited but would end up breaking away and fighting for another group, and ultimately people would fight for their paymaster.
37. He was asked to what extent Fatah had been infiltrated in 2004. He said that it had always had been heavily infiltrated by rival factions. Some members could feel greater loyalty to another faction, but it was Fatah that paid them. The same had been true in the opposite direction in the past when Fatah members had infiltrated other Palestinian factions and also the Lebanese authorities. This was certainly true in the 1970s and 1980s. Fatah's capabilities were far reduced now but they would

seek information and find friendly sources or had other bases of obtaining information.

38. Professor Sayigh was asked what Fatah would do if they perceived or knew that the appellant or his wife had divulged confidential information to the authorities or in particular to another faction such as the ANO. He said that if they thought they had given information to an outside party then they would view this with high suspicion. Fatah proceedings were very informal and personalised. Certainly they would have been questioned and could have been detained and the questioning could include rough treatment. That would be the situation if the appellant had remained in Lebanon and that had happened then. There would at least have been detention as a result. If the appellant were to return now and this perception existed, then he would be seen with distrust and suspicion. It was more difficult to predict what Fatah would do. If he was seen not to have returned as part of another faction and was not carrying on any further activity, then there could still be questions if he returned to his own camp and he might be questioned over coffee and his reasons could be probed and he would be asked what he was doing now. It was rather doubtful whether any more formal action would take place and it would depend on what was believed. There might be social ostracism and denial of services or protection, although services would still be accessible from the United Nations Relief Works Agency (UNRWA). They could refuse to put him back on the payroll. That was Professor Sayigh's expressed assessment on the information he had. The situation in the camps was fluid, and it was hard to predict. There were higher levels of distrust since the problems last year. There was a fear of the Lebanese army taking over violently. The risk was higher this year as Fatah had generally a higher threat perception and the situation was more sensitive now. It was the case that there was a higher level of distrust and of fear.
39. He was asked whether the Lebanese authorities, had they become aware at the time when the appellant lived there in 2004 that he was a courier, would have been interested in him? He replied that they would have been. Lebanon was then under overall Syrian control but the Syrians had left in April 2005. At that time the Syrian and Lebanese authorities were in conflict with Fatah and it was likely the Syrians would have known if the Lebanese knew. That did not mean that the appellant would necessarily have been interrogated or arrested. He would not normally have been subject to direct action, but they would have noted his activity and kept an eye on him, and it could be he would have been monitored, and the information about him, could be kept on a file.
40. Professor Sayigh was referred to what he said at paragraph 2(b)(i) in his report, at page 155 of bundle C, concerning the decline of the ANO and the fact that its nature was secretive and its remaining activities were covert. He was asked whether they would be interested in a courier carrying confidential information. He said yes they would have been at the time quite definitely have been interested in Fatah especially in the south, as the ANO was in fear of action there. Since the ANO had gone into covert presence from the 1990s onwards there would nevertheless still be interest in Fatah and key figures, officers and people involved in security and people who connected such people as a courier, and they would have interesting information and they could be unclear as to what the appellant did. As regards what he said at paragraph 2(c) of the report, at page 156 of the bundle, concerning present risk to the appellant, he said that there were potentially at least two types of risk. The first would

be from the ANO as an organisation. A senior person or committee might take explicit note of the appellant and order further action. Also, it was the case that individuals could act more autonomously on a more personal basis even if the ANO did not still exist as a coherent organisation. Such people could, for example, belong to other factions.

41. Though Mr Blum was not seeking to argue that the conditions in the camps were at a level giving rise per se to breach of the appellant's human rights, this issue having been recently determined by the Tribunal, (in MM and FH [2008] UKAIT 00014) he asked whether with regard to the camps in general the appellant's presence was likely to become known to other political factions such as the ANO or individuals associated with the ANO or other factions. Professor Sayigh said that if the appellant went back to his own camp or to any camp, his presence would be noted, as the Palestinians were very close knit and had strong social bonds. To an extent the situation in the camps replicated the situation in their villages prior to 1949. They would find out who he was, what his origins were and who his relatives were. Also, each camp had a popular committee which was not elected, but it represented the main factions in the camp. There would be family elders on it and the head of the local UN school, for example, and they would collect and discuss issues. Also the UNRWA, if they were there, required people to register with them in order to receive services. Their local staff would need to identify where the person in question was from and there would be an entire family record. Therefore such a person's presence and identity would be known to anyone who had an interest, and this could be assumed.
42. Professor Sayigh was asked what the likelihood was if the appellant, who was known before to be associated with Fatah, moved to another camp, and if he had been targeted, for example, by the ANO of him being protected from other Palestinian factions or militias. He said that on balance the appellant would not be protected in a formal way. There was no reason for a faction to feel obliged to do so. It was likely that because of the very strong social network and the dynamics of the network that the factions were part of the local community that there would be a more informal fluid situation. There was a strong opposition to violence and a tendency to resolve disputes, and family elders would intercede between factions. There was no formal mechanism for protection, but informal processes came into play and it was unpredictable what kind of protection they would provide.
43. He was asked what difficulties a person who could not live in the camps would experience in trying to live outside the camps. He replied that it was automatically more expensive. The rents in the camps were far lower and services were provided by the UNRWA. Services outside the camps posed a general problem for Palestinian refugees. They would have no social security and for a long time there were 72 areas of work in which they could not be employed. This had now been reduced significantly since 2005, but in practice that had not filtered down to the bureaucracy. It was not possible to get a job in some of the legalised areas. It was more polarised also, since the fighting last year, in that there was hostility to Palestinians, and cases of refusal of accommodation recently to Palestinians in Lebanon on account of fear. Also the Sunni Muslims of Lebanon, who had historically been closest to the Palestinians, now regarded them to an extent with hostility in the light of the many casualties last year so there was now a backlash and it was hard to get accommodation and jobs, which would only be available in the private sector anyway.

Health services and public services generally would not be available outside UNRWA because of the arrangement that they would provide such care. There were limits on the care that could be provided and also on the extent of available schooling.

44. He was asked with regard to the fluidity amongst the factions how this would manifest itself vis-à-vis the ANO and what would be the likely consequences to the appellant. Professor Sayigh said that the ANO had broken off from Fatah in the 1970s and people had continued to leave Fatah and join the ANO which was more extreme. They had fused with Fatah Intifadah and there had been a civil war in 1983 and there was a constant to and fro between the ANO and Fatah Al Islam. In recent years Fatah Al Islam members had joined the ANO or other extreme organisations. The ANO was a covert organisation then. It could at least be said that former Fatah members who had joined Fatah Al Intifadah had in some cases joined Fatah Al Islam.
45. He was asked about the risk to a person such as the appellant who had been approached before by the ANO from a person who had now joined a more radical group. He said there was a risk if previous members of the ANO knew the appellant and had been in the same area in the south, if they had more personal reasons or he had acted against their organisation or interests and harmed them. If there was no such clear reason then they would not seek to do anything to him and if they were not with the same organisation. He was asked about Fatah's ability to protect the appellant in the light of what the appellant said had happened to him and in the light of Fatah's present structure. He said that Fatah had come out openly, as did the PLO, in support of the Lebanese army against Fatah Al Islam with regard to the problems last year. Fatah had urged a non-violent solution. It had suggested a peacekeeping force to be recruited and deployed in the camp to prevent infiltration by Fatah al Islam. The Lebanese army had turned down the offer and other factions could not agree a common policy. Fatah had therefore been unable to pull together an agreement from other Palestinian factions as to what to do, and this demonstrated their declining influence. They had found it difficult even to find enough men to put into the field. They were shown to have reduced political influence and logistical and military capability.
46. When cross-examined by Mr Saunders, Professor Sayigh was asked whether he knew of cases where the kind of suggested possible reprisals by the ANO or its members had actually occurred in similar cases. He said he knew the ANO in the past had taken violent action to the extent of assassination of Fatah members or officials. He was asked whether there were any examples of risk from an individual on the basis of personal animus or vendetta. He said he could not give any specific examples but could say that in various camps, such as Ein El-Hilweh, there still were individual clashes where fights were picked. He did not know whether any of these involved people who had previously been members of the ANO but there was a general pattern of cases of violence which could extend to deaths. He agreed that there was a generalised situation where fights occurred for personal or factional reasons. He was asked what was the last violent action or serious activity by the ANO as the ANO and he said it had been some years and he could not say that there had been anything after 1999 to 2001. Its activities were now covert.
47. He was referred to his second report in the letter of 18 July 2007 and the point that he made there at paragraph 2(c) that everybody could resort to extended families or to rival factions for protection. He was asked why the appellant could not do that given

his family links via his wife to Fatah. Professor Sayigh had not meant that anyone could go to any faction but if someone picked on a person who belonged to a faction they would usually get some protection. Most Palestinians from the local community had such protection. The appellant would be able to go to his family if he could not go to Fatah and try and bring pressure to bear. He referred to what he had said earlier about the intervention that could be made by elders. It was all highly personalised and it could work in a person's favour as above but it underlined the absence of clear predictable procedures. He agreed that there was a close knit social structure in the camps. He was asked whether if a person from a rival faction turned up would they be unable to operate, for example, if they came to the appellant's camp at Rashidieh. He said that they would be known. There were rival factions there and some had an overt presence. Fatah had never physically prevented any of the other PLO factions operating where it was. If the ANO had a presence in Rashidieh and tried to operate, it was very unlikely that they would try to operate covertly. If a person was assumed to be sympathetic to another faction but was not hostile, for example in the form of intelligence gathering, they would be tolerated. If a person was an ANO member from a local family then they would have some right to be there as opposed to the situation of an ANO member from outside the camp. It depended on the case as to whether a person who had gone away from their camp, supported the ANO and came back, would be tolerated on return. It would depend, for example, on what they were seen as doing before. It helped if they had been there before but it did not guarantee an absence of interest in them on the part of Fatah.

48. The appellant could go to any other camp. It was possible to enter, and there were various degrees of checks or absence of checks but a person who asked questions might well have enquiries made about them and might be followed. Identification was not required on entry. Such a person would be noticed as a stranger and also if they spent time there beyond simply walking through.
49. He was asked if there was any reason why the appellant's history would become known and he said, not necessarily. He could enter and take up residence and if he lived there and sought UNRWA services his identity would come to be known. Whether they would bother to seek further information about him was something that could happen or if he was known to a person there from his original camp. He agreed that the ANO broadly speaking would have bigger fish to fry than be interested in a person with the appellant's history. Confrontations would be avoided. People told Professor Sayigh that the ANO did have a presence still so it was not likely that they would go active to take action in relation to a person in the appellant's position. The ANO was something of a sleeper organisation. It was not clear if they were funded beyond funding from Syrian intelligence. It was possible that the Islamists funded them. In a crisis such as that occurring in Lebanon now, it was very possible that the Syrians, if no one else, might reactivate the ANO as a distinct label to carrying out its business in Lebanon separately as the ANO or otherwise. It was the case therefore that left alone they would not seek to go out of their way to harm an individual but if they were activated in this way there were other potentials, and there were other extremists groups.
50. The ANO did not have an office but they were believed to have a covert presence. It was hard to say how, if at all, they would retain a record of the appellant. They might still have information on computers or CDs. He did not say it was impossible, but he

did not assert it. There was risk on the basis of a perception that he was a courier between Fatah commanders who were opposed to the ANO, and questions might be asked about whether he was still active and still performing the same role and had the same connections in performing covert activity. Those were the questions to be asked if they were aware of his presence.

51. On re-examination Professor Sayigh was asked about the mechanism of going to the family for protection. He said that if a family member contacted a person they knew in Fatah they might ask for help for their relative or friend and it would be a personal appeal. Certain families, if well organised, who had a strong and clear family structure, would have this mechanism for bringing together the elders and sending an emissary to the person to whom they needed to talk. This would not be so for weaker families. Alternatively they could ask a stronger family to intercede on their behalf. The case could be taken to the popular committee to intercede on such a person's behalf and that was more formal. There was no formal structure for a family to bring pressure to bear on Fatah.

Submissions

52. In his submissions Mr Saunders asked us to make an adverse credibility finding against the appellant. He pointed to the differences in chronology that appeared in the appellant's oral evidence and the discrepancy between the appellant and his wife's evidence about contact with those now in Lebanon. The chronological inexactitudes were material, given the limited period within which those events took place and the fact that the appellant had been quite clear about the dates of the claimed assassination and when he received the letter. These should be found to be significant. The evidence was not reliable. It was in any event curious that the appellant should have worked for four years and suddenly have been told by his superior IK that the authorities and the ANO independently had become aware that he was a courier. His claim about the shooting was a matter for the Tribunal but it was argued that it was untrue.
53. With regard to the fears contended for by the appellant, in particular from the ANO, the evidence was clear that the ANO might exist but it had done nothing active since 1999 to 2001. This was a fear that was said to be linked to fear from supporters from the ANO who might have joined other organisations. The expert had agreed that they would have bigger fish to fry and they would have no interest in the appellant, it was argued, even if they came across him some four years on.
54. As regards the claimed fear from the Lebanese authorities, the Tribunal was referred to the passage at page 164 of bundle C in the expert report where it was said that he faced little risk. This was very fair. He had been stopped when he was carrying out his activities as a courier and his ID had been checked.
55. As regards the claimed fear from Fatah, this depended upon the credibility findings. There was clearly an evidential difficulty here. Even if the claim were true, the experts said that there could be distrust and suspicion now and given the passage of time there could be informal questions but this came nowhere near persecution or breach of Article 3 rights. This was even without seeking the intervention of their apparently present family.

56. There was no need therefore to consider relocation, which was argued in any event to be possible within the camps. It was not a case of living outside the camp. No concession was made in that regard as to whether or not he could do so. It was clear that a person could turn up and register and there was a chance of anybody there drawing his presence to the attention of a person more interested in him. He could go to a different camp from the one he lived in before.
57. It was argued that as a matter of law Fatah could be actors of protection for the purposes of the law. Reference was made to the decision of the Tribunal in DM (Somalia). A pragmatic view was to be taken. The camps were like city states and were run de facto by the dominant factor and this was Fatah in the appellant's camp. The camps had been there for sixty years. Therefore in the area of the country most relevant to the appellant there were parties or organisations in the form of Fatah which could provide him with protection. It was accepted that the system they had was loose and unformulated, but it was a system to which he could have recourse. It was similar to the situation of majority clans in Somalia. If the Tribunal rejected the evidence that the appellant was of any interest to Fatah, there was no reason why they should not be willing and able to offer protection against a threat which in any event it was contended was not made out. They had believed what he said about the ANO and gave him a gun and were well disposed to him as a long standing operative and whose wife had long standing connections with the organisation. The appeal should be dismissed.
58. Mr Blum relied on and expanded his skeleton argument.
59. With regard to the issue of credibility, the events had taken place nearly four years ago and the appellant had always given his evidence in terms of approximation. His wife had said that he got confused about dates and that was quite common, particularly in the pressure of an adversarial setting and the fact that he had been through quite a traumatic experience. It was true that he had not had communication with anyone in Lebanon other than his mother and there was no evidence that she had told him that Fatah was interested in him so there was no conflict in fact between his and his wife's evidence. The account had been said by the experts to be plausible. There was the evidence as to how his superior IK was able to find out information and the likelihood of an approach by the ANO was borne out by Professor Sayigh. As a courier, the appellant would possess confidential information, and had the contacts in the various camps so it was likely the ANO would target him for that intelligence. The ANO were highly secretive and there might be very little objective material but that did not mean that the claim failed with regard to both targeting and risk.
60. Professor Sayigh's expertise had not been challenged by Mr Saunders. He had clearly found the appellant's account to be inherently plausible. With regard to the failure in the SEF to mention the ANO asking about the whereabouts of one of their members, the appellant had said that he did not appreciate the importance of this, and this was plausible. Also, it did not lack credibility that his wife would not have realised that what she said about IK telling her father he was angry with them would not have been mentioned before, as many claimants were unsophisticated and not aware of what was important to claim and advisers did not always ask for the relevant information that could and should have been sought from a witness.

61. With regard to risk, it was clear from the expert report that the ANO would definitely be interested in the appellant. They would still want to process and obtain confidential information. As regards the shooting incident, it was unclear whether it was done to kill the appellant or cause him fear. The fact that he was not killed perhaps showed that they were simply seeking to instil fear in him, and although this was speculative it was reasonable and based on the evidence. Professor Sayigh had contrasted risk from the ANO itself and what he described as residual risk from individuals. Although there might be bigger fish who would interest the ANO members, that did not mean the appellant was not targeted initially. As a sleeper organisation, its previous members could regard adversely the appellant's snubbing of them and refusal to give information. He was at risk on the basis of effectively having rebuked them.
62. The expert evidence should be borne in mind with regard to the claimed fear from Fatah. It was clear that if he had divulged confidential information there would be a real interest in him even after four years. He would be detained and could expect rough treatment and it was for the Tribunal to decide whether that crossed the threshold.
63. He would not be able to relocate, as his identity would become known. It was a question of what a particular group would do. The rebuke to the ANO was still alive in their memory. There was a reasonable degree of likelihood that he would be known to a former or current ANO member.
64. On the question of actors of protection we indicated to Mr Blum that we did not need to hear from him since we were satisfied that as a matter of law Fatah were not capable of being actors of protection.
65. We reserved our determination.
66. We have set out the appellant's oral evidence above.
67. Clearly issue has been taken with the appellant's credibility, as can be seen from our summary above of the submissions of Mr Saunders, quite apart from the points made in the refusal letter. In our view the main challenges to the appellant's credibility are the points made by Mr Saunders in his submissions. Clearly there are contrasts in the appellant's evidence as to the chronology of the events that he said occurred in April and May 2004 from the time when he said he received the letter from the ANO until his departure from Lebanon. There are also discrepancies as between his and his wife's evidence, on the one hand as to the timing of these events and also as to whether or not he and/or she had any contact with anyone in Lebanon after their departure and in particular whether the threat uttered, it is said, to the appellant's wife's father by IK, was in fact made.
68. We bear in mind as we must the points made by Mr Blum about the difficulties of recall after a period of time, and also the stress which may be experienced by people in particular giving oral evidence at a Tribunal. To an extent also it is true that the appellant was not always categorical about dates. For example, as we have noted above, in the SEF statement he referred to the first approach by the ANO being "maybe sometime in April 2004". But in the end the chronology he gave was clear,

and contrasted with what he had said in his statements and also with what his wife said.

69. There is the further point concerning the claimed attack on the appellant. The Secretary of State's point in the refusal letter was that it made little sense for there to be an attempted killing of the appellant as it would not have enabled the ANO to obtain the information they sought. The appellant in his second statement said that they would only kill him because they deemed it to be a form of punishment for failing to cooperate. Mr Blum surmised that it might have been done by way of a threat in order to put him in fear and make it more likely that he would provide information rather than an attempt to kill.
70. In any event, the evidence in this regard is distinctly vague. The appellant could say no more than that he was walking home on a night at the time the electricity had gone out and he said he heard two shots fired at him which in oral evidence he said were from 10 or 15m away. There appears to have been no follow up to his having jumped into the canal and hidden there for two or three minutes. It is unclear therefore whether these shots were aimed at him (and in this regard we bear in mind the fact that he said there was no one else around) and it is entirely unclear what the purpose of the shots was, and there was no follow up to them. It also, and to this extent we agree with the Secretary of State's comment, makes little sense so soon after the approach made to the appellant for an attempt to be made as he thought was the case to kill him. The suggestion by Mr Blum that it was done to frighten him and make it more likely that he would provide information we regard as no more than supposition.
71. In this context we must of course bear in mind the evidence of Professor Sayigh, part of the general thrust of which was to state the plausibility of the appellant's overall account in the context of the background evidence. Thus, he regarded it as plausible that the appellant would have joined Fatah in the way in which he claimed, had the training and been given the duties which he claimed to have had and also the access to information and meetings that he claimed. He also found his account of his duties as a Fatah courier and the methods followed in conducting his duty to be entirely plausible. Professor Sayigh, of course, does not purport to comment on the specific matters that the appellant claimed occurred in the form of the letter, the telephone call, the claimed interest in his daughter at the nursery and the claimed attack, though he found the claimed shooting to be "not implausible".
72. Bearing in mind the comments of Professor Sayigh we accept that the appellant worked for Fatah and was a courier carrying out the kind of work that he claims to have carried out. We do, however, have real doubts about the claimed adverse interest in him on the part of the ANO. It is relevant to bear in mind the point made at page 155 of bundle C in Professor Sayigh's main report that the ANO posed a very great risk to Fatah members and PLO officials in the 1980s and early 1990s. He stated that the ANO reached the peak of its power in the Palestinian refugee camps in the mid-1980s. However it effectively imploded in very bloody internal purges and mass executions in 1987. He said that retained some continued presence up to the mid-1990s, especially in the Sidon area, and continued to attack Fatah and PLO officials. Its members and operatives were generally based inside refugee camps, especially after 1991. It became less active after the mid-1990s, in part because it lost Syrian patronage as its founder and leader Abu Nidal found sanctuary in Iraq and

was killed in Baghdad in August 2002. He goes on to comment that the ANO has retained some presence in Palestinian refugee camps in Lebanon, especially in the northern camps and indeed in the southern camps also and that this presence is almost entirely covert and the ANO no longer maintains a public presence such as offices, spokespersons or media and is not known to have undertaken any overt activity for several years, including assassinations, although it is believed to have maintained covert activity related to surveillance and information gathering and network building. To the best of his knowledge, Professor Sayigh considers that the ANO would still have had some residual presence and covert activity in 2004 in camps including Rashidieh, and may have engaged in intimidation of the type stated by the appellant, but was not known to have conducted any assassinations for a number of years, perhaps going as far back as the mid-1990s. He also comments that the ANO's membership may no longer form a single clandestine network and may have dissolved into separate cells and individuals working on their own; some may have joined other Palestinian factions, some may work for various intelligence agencies or non-Palestinian organisations engaged in covert activity in Lebanon and some may still regard themselves as belonging to and loyal to the ANO and to have "gone to ground" as "sleepers". It was also possible that some ANO members have joined newly emerging militant Islamist groups and that these might pose a new type of threat.

73. This evidence is helpful in assessing the credibility of the appellant's claim as to what happened to him. Bearing in mind the discrepancies both within his evidence and as between his and his wife's evidence concerning the relevant dates, the vagueness of the evidence concerning the claimed shooting, and the expert's evidence about the significantly curtailed activities of the ANO at the time in question, we conclude that we do not find credible the appellant's claim to have been approached and threatened and attacked by the ANO in the manner in which he claims.
74. Nor do we find credible the appellant's wife's claim that she, through her father, was told by IK that her husband and she were regarded with disfavour by Fatah. This went directly contrary to her husband's evidence about contact with family in Lebanon, and also perhaps even more significantly is not evidence that has been provided by her previously. We do not think that this can be explained either by a lack of awareness on her part or the significance of such evidence nor by failure on the part of representatives to ask relevant questions. It would clearly be a significant aspect of risk on return bearing in mind specific remarks made by the appellant in his statement about risk from Fatah, and we reject the evidence in this regard.
75. In the light of what we have said above about the appellant's credibility, we reject the claim that he is at risk from the ANO on return to Lebanon. Nevertheless we consider that it is appropriate for us to assess risk to the appellant on returning if he had experienced the adverse interest in him on the part of the ANO that he claims was exhibited. In considering his evidence we have benefited significantly from the detailed report and follow up letter of Professor Sayigh, who, as we have set out above, also gave oral evidence before us. We have set out briefly above Professor Sayigh's qualifications, experience and credentials. We find him to be impressively knowledgeable and objective. He addressed specifically risk to the appellant from the ANO, and we have set out some of his evidence above in that regard. The particular paragraph that it is relevant to mention is one concerned with present risk

to the appellant. This is to be found in Professor Sayigh's report. There he says the following:

“(c) Present risk to the client. As noted above, the ANO is not known or considered to have engaged in assassination in Lebanon for a number of years. Its presence and capability are not ended, but they are significantly degraded. The ANO may have still had the presence and activity to be interested in the client and to seek to intimidate or actually harm him in 2004 as he states, but is much less likely to have the interest or capability now. There remains a residual risk: given the personalised nature of much of Palestinian factional politics and the absence of effective law enforcement, the client might be at risk of some form of retribution from ANO members who are based locally and know him personally and might carry on a vendetta if they happen to see him or hear he had returned.”

76. Professor Sayigh provided some further detail and updating with regard to matters dealt with in the report in his oral evidence. He distinguished between risk that the appellant might face from the ANO as an organisation or on the residual basis of risk from an individual no longer a member of the ANO who might be now associated with another faction, possibly an extremist faction. However we did not understand him to state that the level of the risk that the appellant would face was materially different from that stated in his report.
77. The evidence in this regard has to be seen in the context of Professor Sayigh's other evidence concerning the dissolution of the ANO into separate cells and individuals working on their own or having joined other organisations. The level of risk described by him in paragraph 2(c) of the report does not to our mind equate to a real risk. Professor Sayigh could not say whether the ANO retained any kind of record system and indeed the ANO as an organisation in any event exists only covertly and whereas it might not be appropriate to rule out the possibility of somebody somewhere possessing a CD or some other form of record containing the appellant's name on it, if his account of adverse interest in him by the ANO were to be true, the degree of likelihood of that manifesting itself into to harm to the appellant on return is to our mind a very low one indeed. Quite apart from anything else, he has been away from Lebanon for nearly four years, and even anybody identifying him as the person in whom the ANO had an interest four years ago would, we think, be unlikely to be of the view that he would now be able to give up-to-date information of any interest or value. But the likelihood to our mind in any event of meeting such a person, whether as it were institutionally via their ongoing involvement with the ANO or as an individual who had previously been aware of the appellant is, as we say, to our mind at a very low level of risk, and certainly not one that equates to a real risk. We bear in mind in this context also what was said by Professor Sayigh at paragraph 4(a)(ii) of his report referring to the possibility of ANO members joining the Fatah Intifadah faction in Lebanon and Syria after the death of their leader in 2004 (we think this must in fact mean 2002) and the decline of the organisation, and to it being conceivable that some of them may now have returned to Lebanon in the new guise of Islamic militants. But all this is again in our view at a very low level of possibility and not such as to equate to the real risk test required to show persecution, serious harm or breach of Article 3 rights on return in that regard. Likewise with the mention of a residual risk of individual ANO members or cells still present in the Tyre region pursuing a personal vendetta against a person if only because he would be an easy

and minor target, again the level of risk stated is low, and it is relevant to note the nature of the target, in particular that he would be a minor target that Professor Sayigh describes the appellant as being.

78. We go on next to consider the position with regard to risk to the appellant from Fatah, on the basis that he left Lebanon without telling people that he was leaving. As set out above, we do not accept the evidence of the appellant's wife that her father was told by the appellant's former superior IK that they were in serious trouble with Fatah, for the reasons given above, and do not propose to consider this aspect of our adverse credibility findings on an alternative basis as if it was true.
79. Professor Sayigh refers to Fatah as being a loosely structured organisation which is very lax in applying rules and criteria. He says that a member would have had to be guilty of a particularly egregious act, such as murder or major embezzlement, to run the risk of serious consequences, and these would normally not extend beyond detention and imprisonment. He goes on to say that this does not altogether preclude the possibility that the appellant might suffer some negative consequence were he to return to Rashidieh camp specifically, as this is where Soultan Aboul al Nein and IK may still reside, and he states that they could conceivably require him to submit to disciplinary proceedings. His oral evidence essentially bore this view out. He referred to the kind of dispute resolution systems that exist and in particular that there is a strong norm against violence and a tendency to resolve disputes. We do not accept that Fatah have displayed any adverse interest in the appellant. At most he would be criticised for having left without obtaining permission, having previously told his superior of the ANO's adverse interest in him. But we see no reason to suppose that Fatah would ascribe to him the concerns that he expressed in his statement that it would be assumed that he had passed information over to the ANO. Again the level of risk described by Professor Sayigh does not in our view equate to a real risk of persecution, serious harm or breach of his human rights from Fatah.
80. Nor do we consider that the appellant has shown any real risk of persecution or breach of his Article 3 rights from the Lebanese authorities. On his evidence he was stopped once and had to leave the taxi and his ID had to be shown and he was allowed to go on his way. There is no evidence of any other interest in him on the part of the authorities, and accordingly we consider that he has not made out his claim in that regard either.
81. In the light of our findings on these matters we do not consider that we need to go into the issue of relocation. We heard some evidence on this and there is evidence in the bundle, but in light of our finding that the appellant does not face a real risk from the ANO or from Fatah or the Lebanese authorities, on our findings he can return to his former home in the Rashidieh camp without facing a real risk of persecution or breach of his human rights.
82. The remaining issue for consideration is that of protection. In the light of our findings on risk, again this is not a matter on which we need to say very much. If the appellant is not at risk from the ANO, then he is not in need of protection from Fatah. The issue of whether Fatah could provide protection within the terms of the directive is addressed in some detail in Mr Blum's skeleton argument and was also addressed in the helpful submission from the UNHCR and also in Professor Sayigh's evidence. We indicated to Mr Blum that we did not need to hear submissions on this. We are

entirely satisfied for the reasons set out in the skeleton in particular, and also in the light of the other evidence to which we have referred above, that the Fatah in Lebanon which currently only owns one refugee camp, cannot be an agent of protection as it does not control a “substantial part of the territory of the State” as defined in Regulation 4 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006, enacted subsequently in regulation 4 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006. There is a clear distinction between the situation of Fatah, which in Rashidieh, the only camp which it controls, is in a refugee camp of less than 2 sq. miles in contrast to the total area of Lebanon of 10,452 Km and the contrasting populations are as in the case of Rashidieh, 26,000 people; in Lebanon, slightly under 4,500,000 people. We take these figures from the quotations in the sources set out at paragraph 38 of Mr Blum’s skeleton. Although clearly the process cannot be a purely mathematical one, we consider that there is a clear contrast between the situation here and that as considered by the Tribunal in DM (Majority clan entities can protect) Somalia [2005] UKAIT 00150 concerning the situation of majority clans in Somalia. Accordingly we conclude as a matter of law that Fatah cannot be an agent of protection for the purposes of the Directive and of domestic law. That finding has to be seen in the context of our conclusion above that the appellant does not face a real risk from the ANO.

83. This appeal is dismissed.

Signed
Senior Immigration Judge Allen

Date

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