The ‘internal protection alternative’ is also known as the ‘internal relocation alternative’ or the ‘internal flight alternative’.


AE and FE v Secretary of State for the Home Department [2003] EWCA Civ 1032. In Norway, the ‘right to have rights’ played a large role in cases involving the relocation of ethnic Serbs from Kosovo to other places in Serbia. Immigration Appeals Grand Board, Appeal No 7160083048 (December 2006). In this case, because the applicants were unlikely to gain a legal residence permit in Serbia, which was needed to access public services like education and healthcare, internal relocation was deemed unreasonable.
political, and socio-economic rights. A third category acknowledges an elusive ‘x factor’ over and above the absence of ‘serious harm’ without defining its substance. Even within States, different approaches to human rights may be taken depending on the caseload concerned.

In this paper, we consider how the IPA concept relates to the refugee definition, and what impact its insecure anchoring in the Refugee Convention has on the resulting analysis. Second, we investigate how other parts of international human rights law (IHRL) inform the IPA criteria. In particular, what risk of human rights violations beyond the original risk of persecution must be considered? Finally, we explore possible gaps between the IPA practice of the European Court of Human Rights and the requirements according to ‘what the Law says’ under the Refugee Convention. We argue that, under the Refugee Convention, there is a narrow scope for application of the IPA concept where the consequences of return for the individual are balanced against the host State’s interest in managing its limited resource base for international protection. A range of subjective and objective factors, including those related to human rights standards, should be considered in such a proportionality analysis.

5 New Zealand Refugee Status Appeals Authority, Refugee Appeal No 71684/99.

6 In Germany, the Federal Administrative Court in 2008 (with reference to 2004 Qualification Directive of the Common European Asylum System) noted that its ‘subsistence minimum’ approach to the reasonableness question might have to be softened: ‘(i)t remains open to question if broader economic and social standards must be met, as there is evidence that under Article 8 paragraph 2 of the Directive the general circumstances of the country of origin – above the threshold of subsistence – also shape the reasonableness standards.’ BverwG [2008] 10 C 11.0729 para 35. See also The Secretary of State for the Home Department (Appellant AH) v AH (Sudan) and others (FC) v (Respondents) House of Lords [2007] UKHL 49, [200] 1 AC 678 para 24. In that case, Baroness Hale noted that ‘although the test of reasonableness is a stringent one – whether it would be “unduly harsh” to expect the claimant to return – it is not to be equated with a real risk that the claimant would be subjected to inhuman or degrading treatment or punishment so serious as to meet the high threshold set by Article 3 of the European Convention on Human Rights...internal relocation is a different question.’ Para 22.

7 Compare the position taken in Norwegian jurisprudence regarding Serbs from Kosovo, which emphasized the necessity of being registered in order to access basic rights in the proposed IPA, with the practice regarding applicants from Chechnya, in which the obstacles to securing a residence permit elsewhere in the Russian Federation and evidence of discrimination against Chechens do not necessarily preclude IPA application. See Norwegian Refugee Appeals Grand Board decision No. 716083048, December 2006 and Norwegian Refugee Council, ‘Whose responsibility? Protection of Chechen internally displaced persons, asylum seekers and refugees’ (Norwegian Refugee Council 2005) 49.