Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: PA/05174/2016**

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 8 January 2018	**On 5 February 2018**

Before

UPPER TRIBUNAL JUDGE McWILLIAM

Between

NK
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Parkin, Counsel instructed by AHZ Solicitors
For the Respondent: Mr T Melvin, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Lebanon. Her date of birth is 3 May 1991. She came to the UK as a visitor on 10 August 2015 with her mother. Her visa expired on 9 December 2015. She claimed asylum on 13 November 2015. Her application was refused by the Secretary of State in a decision of 13 May 2016. The Appellant appealed against this decision and her appeal was dismissed by First-tier Tribunal Judge J K Swaney in a decision promulgated on 6 July 2017 following a hearing on 5 June 2017. The Appellant was granted permission by Deputy Upper Tribunal Judge R Chapman on 11 October 2017.

2. The Appellant's evidence before the Tribunal can be summarised. She is a qualified nutritionist. She worked in a café. Shortly after her arrival here she was falsely accused of assisting Israel by passing information through an informer. A warrant was issued for her arrest. Her father was arrested and ill- treated. Her mother

returned to Lebanon on 19 August 2015. She was told by her father whilst in Lebanon she had been observed by someone meeting an Israeli agent in a coffee shop. The Appellant believes that the incident on which the authorities rely is an occasion when she met a client called Khalil in a coffee shop whilst she was working as a nutritionist at the end of July 2015, two weeks before she came to the UK. He was with another man whom she did not know. They had coffee and a chat and they spoke about politics. She told them that she was more interested in fashion than politics. They laughed at her. They asked her if she would be interested in working as an informer. She thought it was a joke and laughed it off. The men were Israeli agents under observation by the authorities. They were arrested. The police were arresting all those who had been in contact with them. Her father stated that he had received threats from Hezbollah. The Appellant's father sent her a copy of the arrest warrant.

3. She met a Lebanese man called Ibrahim in London and had a relationship with him. She became pregnant. He was not happy about this and informed her that he was married and asked her to have an abortion. They are no longer in contact. She gave birth to a daughter on 3 September 2016. Her family disapprove and have disowned her. The child has neurological problems and was initially kept in the high dependency unit. She suffered from a subdural haemorrhage and now has epilepsy.

The Decision of the FtT

4. The Appellant asserted that she would be at risk of persecution at the hands of the authorities and Hezbollah. She is at risk as an unmarried mother. Her daughter is stateless. The Appellant gave evidence at the hearing before Judge Swaney. She was represented. The judge made findings at paragraphs 30 through to 65. The salient paragraphs are as follows:

> "31. In relation to the appellant's claim based on her imputed political opinion, I find she does not have a well-founded fear of persecution. The appellant claims to have been accused of being an informer or support of Israel based on one meeting with two men, one of whom was a client of the business where she worked. She does not claim to have any political views or to have been politically active in any way. She is a nutritionist and there is nothing to suggest her work would have given her access to information likely to be of interest to Israeli sympathisers. Similarly, her family is not politically active and therefore her family background is not likely to have created interest in her. The appellant's only explanation for why Khalil and his friend may have been interested in her is because she is from the same area as the leader of Hezbollah. This is simply speculation on her part. She did not state that she had told Khalil this is where she was from, as according to her evidence prior to their meeting they had had limited contact with each other, sometimes greeting each other in her workplace.
>
> 32. At interview the appellant said that Khalil and his friend asked her questions about where she was from when they met. She said their

questions included which village she was from and what the political affiliation of the village was. Even if they found out at that point she was from the same area as the leader of Hezbollah, she did not explain how that might make her privy to any information such that she would be of interest to an Israeli sympathiser. This is particularly true given her evidence she told them that she was not interested or involved in politics and asked them to change the subject. I do not accept that the meeting with Khalil and his friend took place as claimed or that it involved discussion of political issues or an invitation for her to be an informer.

33. I have considered the document the appellant states is an arrest warrant issued in her absence. The appellant was asked at interview if she had been sentenced and she replied that she had been sentenced to more than ten years' imprisonment (questions 145 to 147, B21 respondent's bundle). This is not what the translated document says. There is reference to hard labour for 15 years however this is in relation to two legal provisions cited and the translation does not state the appellant has been sentenced to imprisonment for 15 years. I find this document does not establish the appellant has been sentenced to a period of imprisonment in her absence.

34. It does not appear the original document has been produced and I note the appellant's solicitor sent a copy to the respondent. Mr Ahmed criticised the respondent for failing to take any steps to verify the document. The same criticism can be made of the appellant. She did not provide any evidence to establish the reliability of the document even though the respondent had refused to place any weight on it (albeit I accept that was because it was untranslated).

35. The appellant claims to have had some passing contact with Khalil at her workplace prior to meeting him. There is no evidence to suggest that this was known to anyone, for example the authorities. She denied having any prior contact with Khalil's friend and her evidence was that she was surprised he was present, as she had thought the meeting with Khalil was a date and she expected him to be alone. The basis of the authorities' claimed interest in the appellant is therefore one short meeting with Khalil and his friend. The appellant has provided very little by way of explanation as to how that meeting may have come to the attention of the authorities. She was asked at her interview (Q143, B21 respondent's bundle) if Khalil and his friend had been arrested. The appellant replied 'Possibly' and went on to say that certainly they had informed on her. She speculates that they must have informed on her because no one else knew what they had talked about.

36. When asked why they would inform on her when she had told them nothing, she suggested it was because she was a woman and so they could secure their own release. This is nothing more than speculation in my view. The appellant does not appear to have made any enquiries in this regard. Khalil was a client of the appellant's workplace. There is no

evidence she tried to contact her work colleague to make enquiries about Khalil, i.e. to see if he continued to attend or if she had heard anything. She did not ask her family to contact her workplace on her behalf in the event she felt unable to do it herself.

37. Given my finding that the appellant did not meet with Khalil and his friend as claimed, and that they did not ask her to be an informer, I do not accept that she has come to the adverse attention of the Lebanese authorities. For that reason I do not place any weight on the purported arrest warrant. The appellant does not have a well-founded fear of persecution from the authorities in Lebanon because of her imputed political opinion."

5. The judge concluded that the background evidence supported that there was discrimination against women in Lebanon but concluded that this would not amount to persecution or ill-treatment or serious harm which would engage the Refugee Convention or Article 3.

6. The judge found that there were some difficulties for single mothers in registering the birth of children born outside marriage. However, he attached weight to the evidence relied on by the Respondent which established that despite difficulties it was possible. He accepted that children who cannot establish a right to Lebanese citizenship may be treated differently than those who can in terms of access to publicly funded services. He considered that citizenship is passed from the father (in this case the child's father is Lebanese). The judge considered the Appellant's evidence that she is no longer in contact with the father of her child. He considered that he was not named on the birth certificate and accepted that it may be more difficult for the Appellant to establish entitlement for her daughter to Lebanese citizenship from her father. However, the judge found that she had not given evidence about efforts, if any, she had made to find him to assist her with the registration of the child's birth and to obtain citizenship. He took account of the email correspondence from the solicitors to the Lebanese authorities in the United Kingdom to which there had been no response. However, the judge was unimpressed by the lack of effort made to trace the father or to personally approach the authorities here to register her daughter. The judge concluded that the evidence suggested that a child born outside marriage would eligible for citizenship. The Appellant had not on the evidence before the judge taken any effective steps to attempt to establish her daughter's entitlement to Lebanese citizenship. The judge concluded that the Appellant's daughter is not stateless albeit she is presently undocumented.

7. The judge found the Appellant did not establish that she would face very significant obstacles to integration. The Appellant's evidence was that she would not seek the support of her family on return because she has been disowned by her father. The judge found that she is an adult and would not be bound to return to her family. He considered that she was a qualified nutritionist and previously employed in Lebanon. He concluded (see [50]) that it may be difficult as a single parent but she is entitled to work and with her qualifications and work experience she has a realistic prospect of

finding employment which would enable her to support herself and her daughter. The judge concluded that the Appellant spent the majority of her life including her formative years in Lebanon and has only been here for a short time. Whilst here the Appellant and her daughter are supported by a family friend and that family friend may well provide some assistance to the Appellant in the short term.

8. The judge considered the position of the Appellant's daughter (see [52]), concluding that her life at this stage is likely to centre around the Appellant and it is unlikely that she has started to develop ties to the community outside her immediate family. The judge considered the medical evidence concluding that there was some evidence that she requires ongoing monitoring of complications following her birth. She had remained in hospital until 12 September 2016. She was treated with anti-epileptic medication. The judge concluded that there was no evidence about what, if any ongoing treatment the child now received or what further follow-up she requires in the future.

9. The judge made the following findings in relation to return to Lebanon:

> "53. The appellant claimed that her daughter would not be able to access education or healthcare in Lebanon without appropriate identity documents. It appears the appellant is referring to state funded education and healthcare. There is no suggestion that privately funded education or healthcare would not be available to her. The appellant's daughter is less than a year old. She is some way off attending school. This means that the appellant would have some time to sort outweighed her daughter's status and obtain the necessary identity documents, etc. to enable her daughter to enter education in the future. I find it is likely the appellant would be able to access treatment for her daughter on a privately paying basis even if state funded treatment is not available. As I said, there are steps the appellant can take in relation to her daughter's status while she is in the United Kingdom and if not resolved, the evidence shows there would be help available to her in Lebanon."

10. The judge went on to conclude that there are no very significant obstacles to integration. The judge concluded at [62] that it is in the child's best interests to remain with her mother, her only immediate family member and primary carer, and that there was no evidence that it was in her best interests to remain in the UK (see [62]-[64]).

The Grounds of Appeal

11. Mr Parkin helpfully narrowed the grounds relied on. There were two;

    1. the findings in relation to the arrest warrant are inadequately reasoned and the evidence was not properly dealt with by the judge;

2. the judge inadequately reasoned the decision under Article 8 in respect of very significant obstacles.

Conclusions

12. In respect of the arrest warrant the Appellant submitted as part of her evidence a copy of an arrest warrant (page 42 of the AB). The judge made findings in respect of this at [33] and [34]. The thrust of Mr Parkin's submissions on the issue of the arrest warrant was that the judge gave inadequate reasons and reached conclusions about the document that he was not entitled to reach. It is argued that any discrepancy between the wording of the arrest warrant and the Appellant's interpretation of it was reasonable in the light of her lack of legal knowledge. The Appellant stated in her interview that she had been sentenced to more than ten years' imprisonment. The judge was entitled to conclude that the arrest warrant did not support her evidence. The arrest warrant does not state that the Appellant has been convicted or sentenced. There is reference to "legal articles" and "278 and 220 with hard labour for fifteen years" which appears to relate to material legal provisions and sentencing powers. The judge was entitled to conclude that the document does not establish that the Appellant has been sentenced to imprisonment in her absence. The Appellant submitted this document to support her evidence that an arrest warrant had been issued and that she has been sentenced in her absence. The judge made findings that were open to her on the evidence. The judge considered that the Appellant had not produced the original document. The issue in relation to the verification of the document was not pursued by Mr Parkin, sensibly in my view. It is clear from [37] that the judge did not place weight on the arrest warrant, having considered the evidence as a whole. This was a matter for him. His findings are adequately reasoned.

13. Mr Parkin introduced a new issue that was not raised before the First-tier Tribunal Judge. This was that if the arrest warrant does not support the Appellant's case then her interpretation of it was reasonable in the circumstances. She is not a lawyer and could not reasonably be expected to understand criminal procedure. However, I conclude that the Appellant was represented and it is reasonable to expect her legal representative to have taken on board the inconsistency in the Appellant's evidence between what she said in the interview and the wording on the arrest warrant. She could have given evidence that she did not understand the document but did not do so. The judge drew reasonable inferences from the evidence before her.

14. The judge granting permission raised a Mbanga point (*Mbanga* [2005] EWCA Civ 367) in relation to the documents. However, this was not an issue that was raised in the grounds of appeal and Mr Parkin did not pursue this in oral submissions. In any event, although I note the wording at [37], on a proper reading of the decision, particularly at [33] and [34], I am satisfied that the judge considered the evidence in the round.

15. Mr Parkin submission on ground 2 was narrow. He argued with reference to [53] of the decision that the judge accepted that the Appellant' s daughter would not be able

to access public services with reference and that she failed to factor this into the assessment under 276ADE(1)(vi). It is argued that the decision is inadequately reasoned. I do not agree. The premise of the argument is misconceived. It was not accepted by the judge that the Appellant and her daughter would not be able to access education or healthcare. The judge concluded that an illegitimate child could be granted citizenship (this was not challenged by the Appellant). The Appellant's daughter's father is a Lebanese citizen according to the Appellant and the judge's conclusion that she is not stateless is lawful and sustainable (this is unchallenged). Whilst the judge acknowledged that there may be difficulties for those children who cannot establish their right to Lebanese citizenship in accessing publicly funded services the judge did not find that the Appellant's daughter fell into this category. Although the judge went on to find that there was no suggestion that privately funded education or healthcare would not be available to the Appellant, this was not the basis of the decision under paragraph 276ADE(1)(vi). On a proper reading of the decision the judge concluded that although there may be difficulties in registering the child's birth because the Appellant is unmarried, the evidence established that this was possible and that illegitimacy is not a bar to citizenship. The judge considered all material matters when considering very significant obstacles to integration.

16. The decision of the judge in relation to very significant obstacles is adequately reasoned. The findings are reasoned and grounded in the evidence.

17. There is no error of law and the decision of Judge Swaney is maintained.

Notice of Decision

The appeal is dismissed.

Direction Regarding Anonymity – Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed *Joanna McWilliam* Date 28 January 2018

Upper Tribunal Judge McWilliam