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Country of Decision:

United Kingdom

Country of Applicant:

Somalia

Date of Decision:

02-05-2018

Citation:

SSHD v MA(Somalia) [2018] EWCA Civ 994

Court Name:

Court of Appeal (Civil Division), (Lord Justice Arden and Lord Justice Peter Jackson)

Keywords:

Cessation of protection

Circumstances ceased to exist

Relevant Legislative Provisions:

International Law > [1951 Refugee Convention](#) [1] > [Art 1A](#) [2]

International Law > [1951 Refugee Convention](#) [1] > Art 1C

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 2](#) [4]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 4](#) [5]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 7](#) [6]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 9](#) [7]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 11](#) [8]

Headnote:

UK Court of Appeal rules on the correct test to use when making a decision on cessation of

refugee status.

Facts:

This case concerns a Somalia national who came to the UK in 2004. In 2005 he was granted asylum on the basis of ethnic origin as he belonged to the Reer Hamar clan.

In 2015 the SSHD took the view that the circumstances in Somalia had changed, therefore the respondent would no longer be at real risk of persecution on account of his ethnicity

Therefore, they ceased the respondent's refugee status under the Qualification Directive because the circumstances in connection with which he had been recognised as a refugee had ceased to exist.

The SSHD further rejected the respondent's Art 3 and 8 human rights claims.

Decision & Reasoning:

The Court first looked at which test should be applied by the state which recognised a person as a refugee when determining whether a person's refugee status can be ended under the Qualification Directive.

On this point the Court found that the grounds for cessation do not go beyond verifying whether the grounds for recognition of refugee status continue to exist. Therefore, the test is whether there has been a significant and non-temporary change in circumstances so that the circumstances which caused the person to be a refugee have ceased to apply and there is no other basis on which he would be held to be a refugee. The recognising state does not in addition have to be satisfied that the country of origin has a system of government or an effective legal system for protecting basic human rights, though the absence of such systems may of course lead to the conclusion that a significant and non-temporary change in circumstances has not occurred.

The Court went on to rule that the question if return would amount to a violation of Article 3 ECHR is not part of the cessation decision but separate from it, and there is no violation by reason only of the absence of humanitarian living standards on return.

The Court further ruled that Article 3 is not normally violated by sending a refugee back to his country of origin where there is a risk that his living conditions will fall below humanitarian standards.

Outcome:

Appeal allowed.

Attachment(s):

[CoA Cessation 02.05.doc](#)[9]

Other sources cited:

FY (Somalia) v SSHD [2017] EWCA Civ 1853; *Adan v Secretary of State for the Home Department* [2001] 2 AC 477; *MOJ and others (Return to Mogadishu) (CG)* [2014] UKUT 442; *N v UK* [2005] 2 AC 296.

UNHCR Guidelines on the Ceased Circumstances Clauses

The Home Office Country Information Guidance ? South and Central Somalia: Majority Clans and Minority Groups

National / Other Legislative Provisions:

[UK - paragraph 339A of the Immigration Rules](#) [10]

Links:

- [1] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>
- [2] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#1>
- [3] <http://www.asylumlawdatabase.eu/en/content/qualification-directive>
- [4] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%202%20QD>
- [5] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art 4 QD>
- [6] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%206%20QD>
- [7] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%209%20QD>
- [8] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%2011%20QD>
- [9] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/CoA%20Cessation%2002.05.doc>
- [10] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/uk-paragraph-339a-immigration-rules>