

[Home](#) > ECtHR - A.G.A.M., D.N.M., M.K.N., M.Y.H. and Others, N.A.N.S., N.M.B., N.M.Y. and Others and S.A. v. Sweden, Application Nos. 71680/10, 28379/11, 72413/10, 50859/10, 68411/10, 68335/10, 72686/10 and 66523/10

ECtHR - A.G.A.M., D.N.M., M.K.N., M.Y.H. and Others, N.A.N.S., N.M.B., N.M.Y. and Others and S.A. v. Sweden, Application Nos. 71680/10, 28379/11, 72413/10, 50859/10, 68411/10, 68335/10, 72686/10 and 66523/10

Country of Applicant:

Iraq

Date of Decision:

27-06-2013

Citation:

A.G.A.M., D.N.M., M.K.N., M.Y.H. and Others, N.A.N.S., N.M.B., N.M.Y. and Others and S.A. v. Sweden (application nos. 71680/10, 28379/11, 72413/10, 50859/10, 68411/10, 68335/10, 72686/10 and 66523/10)

Court Name:

Fifth Section; European Court of Human Rights

Keywords:

[Actors of protection](#) [1]

[Internal protection](#) [2]

[Individual threat](#) [3]

[Persecution \(acts of\)](#) [4]

[Religion](#) [5]

Relevant Legislative Provisions:

International Law

International Law > [1951 Refugee Convention](#) [6]

Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [7] > [Article 2](#) [8]

Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [7] > [Article 3](#) [9]

Headnote:

In 8 joined cases, the Applicants' deportation to Iraq would not violate Articles 2 or 3 due to the possibility of their internal relocation away from their former homes to other regions of Iraq.

Facts:

The ten Applicants, originally from Baghdad, Mosul and Kirkuk (Iraq), were all failed asylum seekers residing in Sweden. Two Applicants, D.N.M. and S.A. allege that, if deported, they would risk becoming victims of an honour-related crime due to family disapproval of their relationships with women. D.N.M. is a Sunni Muslim and Kurd from Kirkuk who alleges that he was persecuted after being discovered in a secret relationship with a young Sunni woman. He says he was attacked by her brothers and had his shop burnt down. He also alleges that his father, also persecuted, granted permission for him to be killed. His asylum application in Sweden was rejected due to the possibility of relocation to other Iraqi provinces. S.A., a Sunni Muslim, alleges that he was in a relationship with a Shia Muslim woman who was killed due to family disapproval. He fled threats and harassment but had his asylum request rejected due to a presumption that the woman's death restored honour between the families. D.N.M. and S.A. both submit that their return to Iraq would constitute a violation of Articles 2 (right to life) and 3 (inhuman or degrading treatment). The other Applicants are Christians and argue that, if deported, they would be persecuted as members of a religious minority. In five cases, death threats and harassment for money by Islamic groups are alleged. In some cases, kidnapping of the applicant and murder, injury and abduction of family members is alleged. One applicant is a professor from Baghdad University who alleges family kidnappings based on his involvement with a committee, formerly headed by a now murdered colleague. In one case, asylum is also claimed on account of family members residing in Sweden, and, in another, the applicant, a homosexual, alleges that his partner was killed by the Mujahedin. Between 2009 and 2012, all of the Christian Applicants' requests for asylum were rejected mostly on the basis that the security situation in Iraq had improved since the time on which their applications were based. In the family member case, the ties were not considered strong enough, and the Swedish authorities doubted the claims of the homosexual applicant due to the late stage in proceedings at which this claim was raised. The university professor's risk was deemed to be minimal due to his limited involvement and the passage of time since the committee's activity. In the case of one applicant, it was found that his youth and fitness would enable him to relocate to the Kurdistan region away from the accepted conflict and lack of protection in Mosul. The Christian Applicants complained that they were at risk of treatment contrary to Article 3 if returned to Iraq.

Decision & Reasoning:

The Court noted the comprehensive reasoning of the Swedish authorities in refusing appeals against return to Iraq. The general situation in Iraq, according to the Court, was no longer serious enough to cause, by itself, any return to constitute an Article 3 violation. As to the Applicants' personal circumstances, the Court accepted that D.N.M. and S.A. were at risk of honour-related violence if returned to their home regions, and that the other Applicants faced a risk of religious persecution in central and southern Iraq. However, for all Applicants, the Court considered relocation to be a reasonable alternative, in part due to the passage of time since the relevant threats. D.N.M. and S.A. could relocate to a safe Sunni Muslim community, away from their family, tribe or clan, which the Court regarded as essentially region-based and not powerful and influential with the authorities. The Court concluded that the other Applicants could relocate to the Kurdistan Region of Northern Iraq, a relatively safe and accessible resettlement area for Christians, with job prospects, healthcare access, and assistance from UNHCR and local authorities, according to international reports.

Outcome:

By five votes to two, the Court ruled that the Applicants' deportation to Iraq in all eight cases would not involve a violation of Articles 2 or 3 ECHR.

Observations/Comments:

In a separate dissenting opinion by JUDGE POWER-FORDE JOINED BY JUDGE ZUPANČIČ, the judges did not accept that the Christian Applicants could be safely relocated to the Kurdistan region of Northern Iraq, due to problems about access to the region, right to remain, and access to food, housing, education and employment. The judges argued that a mere likelihood of safety and access was not sufficient to meet the high threshold of 'guarantees' for internal relocation to be a reasonable alternative.

Case Law Cited:

ECtHR - Hakizimana v. Sweden, Application No. 37913/05

ECtHR - Collins and Akaziebe v Sweden (Application no. 23944/05)

[ECtHR - Chahal v the United Kingdom \(Application no. 22414/93\)](#) [10]

[ECtHR - HLR v France \(Application no. 24573/94\)](#) [11]

[ECtHR - R.C. v. Sweden \(Application no. 41827/07\) - resource](#) [12]

[ECtHR - Salah Sheekh v The Netherlands \(Application no. 1948/04\) - resource](#) [13]

[Sweden - Migration Court of Appeal, 9 March 2011, UM 3363-10 & 3367-10](#) [14]

ECtHR - Mamatkulov Askarov v Turkey, Applications nos. 46827/99 and 46951/99

ECtHR - Hilal v United Kingdom, Application no. 45276/99

ECtHR - F.H. v Sweden (Application no. 32621/06)

ECtHR - D v. United Kingdom, Application No. 30240/96 (UP)

ECtHR - P.Z. and Others and B.Z. v. Sweden, Application Nos. 68194/10 and 74352/11

[ECtHR - NA v UK, Application No. 25904/07](#) [15]

ECtHR - Üner v. the Netherlands [GC], Application No. 46410/99

ECtHR - Boujlifa v. France, 21 October 1997, § 42, Reports of Judgments and Decisions 1997-VI

ECtHR - N. v Sweden, 20 July 2010, no. 23505/09

UK - Upper Tribunal (Asylum and Immigration Chamber), MK(documents - relocation) Iraq CG [2012] UKUT 126 (IAC)

[ECtHR - Sufi and Elmi v. the United Kingdom, Application Nos. 8319/07 and 11449/07](#) [16]

ECtHR - Abdulaziz, Cabales and Balkandali v. the United Kingdom, Application Nos. 9214/80, 9473/81 and 9474/81

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

UK - HM and others (Article 15(c)) Iraq CG, [2012] UKUT 00409 (IAC)

[ECtHR - Saadi v Italy, Application no. 37201/06](#) [17]

Attachment(s):



[CASE OF M.K.N. v. SWEDEN.pdf](#)[18]

Other sources cited:

- Report on Human Rights in Iraq: 2011, published in May 2012, by the Human Rights Office of the United Nations Mission for Iraq (UNAMI);
- Report of 16 February 2011 by the Representative of the (United Nations) Secretary-General on the human rights of internally displaced persons;
- UK Border Agency Iraq Operational Guidance Note of December 2011;
- Minority Rights Group International report called 'Iraq's Minorities: Participation in Public Life?', November 2011;
- 31 May 2012 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq;
- International Religious Freedom Report for 2012, published on 20 May 2013, by the United States Department of State;
- United States Commission on International Religious Freedoms 2013 Annual Report, published on 30 April 2013;
- Finnish Immigration Service and the Swiss Federal Office for Migration 1 February 2012 Report on Joint Finnish-Swiss Fact-Finding Mission to Amman and the Kurdish Regional Government (KRG) Area, May 10-22, 2011;
- March 2012 Joint Report of the Danish Immigration Service / UK Border Agency Fact Finding Mission to Erbil and Dahuk, Kurdistan Region of Iraq (KRI), conducted 11 to 22 November 2011;
- UKBA Iraq Operational Guidance Note of 12 February 2007.

Authentic Language:

English

State Party:

Sweden

National / Other Legislative Provisions:

Sweden -Utlänningslagen (Aliens Act) (2005:716) - Chapter 5 Section 1
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 5 Section 6
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 4 Section 2
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 4 Section 1
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 1
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 2
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 19
Sweden - Government Bill 2004/05:170
pp. 190-191

Links:

- [1] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A12
- [2] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A44
- [3] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A205
- [4] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A54
- [5] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A198
- [6] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>
- [7] <http://www.asylumlawdatabase.eu/en/content/en-european-convention-protection-human-rights-and-fundamental-freedoms-echr>
- [8] https://www.asylumlawdatabase.eu/node/195#toc_4
- [9] https://www.asylumlawdatabase.eu/node/195#toc_12
- [10] <https://www.asylumlawdatabase.eu/en/content/ecthr-chahal-v-united-kingdom-application-no-2241493>
- [11] <https://www.asylumlawdatabase.eu/en/content/ecthr-hlr-v-france-application-no-2457394>
- [12] <https://www.asylumlawdatabase.eu/en/content/ecthr-rc-v-sweden-application-no-4182707-resource>
- [13] <https://www.asylumlawdatabase.eu/en/content/ecthr-salah-sheekh-v-netherlands-application-no-194804-resource>
- [14] <https://www.asylumlawdatabase.eu/en/case-law/sweden-migration-court-appeal-9-march-2011-um-3363-10-3367-10>
- [15] <https://www.asylumlawdatabase.eu/en/content/ecthr-na-v-uk-application-no-2590407>
- [16] <https://www.asylumlawdatabase.eu/en/content/ecthr-sufi-and-elmi-v-united-kingdom-application-nos-831907-and-1144907-0>
- [17] <https://www.asylumlawdatabase.eu/en/content/ecthr-saadi-v-italy-application-no-3720106>
- [18] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/CASE%20OF%20M.K.N.%20v.%20SWEDE>