

Home Office lines to take in Sudanese Cases

The lines to take reflect the Home Office current position on Sudanese Asylum claims from non-Arab Darfuris.

AA should no longer be followed.

AA is a unique country guidance case as it was based on the Home Office policy position in 2009.

The Country policy assessment was based on:

A) reports of arrests of 1000's of non-Arab Darfuris following a terrorist attack in 2008;

B) in March 2009 arrest warrant was issued to President Bashir for war crimes in Darfur.

In addition, the Sudanese Government expelled NGO's and arrested their workers, this severely reduced the scope for reporting on human rights violation.

This along, with press censorship meant there was not significant evidence to show if non-Arab Darfuris were at risk in Khartoum or not.

The Guidance in AA was therefore based on a particular set of circumstances in 2009 combined with a lack of evidence.

In the years following, reporting opportunities remained limited and it was not possible to show a change of circumstances until 2015/2016 when evidence became available to change the Home Office position and the guidance no longer reflected the actual position in Sudan.

In MM the UT considered the specific circumstances on non-Arab Darfuris being a geographical group or an ethnic group.

They found no grounds to overturn AA but did record the evidence of the Expert Peter Verney and recorded at paragraph 7 of the determination that there were a significant number of Berti living in Khartoum and they were able to go about their business although they were at risk of being a target for adverse treatment.

It is notable that the evidence did not point to targeting of non-Arab Darfuri groups. The evidence said they could go about their business.

IM(Sudan) examined the situation up to 2015 took a new more nuanced approach than in AA and MM.

Although it did not specifically look at AA and MM the decision did not point to specific group danger, rather each case needs to be considered on the individual facts.

Specifically, in Paragraph 203 the UT found that "not all non-Arabs are at risk; nor all black Africans are at risk", these are just factors that need to be considered.

It is significant that the UT found that there would be no adverse treatment from the Sudanese Authorities if there was no political profile.

The UT considered the CPIN along with other evidence in coming to their decision.

The Home Office position is that there are now grounds to depart from AA and MM and that the current position is as follows:

- A) Non-Arabs are likely to be at risk in Darfur;
- B) However not all will be at risk in Khartoum, based on the current evidence;
- C) Relocation to Khartoum is possible depending on the specific facts of the case.

This new position is based on the evidence available since 2015, reflecting the changes in the country situation since the previous case law was decided. Specifically, the following evidence supports the position:

- A) Conclusion from the Joint Danish IS and HO FFM report of 2016;
- B) Department of Foreign affairs and Trade report of 2016;
- C) British Embassy Letter;
- D) CPIN.

Additionally, there is a lack of information from reputable sources in Sudan like the US State Department, Amnesty International and Freedom House, showing a general risk for those who are non-Arab Darfuris, as opposed to those who are politically active. – There is a lack of information.

It is accepted that freedom of expression is limited that it may be difficult to obtain evidence. But an absence of evidence for a population of 100,000's suggests there is no systematic targeting as evidence would be expected if this was the case.

Note. This is a transcript of my notes taken during submission along with my recollection of the points made. Any errors are mine alone. Any feedback or suggested amendments will be gratefully received.

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