



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/22676/2012

THE IMMIGRATION ACTS

Heard at Field House

On 14th June 2013

Determination

Promulgated

On 4th July 2013

Before

UPPER TRIBUNAL JUDGE RENTON

Between

**OMER DIRILMIS
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Ms Everett, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant is a male citizen of Turkey born on 1st January 1981. He entered the UK illegally on 5th November 1999 and applied for asylum. That application was refused, and the Appellant's subsequent appeal dismissed on 17th December 2004. He did not leave the UK, and on 8th June 2010 applied for leave to remain on Article 8 human rights grounds.

That application was refused for the reasons set out in the Respondent's letter of 5th October 2012. The Appellant appealed, and his appeal was heard by First-tier Tribunal Judge Plumtre (the Judge). She dismissed the appeal for the reasons given in her Determination dated 27th March 2013. The Appellant sought leave to appeal that decision, and such permission was granted on 22nd April 2013.

2. The appeal came before me on 14th June 2013. On that occasion there was no appearance by or on behalf of the Appellant. I decided to hear the appeal in the absence of the Appellant in accordance with Rule 38 of the Tribunal Procedure (Upper Tribunal) Rules 2008. I was satisfied that the Appellant had been notified of the hearing at his last known address in time, and that it would be in the interest of justice to proceed with the hearing.

Error of Law

3. I must first decide if there was an error of law in the decision of the Judge so that it should be set aside.
4. The Judge dismissed the appeal because she found much of the Appellant's evidence lacking in credibility. She was not satisfied that he had an outstanding application before the Case Resolution Directorate, and found that the Appellant had made a number of determined attempts to remain in the UK at all costs. The Judge was not satisfied that the Appellant had a relationship with his claimed partner Ms Arslan and her son Mehmet to the degree claimed by the Appellant. However, the Judge accepted that the Appellant enjoyed a family life with Ms Arslan and her child which would be interfered with by the Appellant's removal to such a degree of gravity as would engage his Article 8 rights. However, the Judge found that such interference would be proportionate.
5. I find no error of law in the Judge's decision. The Judge followed the format given by the decision in **R (Razgar) v SSHD [2004] UKHL 27** and demonstrated that she had carried out the balancing exercise necessary for any assessment of proportionality. The Judge came to a conclusion which was open to her on the evidence before her, and which she fully explained following a careful analysis of that evidence. It is for the Judge to decide what weight to be attached to each factor in the case. She did so without any perversity. The Judge treated the best interests of the child Mehmet as a primary consideration. She found that it would be in the best interests of the child to remain with his mother in the UK and that as the relationship between the child and the Appellant amounted to little, the child's best interests would not be damaged by the Appellant returning to Turkey. The Appellant is not the natural father of the child.
6. For these reasons I find no error of law in the decision of the Judge.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration (Procedure) Rules 2005 and I find no reason to do so.

Signed

Date

Upper Tribunal Judge Renton