



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

Appeal Number: UI-2022-001439
PA/52404/2020; IA/02258/2020

THE IMMIGRATION ACTS

**Heard at Field House
On 5 September 2022**

**Decision & Reasons Promulgated
On 15 November 2022**

Before

**UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE COTTON**

Between

**OH
(ANONYMITY DIRECTION MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Rahman OBE, counsel instructed by Visas 24/7

For the Respondent: Mrs A Nolan, Senior Home Office Presenting Officer

DECISION AND REASONS

(extempore judgement)

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court. We make this order because the appellant seeks international protection and publicising his identity might create a risk to his safety.
2. This is an appeal by a citizen of Ukraine against a decision of the First-tier Tribunal dismissing only on human rights grounds his appeal against a decision of the Secretary of State refusing him international protection. It is the appellant's case that he is a refugee and alternatively entitled to humanitarian protection and additionally entitled to relief on human rights

grounds. It is clear from the face of that that the decision has not been determined properly in the First-tier Tribunal.

3. There is a helpful and, if I may say so, sensible Rule 24 notice served by the Secretary of State signed by Mr Toby Lindsay, a Senior Home Office Presenting Officer, dated 12 August 2022. Regrettably, that did not arrive in my bundle or Deputy Judge Cotton's bundle until during the course of the hearing.
4. The key point is at paragraph 3. Permission was granted by our colleague Upper Tribunal Judge Jackson and this is what Mr Lindsay has to say about that grant in his Rule 24 notice. He said:

“In granting permission to appeal, Upper Tribunal Judge Jackson has stated:

‘... In particular, having rejected most of the reasons given by the respondent as to the authenticity of the military call-up papers, the First-tier Tribunal arguably erred in seeming to require expert evidence as to the genuineness of the documents or attached little weight to them against the evidence before it. Further, it is arguable that the First-tier Tribunal placed too much weight on the lack of evidence of the appellant attending technical college when this was not put in issue by the respondent in the Reasons for Refusal Letter or in the list of issues in the appeal.’

It is accepted that these errors are made out and accordingly that the decision of [the First-tier Tribunal] should be set aside.”

5. We are grateful to Mr Lindsay and Mrs Nolan for taking an entirely realistic approach. We agree completely with what Mr Lindsay says. This is a decision where the reasons given are just not adequate in law. It is undesirable when judges take points enthusiastically that are not raised by anyone else without giving people an opportunity to comment and there is confusion over the military call-up papers because the judge appeared to be accepting things about them which would have led on to finding them to be genuine. It is just unsatisfactory.
6. Mr Rahman, for the appellant, asked us if we could deal with the case today and we understand that the appellant is anxious to be in a secure position in the United Kingdom and anxious to work but this is not an appeal that lends itself to a summary disposal. Particularly on asylum grounds, the issues have got to be looked at in some care, and the First-tier Tribunal is the best place to do that.

Notice of Decision

7. We find that the First-tier Tribunal erred in law. We set aside its decision and we direct the case be determined again in the First-tier Tribunal. There are no preserved findings.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 21 October 2022