Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: UI-2022-000713
PA/50205/2021; IA/00850/2021

THE IMMIGRATION ACTS

Heard at Cardiff Civil Justice Centre	**Decision & Reasons Promulgated**
On 21 July 2022	**On 29 September 2022**

Before

C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE GRUBB

Between

JNY
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr H Dieu, instructed by Crowley & Co Solicitors
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698) we make an anonymity order. Unless the Upper Tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant. This direction applies to both the appellant and to the respondent and a failure to comply with this direction could lead to contempt of court proceedings.

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Introduction

2. The appellant is a citizen of the Central African Republic ("CAR") who was born on 24 December 1983. The appellant arrived in the United Kingdom on 1 August 2019. On 22 August 2019, he claimed asylum. He claimed that he was at risk on return to the CAR as a Christian and from the family of a friend who blamed him for the death of the friend who was killed by Muslim militia.

3. On 12 January 2021, the Secretary of State refused the appellant's claims for asylum, humanitarian protection and under the ECHR.

The Appeal

4. The appellant appealed to the First-tier Tribunal. In a decision dated 9 December 2021, Judge J Lebasci dismissed the appellant's appeal on all grounds. The judge did not accept that the appellant would be at risk from his friend's family on account of, as she put it, a "blood feud". Further, in order to avoid any risk from Muslim militia, the judge found that the appellant could reasonably be expected to live in an area in the CAR which was not controlled by Muslim militia.

5. The appellant sought permission to appeal to the Upper Tribunal on essentially a single ground, namely that the judge had failed properly to consider whether the appellant could reasonably be expected to internally relocate to an area within the CAR. No other findings made by the judge were challenged in the grounds.

6. On 9 February 2022, the First-tier Tribunal (Judge Hatton) refused the appellant permission to appeal. However, on renewal to the Upper Tribunal, UTJ Blum granted the appellant permission to appeal on 25 April 2022.

7. At the hearing of the appeal, we heard oral submissions from Mr Dieu related to the sole ground upon which permission was sought and had been granted. At the conclusion of his submissions, we did not call on Ms Cunha, who represented the Secretary of State.

The Judge's Decision

8. The appellant's case before Judge Lebasci is summarised at paras 15–17 of her decision as follows:

> "15. The Appellant is a national of the Central African Republic. He fears persecution for his religious beliefs (Christian) and also on account of a blood feud by the family of a friend who hold him responsible for the death of his friend.
>
> 16. The Appellant has confirmed that the basis of claim and immigration history set out in the Respondent's refusal letter of the 12 January 2021 are correct, except for the date at paragraph 20 which should be 22 August 2019, he was not present in the UK in 2018.

17. On 26 October 2014 the Appellant went to check his father's house in the Central African Republic because it had previously been attacked. He went with friends but on the way one friend wanted to buy something from a market, whilst at the market his friend was killed. Another friend telephoned the family of the friend that had been killed and the family told him they thought the Appellant was the killer because he caused his friend to go to the market. After finding out he was at risk, the Appellant decided to leave the country on the same day. He did not believe the police were sufficiently active to protect him. The Appellant fears his life is at risk from his friend's family".

9. In support of his claim to be at risk on the basis of his religion, the appellant relied, not only upon background evidence relating to the situation of Christians and Muslims in the CAR, but also an expert report by Dr O'Reilly. Having set out background material from the US State Department 2018 Report on International Religious Freedom (at paras 47–49) and from Dr O'Reilly's report (at paras 50 and 55), the judge made the following adverse findings in relation to the risk to the appellant arising from his religious beliefs at para 58:

"58. I find:

58.1 the constitution of the Central African Republic provides for freedom of religion.

58.2 the Appellant is not at threat of state sponsored persecution.

58.3 that as a Christian the Appellant is unlikely to face persecution for his religious beliefs by Christian Militia, I will address the issue of relocation below. More recent evidence indicates that Muslims, in particular, are reporting social discrimination and marginalization, The United States State Department (USSD) 2020 Report on International Religious Freedom".

10. In para 58, the judge plainly found that the appellant would not be at risk from the state because of his religious beliefs (para 58.2) and, it would appear, that he would not be at risk from "Christian militia" (para 58.3). Unless the reference in para 58.3 to "Christian militia" is a typographical error for "Muslim militia", at this point the judge has made no finding in relation to the risk to the appellant, on one aspect of his case, namely a risk from Muslim militia.

11. At paras 59–64, the judge turned to consider the appellant's claim based upon a fear of his friend's family whom, he claimed, blamed him for the death of his friend. At para 59, the judge set out the points relied upon by the respondent in the refusal letter concerning the appellant's account of what he claimed occurred to him whilst living in the CAR first, in a Muslim dominated district (Kilometre 5) and latterly in a Christian district (South District). At para 59 the judge said this:

"59. The Appellant's fear of his friend's family is not accepted by the Respondent. I have set out below the key points made in the reasons for refusal letter:

59.1 The Appellant was living in a Muslim area, when his Christian friend came to this area and was killed by Muslims. (SCR 4.1) Alternatively, from 4 to 5 December 2013 the Appellant was living in south district when killing started in the district of kilometre 5 and houses were damaged. The Appellant and friends went to check the house as he had been told by people escaping the area his father had been killed, a friend wanted to buy something and went to a market, while there he was killed by a group named Groupe-Auto-Defence- Musulmans. (AIR 62, 65, 66).

59.2 after this event the Appellant moved from kilometre 5 to south district. (AIR 63). Alternatively, he claims he went back on 26 October, with a group but was unable to make it to kilometre 5 because his friend was assassinated, and he returned. (AIR 73-75)

59.3 another friend from his group called the family of the friend who had been killed and they reacted by claiming the Appellant was the killer he 'caused him to go to that place'. (AIR 94, 97). It is noted the Appellant did not see the event and was instead told by people fleeing the market who described what his friend was wearing. (AIR 80, 81)

59.4 he was living with his father before leaving the country however, he has also claimed his father died in the attack in December and the Appellant did not leave 114 PA/50205/2020 the country until 24 October 2014. The Appellant claims another friend from his group called the family of the friend that had been killed, he claimed they reacted by claiming the Appellant was the killer as he 'caused him to go to that place'. (AIR 94, 97)

59.5 there is no order or judicial system in the Central African Republic and people are armed and his friend's family would have access to weapons. The Respondent considers the Appellant has not explained why his friend's family would still be interested in him now. (AIR 108, 109)".

12. At paras 60–63, the judge analysed the evidence and reached the conclusion in para 63 that the appellant was not at risk from his friend's family who had no continuing interest in him:

"60. The Appellant has explained he does not believe he was inconsistent in his initial interview with the Home Office, he was asked to provide brief details and not to go into any detail regarding his claim because he would have the opportunity to give details in his substantive asylum interview. Furthermore, this point was clarified by his legal representative in a letter to the Home Office in November 2019. The Appellant does not believe his answers in the asylum interview were inconsistent. He moved to the South District and subsequently did attempt to return to his father's house on the 26th of October.

61. The Appellant's reference to December in answer to AIR 62 about what happened to his friend appears to be internally inconsistent because he says it was December 2013 when he moved to the South District. However, I do not consider this to be a significant issue in the context of this appeal given all the available evidence. Overall, I find the Appellant has given a broadly consistent chronology and account of events. I do not consider the Appellant has engaged in behaviour that is designed or likely to conceal information or be misleading. Therefore, his behaviour does not engage section 8 subsections 8(2) of the Asylum and

Immigration (Treatment of Claimants, etc) Act 2004. The Respondent accepts the Appellant's immigration history does not engage section 8 of the Act.

62. The Appellant did not see what happened to his friend. This was reported to him by other people who he did not know. I accept the Appellant believes his friend was killed and that he was told by another friend that the family of his deceased friend blamed him for what happened. This was the only threat made. The Appellant was not threatened directly by his friend's family, furthermore, he has received no further threats from this family, directly or indirectly, since October 2014 when he left the country.

63. During the asylum interview, AIR 108, the Appellant was asked why he believes his friends family would still be interested him. In his answer the Appellant referred to the lack of order in his country and to a particular incident involving a member of parliament. This incident appears unrelated to the family of the Appellant's friend. In relation to the risk to the Appellant on account of the blood feud, the Appeal Skeleton Argument relies on Dr Karen O'Reilly's report and in particular paragraphs 57 – 63. These paragraphs address the lack of protection available, and the fact that those threatening him would not fear being brought to justice. I find the evidence does not support a conclusion that, if the Appellant's friend's family had any intention to cause him harm in October 2014, they still wish to do so. I consider it unlikely the Appellant is still of significant interest to them. I find the Appellant is not at risk of persecution by his friend's family on account of a blood feud. If I am wrong about this, I find the family would not know about the Appellant's return to the country or be able to trace where he lived. The Appellant does not claim to have a public profile and it has not been suggested the family are connected to the authorities or militia".

13. Then at para 64, the judge considered whether it would be reasonable to expect the appellant to live in a non-Muslim area and concluded that it would:

"64. As I do not consider the Appellant is at risk from his friend's family there is no reason why he cannot return to the area where they live. He has lived in the Kilometre 5 area, and the South District. His elder sister is living within the Combattant district. Given the Appellant's individual circumstances and the background information I would expect the Appellant not to choose to live in an area controlled by Muslim militia. I consider it would be reasonable to expect him to return to the other areas of his home country, and I do not consider he is at risk of persecution on account of his religion or any blood feud in those areas. "In the central and southern regions of the country, Catholicism and Protestant Christianity are the dominant religions, while Islam is predominant in the northeast. In Bangui, the majority of inhabitants in the PK5 and PK3 neighborhoods are Muslim, while other neighborhoods in the capital are predominantly Christian." The United States State Department (USSD) 2020 Report on International Religious Freedom".

14. At paras 65–66 the judge under the heading "Humanitarian protection" considered the report of Dr O'Reilly and the expert's view that the appellant would be forced to live in an IDP camp on return to the CAR:

"65. The Appellant relies on Dr O'Reilly's report, particularly paragraphs 42 – 53 and 104 – 109.

106 “Given that Mr Y fears returning to his previous neighbourhood where he could be traced by those threatening him, there is a strong likelihood he would be forced to live in an IDP camp, like much of the rest of the population in CAR.

107 “The conditions in IDP camps are wretched:

108 “Conditions for IDPs and refugees, most of whom stay in camps, remained harsh. Many displaced people had little or no access to humanitarian assistance. Persons with disabilities at displacement sites faced barriers to access sanitation, food, and medical assistance. About 2.5 million people, out of a population of 4.6 million, needed humanitarian assistance. The humanitarian response plan was less than half-funded, with a budget gap of around US$268 million. (Human Rights Watch 2019.)

109 ”In sum then, if Mr Y were to be returned to CAR, it is likely he would be internally displaced, face food insecurity, and live in dire conditions.”

66. I have found the Appellant is not at risk of persecution on return to the Central African Republic and therefore, he would be able to return to his previous neighbourhood. Therefore, I do not consider there is a likelihood he would be forced to live in an IDP camp. In any event the Appellant has previously moved neighbourhoods, as has his eldest sister, and the evidence does not suggest either had to live in an IDP camp. The political situation within the Central African Republic is undoubtedly difficult, but the Appellant was able to live there until 2014 without experiencing serious harm”.

15. As a consequence, the judge dismissed the appellant’s appeal both on asylum and humanitarian protection grounds.

Discussion

16. In this appeal, no issue is taken with the judge’s legal approach to internal relocation. The need for an holistic assessment of whether relocation is reasonably open to an individual was re-stated by the Supreme Court in SC (Jamaica) v SSHD [2022] UKSC 15 at [53]–[62] per Lord Stephens (with whom the other Justices agreed). At [58]-[60], Lord Stephens summarised the approach as follows:

> “58. The test of reasonableness involves consideration of all the relevant circumstances looked at cumulatively. In *Januzi* Lord Bingham summarised the correct approach to the problem of internal relocation. He stated, at para 21, that:
>
> > “The decision-maker, taking account of all relevant circumstances pertaining to the claimant and his country of origin, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so ... There is, as Simon Brown LJ aptly observed in *Svazas v Secretary of State for the Home Department* [2002] 1 WLR 1891, para 55, a spectrum of cases. The decision-maker must do his best to decide, on such material as is available, where on the spectrum

> the particular case falls … All must depend on a fair assessment of the relevant facts."

> 59. Lord Bingham returned to the test of reasonableness in *AH (Sudan) v Secretary of State for the Home Department (United Nations High Commissioner for Refugees intervening)* [2007] UKHL 49; [2008] AC 678. He stated, at para 13 that "the test propounded by the House in *Januzi* was one of great generality, excluding from consideration very little other than the standard of rights protection which an applicant would enjoy in the country where refuge is sought."
>
> 60. However, the stringency of the reasonableness test is not to be underestimated. In *Januzi* Lord Bingham equated reasonableness of internal relocation with whether it would be unduly harsh. So much is apparent from para 21 of his speech (see para 58 above) in which he stated that the "decision-maker, …, must decide whether it is reasonable to expect the claimant to relocate or whether it would be unduly harsh to expect him to do so."

17. In his oral submissions and written grounds of appeal, Mr Dieu submitted that the judge had found that the appellant would be at risk in his home area (namely Kilometre 5 district) on the grounds of religion but that he would not be at risk and it would be reasonable to expect him to relocate to live in a Christian dominated area such as the South District where he had lived prior to leaving the CAR. Mr Dieu submitted in reaching that finding the judge had failed properly to consider the appellant's circumstances in assessing whether it would be reasonable to expect him to live there and Dr O'Reilly's report which was that he would be forced to live in an IDP camp.

18. The judge made unchallenged and therefore unassailable, findings that the appellant would not be at risk because of his religion from the state and that he would not be at risk from his friend's family who were unlikely to have any interest in him on return. As we alluded to above, in para 50.3, whilst the judge found that the appellant was unlikely to face persecution from Christian militia, she does not appear explicitly to have made any finding in relation to any risk in his home area (namely Kilometre 5) from Muslim militia. Mr Dieu's submissions were premised on the judge having made such a finding in para 64. Whilst the judge could, perhaps, have expressed herself somewhat more clearly, we are content to proceed on the basis that in para 64 the judge accepted that the appellant would be at risk from Muslim militia if he chose to live in an area controlled by them. It was only on that basis that internal relocation, which she went on to consider, could become relevant.

19. The question for us, therefore, is whether the judge failed adequately to deal with the issue of whether the appellant could reasonably be expected to live in an area not controlled by the Muslim militia but which was Christian in composition such as the South District which he had lived from December 2013 until October 2014 prior to coming to the UK.

20. Mr Dieu accepted that there was no evidence before the judge about the appellant's living circumstances in the South District. He had lived there between December 2013 and October 2014 but, on the evidence, there was no suggestion that his circumstances made it unreasonable for him to do so. His case was that he left that area as a result of threats from his friend's family rather than the circumstances in which he was living. The judge, of course, found that there was no real risk from his friend's family whether in his home area (Kilometre 5) or in his area of proposed relocation (South District).

21. Mr Dieu placed reliance upon Dr O'Reilly's report set out at para 65 of the judge's determination which, at para 106, stated that there was a strong likelihood that the appellant would be forced to live in an IDP camp and then, in paras 107–109, Dr O'Reilly set out the conditions for those living in IDP camps. The difficulty with that submission, as Mr Dieu frankly recognised during the course of his oral submissions, is that Dr O'Reilly's conclusion is based upon the appellant being at risk from his friend's family because they could trace him. However, the judge made unchallenged, and therefore unassailable, findings at para 63 that this was not objectively the case. Therefore the premise upon which Dr O'Reilly's view was expressed, that the appellant would be forced to live in an IDP camp, falls away as must his conclusion. We see no basis, therefore, why the judge could not reasonably and rationally conclude in para 66 that the appellant would not be forced to live in an IDP camp if he returned to the CAR.

22. The only evidence before the judge was that the appellant had been able safely and, without any apparent difficulty, to live in the South District between December 2013 and October 2014. There was no evidence before the judge to substantiate a claim that the appellant's circumstances, on return, would meet the "stringency of the reasonableness test" or be "unduly harsh" in order to establish that internal relocation to the South District was not properly available to the appellant. Indeed, we would go so far as to say that the judge's finding that the appellant could reasonably internally relocate was inevitable on the evidence and in the light of her unchallenged (and unassailable) findings in relation to the appellant's claim to be at risk.

23. In those circumstances, we are satisfied that the judge did not err in law in dismissing the appellant's appeal on asylum grounds.

Decision

24. For the above reasons, the decision of the First-tier Tribunal to dismiss the appellant's appeal did not involve the making of an error of law. That decision, therefore, stands.

25. Accordingly, the appellant's appeal to the Upper Tribunal is dismissed.

Signed

Andrew Grubb

Judge of the Upper Tribunal
19 August 2022