



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/07554/2016

**THE IMMIGRATION ACTS**

Heard at Glasgow  
on 19 October 2017

Decision & Reasons Promulgated  
on 23 October 2017

Before

**UPPER TRIBUNAL JUDGE MACLEMAN**

Between

[C S]

and

Appellant

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

Respondent

For the Appellant: Miss J Todd, of Latta & Co, Solicitors  
For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The respondent refused the appellant's claim by letter dated 5 July 2016 because (a) her allegations were not credible (¶16 - 45); (b) there is legal sufficiency of protection in Algeria (¶46 - 79); and (c) internal relocation is available (¶80 - 90).
2. First-tier Tribunal Judge David C Clapham dismissed the appellant's appeal by a decision promulgated on 26 April 2017, because he did not find the claim credible (¶50 - 55).

3. In terms of the Tribunal Procedure (UT) Rules 2008, rule 23 (1A), the appellant's application for permission to appeal now stands as the notice of appeal to the UT. The grounds contained therein, lightly edited, are as follows:

"The appellant claimed to be at risk from a non-state actor ... namely a stalker who proposed a marriage that she had rejected. She claimed that she had been attacked by his associates (causing a miscarriage) and that her husband had been subject to a number of false charges.

The judge dismissed the appeal on the basis that the account was not credible ... largely on the basis that it was implausible ...

While the tribunal does not require to explicitly comment on every adminicle of evidence ... it is required to apply anxious scrutiny and provide adequate reasons for its decision ... The tribunal failed to take into account relevant documentary evidence including various court documents and medical evidence regarding the alleged assault ... which required to be looked at in the round along with statements by the appellant. The judge has either not taken these items into account or else failed to make any findings thereon. Either constitutes an error of law.

Any error in the credibility assessment must be material as the tribunal made no findings on internal relocation or state protection and in the absence of such findings, it cannot be assumed the appeal would be dismissed."

4. Miss Todd referred to the medical record translated at p.9 of the appellant's FtT bundle, which says that the appellant presented with facial injuries on 2 September 2015; p.15, the record of a criminal case in which she was the victim and her cousin is named as the perpetrator, although she says he was not truly the person responsible; and pp.26-28, the record a fraud case in which her husband is one of three persons prosecuted, but which she says her persecutor trumped up against him. She submitted that while none of these alone might be powerful items of evidence, they hung together with the appellant's account and with evidence of widespread corruption in Algeria and were capable of having an effect on the outcome, yet the judge reached his conclusions without any reference to any of the documentary evidence. That was an error of law. There had been submissions to the judge on both sufficiency of protection and internal relocation, both oral and written (¶15 - 20, written submissions), and the judge did not deal with those issues, so error in reaching the credibility conclusions was material.
5. Mr Matthews in response pointed out that the medical report adds very little, and that the court documents say nothing which directly supports the appellant's account. Any value they have depends on reading them on the assumption her other evidence is true.
6. I noted that the documents were produced late. The appellant's former solicitors wrote to the respondent on 22 January 2016 (item B, respondent's bundle) saying they were in process of having documents translated yet none were provided before the decision of 5 July 2016 or before the FtT hearing on 10 March 2017. There was no explanation for holding them back until such a late stage.
7. Mr Matthews acknowledged that the judge did not deal with any of the documents. He suggested that the appellant's case might be thought so far-fetched that nothing

needed to be added to the reasons given and therefore it hung in the balance as to setting aside. He accepted that it was an error not to deal with the alternatives of sufficiency of protection and internal relocation. He expressly did not argue that the decision could be upheld on those alternatives.

8. I indicated that the appeal to the UT would be allowed.
9. To decide the case without referring to or making findings on the documentary evidence adduced by the appellant was an error of law which requires the decision to be set aside.
10. It was a further error not to decide on the alternatives of sufficiency of protection and of internal relocation. Mr Matthews accepted that those issues cannot now satisfactorily be resolved without findings on the primary facts.
11. The decision of the FtT is **set aside**. None of its findings are to stand, other than as a record of what was said at the hearing.
12. The nature of the case is such that it is appropriate in terms of section 12(2)(b)(i) of the 2007 Act and of Practice Statement 7.2 to **remit the case to the FtT** for an entirely fresh hearing.
13. The member(s) of the FtT chosen to consider the case are not to include Judge David C Clapham.
14. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

19 October 2017  
Upper Tribunal Judge Macleman