



UK Mission
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Mads Andenas
Chair-Rapporteur of the Working Group on Arbitrary Detention

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

Michel Forst
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

OHCHR
Palais des Nations
1211 Geneva

Dear Chair - Rapporteur and Special Rapporteurs,

I write to follow up to my letter of 28 October in response to yours of 20 October.

The UK takes its international obligations very seriously, including under the 1951 UN Refugee Convention, the UN Convention against Torture, and the European Convention on Human Rights (ECHR).

In your letter of 20 October 2014 you requested our observations on the following matters:

1. Questions 1 and 2: You asked for additional information and any comment on the allegations and concerns raised in your letter regarding Mr Hazara's case. You also requested information on the process of assessment of Mr Hazara's asylum claim and any risk assessment carried out in relation to him, and its compatibility with the international human rights standards. These two questions have been addressed together, as follows.

- a. All asylum claims in the UK are carefully considered on their individual merits, taking into consideration the up-to-date country situation. Decisions are based upon the totality of available evidence, in line with guidance provided to our caseworkers for considering asylum claims. If a claimant qualifies for refugee status under the terms of the Refugee Convention, asylum will normally be granted. When a grant of asylum is not appropriate caseworkers go on to consider whether a grant of protection under the ECHR is warranted.
 - b. Decisions to refuse asylum are subject to a right of appeal to the independent courts. Where a decision has been made that a person does not require international protection and there are no remaining rights of appeals or obstacles to their return, individuals are expected to return to their country of origin. Assistance is available for the return and reintegration of those who wish to return voluntarily, which enables them to rebuild their lives in their country of origin. In order to maintain the integrity of our asylum system, it is important that the UK is able to enforce the return of those individuals who are found not to be in need of protection and who have no other basis to remain in the UK. The UK's priority is to return individuals to their country of origin with dignity and will only do so when their circumstances and the country conditions are deemed safe to do so.
 - c. Mr Hazara's asylum claim was refused as communicated to him in a letter dated 28 August 2013. His asylum claim was considered in line with the UK's obligations under the Refugee Convention, as well as in relation to the UK's obligations under the ECHR.
 - d. The decision to refuse Mr Hazara's asylum claim led to an in-country right of appeal. Mr Hazara exercised his right of appeal and this was heard at the First Tier of the Immigration and Asylum Chamber on 23 October 2013. The Immigration Judge heard evidence relating to Mr Hazara's claim including a closing submission by Mr Hazara's legal representative. In conclusion, the Immigration Judge upheld the decision and he dismissed the appeal.
 - e. Mr Hazara applied to the First Tier for permission to appeal this decision and an Immigration Judge refused this application on 5 December 2013. The Immigration Judge found that the determination of 7 November 2013 was careful and well-reasoned, setting out the pertinent issues, law and evidence relating to the facts of the appeal. He concluded that there was no arguable error of law in the grounds or the determination.
 - f. Mr Hazara applied further to the Upper Tribunal for permission to appeal on 16 December 2014 and an Upper Tribunal Judge also refused this application on 7 January 2014. Mr Hazara has since lodged Further Submissions on 23 June 2014 and 20 August 2014 and both of these applications have been rejected.
 - g. Given the above information, it is considered that careful scrutiny has been given to Mr Hazara's claim to be at risk in Pakistan on several separate occasions, including by three Immigration Judges in the First Tier and Upper Tribunal of the Asylum and Immigration Chamber.
2. You asked about concrete measures being taken by the UK Government to fulfil its obligations under the principle of non-refoulement.

- a. The UK is fully committed to the principle of non-refoulement, in accordance with its obligations under the Refugee Convention.
 - b. As detailed above, full consideration has been given to Mr Hazara's claim to be at risk on return to Pakistan. The UK Government considers all asylum claims on their own merits and recognizes refugees by granting asylum when appropriate. It has not been accepted on several occasions that Mr Hazara has established his fear of persecution in Pakistan and therefore it has been found that he does not qualify for a grant of asylum, humanitarian protection or any other leave in the UK.
3. You asked for information concerning the legal grounds for the arrest and detention of Mr Hazara and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).
- a. Following the refusal of Mr Hazara's application to appeal the decision to dismiss his asylum claim, Mr Hazara had exhausted his appeal rights and had no legal basis to stay in the UK. It is a decision for the courts whether to grant judicial review of a court decision. There is a clear legal framework in place concerning detention and removal. This legislation is compliant with our international obligations.
4. You asked about concrete measures being taken to protect the rights of asylum seekers in the United Kingdom, including Pakistani asylum seekers.
- a. As stated above, all asylum claims are carefully considered in accordance with our obligations under the Refugee Convention and the ECHR. The UK has a proud history of granting protection to those individuals where it is deemed appropriate. In Mr Hazara's case, it has been found after careful consideration in fair proceedings before an independent and impartial tribunal that he does not qualify for a grant of asylum or humanitarian protection.

Mr Hazara's removal did not go ahead as scheduled on 21 October 2014 as the Emergency Travel Document requested from the Pakistan High Commission was not issued in time for his flight. Further submissions made on behalf of Mr Hazara are now being considered. His detention will continue to be regularly reviewed in line with published policy and guidance.

All information given by an asylum applicant is regarded as confidential and must not be disclosed to a third party without the consent of that individual. Requests for full copies of appeal determinations can be made here: <https://tribunalsdecisions.service.gov.uk/utiac>. I trust that you will ensure that no personal details of Mr Hazara's asylum claim will be placed in the public domain without his express consent.

I note that you set out your possible aim to seek press attention for this case.

Your dealings with the media are, of course, a matter for you and the UN and not for me.

But I hope we can agree there is no question of trying to put pressure on the UK government through the press over this case. The case has been through several independent and impartial

stages of scrutiny. It is following our tried and tested procedures which are in full conformity with our international obligations and are some of the most robust in the world.

Yours sincerely,

Mark F. Rath

pp

Karen Pierce CMG
Ambassador and Permanent Representative to the UN and Other International
Organisations, Geneva