



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

Appeal Number: AA/01861/2014

**THE IMMIGRATION ACTS**

**Heard at FIELD HOUSE  
On 1<sup>st</sup> October 2014**

**Determination Sent  
On 9<sup>th</sup> October 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE  
G A BLACK**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**P B**

Claimant

Anonymity order made

**Representation:**

For the Appellant: Mr P Deller (Senior Home Office Presenting Officer)  
For the Claimant: Ms H. Short (Counsel instructed by Wilson & co solicitors)

**DETERMINATION AND REASONS**

- 1.** This matter comes before me for consideration as to whether or not there is a material error of law in the determination promulgated on 23<sup>rd</sup> July 2014 by the First-tier Tribunal (Judge CJE Nicholls) in which he

allowed the appeal under Article 3 ECHR and humanitarian protection grounds.

2. For the purposes of this appeal I shall refer to the appellant as the Secretary of State and to the claimant, who is the respondent in these proceedings.
3. The claimant is a citizen of Mongolia and her date of birth is 10.3.1965. She has a son who resides in Mongolia.

### **Background**

4. The appellant entered the UK using her Mongolian passport on 3<sup>rd</sup> August 2006 for business purposes with a 6 month visa. The appellant made an application for asylum on 13<sup>th</sup> May 2013 on the grounds that she faced a real risk of persecution from relatives of her deceased husband who had seriously abused her during their marriage and she remained at risk on return from his relatives. Her application was refused and certified as unfounded on 11.6.2013 and a decision made to detain and removal directions issued. Further representations were made by her solicitors. The Secretary of State's decision was judicially reviewed. The claimant produced a referral letter from the Helen Bamber Foundation. Permission was granted for judicial review at an oral hearing.

### **Reasons for refusal**

5. In a letter dated 13.3.2014 it was accepted that the claimant was a national from Mongolia. The asylum claim was rejected on the grounds that there was no Convention reason; the claimant did not establish that she was a member of a particular social group (PSG). The evidence from the Helen Bamber Foundation was regarded as inconclusive as evidence of the claimant having suffered domestic violence. It was considered that there were credibility issues under Section 8 Asylum & Immigration (treatment of claimants etc) Act 2004.

### **Determination**

6. The Tribunal found the claimant to be credible as to suffering domestic violence from her former husband and the risks she faced from his relatives in Mongolia. The asylum claim was dismissed because the Tribunal found that the claimant was not a member of a PSG. The Tribunal reached the conclusion that there was no sufficiency of protection available to the claimant. Further that internal relocation was not a viable alternative. At [29] the Tribunal found as follows :

“ I accept that there is only one place in Mongolia where she could work at her chosen career for which she is fully qualified and that location would mean that she was easily identified, making her liable to the unlawful conduct that she previously suffered. There is no realistic or reasonable internal relocation option that would ensure that the appellant did not come to adverse attention of her ex-husband's family.”

7. The Tribunal went on to consider sufficiency of protection from [30] and found that there was no sufficiency of protection for her to ensure that she did not become the victim of serious violence, which might belief threatening, at the hands of her ex husband's family.
8. The Tribunal concluded that there was no protection available and no reasonable relocation [31] .

### **Grounds of appeal**

9. The Secretary of State asserted that the Tribunal erred in law for reaching a conclusion on internal relocation solely because she was able to pursue her chosen career as a vet in only one location where she would be easily identified. The claimant could seek other employment and thus avoid ill treatment. The claimant willingly undertook cleaning work in the UK.

### **Permission to appeal**

10. Permission was granted by First-tier Tribunal Judge Pirota on the grounds that it was arguable that relocation could not be founded on a choice to follow a certain profession for which employment was only available in one location in Mongolia.

### **Hearing re error of law Submissions**

11. Mr Deller relied on the grounds of appeal and amplified his submissions. He relied on the general principles in **Januzi**. It could not be realistic nor reasonable for the claimant to argue internal relocation on the grounds that she was unable to work elsewhere. It was not inherently unreasonable to expect that she should move elsewhere in order to be safe. Vocation was not a characteristic to be protected.
12. Ms Short relied on her skeleton argument from the First-tier proceedings. She submitted that the wording "reasonableness" appearing in the Qualification Directive was correctly applied by the Tribunal. The Secretary of State had identified one paragraph of the determination in isolation where it should properly be considered as a totality. She referred to specific findings made in the determination, which she argued showed that the decision was reached by looking all factors relevant to safety and reasonableness as per Sedley LJ [17] in **Jasim v SSHD[2006] EWCA Civ 342**. The decision was sustainable on the facts and in the context that the threats made were individual and seeking revenge.
13. Mr Deller responded that the claimant's chosen career may well have been unwittingly become the central focus for the determination and in effect contaminated the Tribunal's consideration. The Tribunal clearly

gave the issue significant weight. Mr Deller acknowledged that internal relocation must encompass both safety and reasonableness and the determination when read as a whole made findings as to safety.

### **Discussion and conclusion**

- 14.** I have decided that there is no material error of law in the determination. The findings and conclusion reached in this thorough and considered decision are sustainable on the evidence. There was no challenge to the findings as to sufficiency of protection in Mongolia, nor the risk of ill treatment from non State agents. It is internal relocation that is in issue.
- 15.** I am satisfied that at first blush there certainly appears to be considerable weight and focus placed on the issue the claimant's chosen profession in the context of internal relocation, in the determination. However, in light of Ms Short's very careful submissions and indeed Mr Deller's realistic reappraisal of the determination when read in its entirety, I find that the Tribunal's approach to internal relocation discloses no material error of law. The Tribunal made findings as to safety issues having regard to all the evidence and plainly looked at risk and reasonableness. There was evidence of a number of factors such as that highlighted by Judge Gill (sitting as a Deputy high Court Judge) in granting permission. She considered the reasonableness of the claimant being expected not to see or make contact with her son in the event that they were both living in Mongolia and the fact that contact with her son could lead to her being identified and ill treated .
- 16.** Where the Tribunal erred was in placing too much weight on the issue of the claimant's profession in considering relocation such that the finding took on a greater significance than was possibly intended. However this does not amount to a material error of law.

### **Decision**

- 17. There is no material error of law disclosed in the determination which shall stand.**

Signed

Date 3.10.14

Deputy Judge of the Upper Tribunal

Anonymity order maintained  
No fee award applicable.

Signed

Date 3.10.14

Deputy Judge of the Upper Tribunal