



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/09829/2017

THE IMMIGRATION ACTS

Heard at Newport
On 22nd August 2018

Decision & Reasons Promulgated
On 4th September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

MS I U
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Williams
For the Respondent: Mr Howells

DECISION AND REASONS

Introduction

1. The Appellant born on 8th August 1982 is a citizen of Turkey. On 23rd March 2017 she claimed asylum. On 18th September 2017 the Respondent had refused that application. The Appellant had appealed that decision and her appeal was heard by

Judge of the First-tier Tribunal Trevaskis sitting at Newport on 4th January 2018. He had dismissed the Appellant's appeal on all grounds. Application for permission to appeal was made on 24th January 2018. Permission was granted on 22nd February 2018. Directions were issued that the Upper Tribunal should firstly decide whether or not an error of law had been made in this case and the matter comes before me in accordance with those directions.

Submissions on Behalf of the Appellant

2. I was referred to the skeleton argument presented by Ms Williams. It was said that the Appellant in her witness statement had referred to the treatment of other family members who had fallen pregnant at the hands of the family and it was submitted the judge needed to decide whether her fear of her family was well-founded. It was said that a finding should have been made in relation to the evidence relating to other family members. It was submitted that the judge had not made a full decision on whether she was at risk and it was said at paragraphs 35 and 38 of the decision did not constitute enough for the judge to reach the conclusion that he did at paragraph 39.

Submissions on Behalf of the Respondent

3. It was submitted that the judge had made credibility findings and albeit they were reasonably brief they were adequate.
4. At the conclusion of the hearing I reserved my decision to consider the submissions and the evidence in this case.

Decision and Reasons

5. The Appellant had come to the UK as a student in March 2015 and her leave expired on 12th September 2015. She applied unsuccessfully to remain in the UK under the terms of the Ankara Agreement. In March 2017 she was encountered working illegally in a café in Banbury and made a claim for asylum the next day.
6. Her claim for asylum was based on her alleged fear of her family, in particular her father because of her sexual relationship with a Christian man in the UK that had led to a miscarriage in November 2016.
7. The judge had noted at paragraph 29 of the decision that the Appellant's claim essentially relied upon her credibility. He indicated, and it is important, that he had had the benefit of not only considering the totality of the documentary evidence but also hearing the Appellant give evidence and undergo cross-examination.
8. The judge had not found the Appellant's claim to fear her family to be a well-founded fear for a number of reasons. Whilst he had not made reference to the alleged treatment of other family members as submitted by Ms Williams the judge had focussed on the Appellant's case and indeed reference to the treatment of other family members was not something that had been raised by the Appellant during the

course of her lengthy interview record. Centrally at paragraph 35 the judge did not find the history of the Appellant's relationship with her family, the level of freedom she enjoyed, her ability to travel and the fact that she had kept her family informed of the developments in her relationship in the UK to be consistent with her account that they were a family that would threaten and carry out serious harm to her because of her sexual relationship. In particular the evidence indicated that she informed her family that she had had a miscarriage, a piece of information she did not necessarily need to share with them particularly if she feared threats because of her sexual behaviour. The judge had also noted that the only real evidence presented of threats namely the WhatsApp message was of no evidential value as the message did not purport to come from her parents and no evidence was presented as to the identity of the alleged sender.

9. The judge had further considered the delay in the Appellant's claim for asylum and her explanation for that delay, as he was bound to so do. He did not accept her explanation for the delay as credible and she had provided no other evidence to justify the delay, her claim only arising after she had been arrested for working illegally. The judge found that that damaged her credibility and he was entitled to reach that conclusion.
10. Indeed at question 34 of the interview record the Appellant had been asked what were her intentions after she completed her course and her response had been "I did not know how to stay here so I was going to apply for an Ankara Agreement or claim for asylum". In the event of course the Appellant had done both, beginning with the application under the Ankara agreement which proved un successful and then latterly her claim for asylum.
11. The judge had noted at paragraph 22 that she had also falsely claimed she intended to return to Turkey to work, following her studies.
12. The issue in this case, namely the alleged threat from her family was a relatively simple and specific issue and the judge dealt with that matter providing adequate reasons why he found that there was no evidence that she had been mistreated by her parents, dishonoured them by her conduct or that if returned to Turkey and came within their power she would suffer treatment amounting to persecution. That was a finding entirely open to the judge on the evidence presented and based on adequate factual findings made by him.
13. Having found no credible well-founded fear of persecution from her family (the only source of persecution claimed) it was unnecessary for the judge to consider whether there would be a sufficiency of state protection for her, or whether she could reasonably be expected to relocate.
14. However the judge had specifically noted at paragraph 17 and quoted from the country guidance case of **YK (PSG - women) Turkey [2002] UKIAT 05491** in which the judge recorded the finding that

“In the light of this and other objective material the Tribunal concluded that whilst women undoubtedly still suffer acts of discrimination in Turkey they could no longer be said to be discriminated against by the law and they were not unprotected by the state. The societal discrimination against women was neither condoned or sanctioned by the state in Turkey. The Claimant’s fear did not engage the Refugee Convention and on her return to Turkey she could and would be offered protection by the Turkish authorities should she choose to seek it”.

15. The judge having found the Appellant did not have a well-founded fear of persecution from her own family needed to look no further, but it is a proper inference from his examination of that country guidance case and the quote therein at paragraph 17 that had he found any credibility to her claim he would nevertheless have found in line with that country guidance case that there was a sufficiency of state protection given all the circumstances of the Appellant’s case.

Decision

16. There was no material error of law made by the judge in this case and I uphold the decision of the First-tier Tribunal.

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 
Deputy Upper Tribunal Judge Lever

Date 28/8/18

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed 

Date 28/8/18

Deputy Upper Tribunal Judge Lever