



IN THE UPPER TRIBUNAL  
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-001258

First-tier Tribunal No: PA/54989/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

20<sup>th</sup> December 2023

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**I M Y**

(anonymity order in place)

Appellant

and

**S S H D**

Respondent

*For the Appellant: Mr S Winter, Advocate, instructed by Ali & Co, Solicitors*  
*For the Respondent: Mr M Diwyncz, Senior Home Office Presenting Officer*

Heard at Edinburgh on 13 December 2023

DECISION AND REASONS

1. FtT Judge Prudham dismissed the appellant's appeal by a decision dated 12 January 2023.
2. The appellant applied to the FtT for permission to appeal to the UT on ground 1, "Sprakab report", arguing that the language report did not disclose "any intelligible basis of expertise" which might justify giving "any value" to its conclusions and ground 2, "knowledge of Chula Island / Somalia", (i) - (ix), a series of detailed criticisms of the adverse credibility findings. FtT Judge Kelly refused permission on 4 April 2023.
3. The appellant applied to the UT. UT Judge O'Callaghan made the following decision on 16 May 2023:

Renewed application for permission to appeal on grounds already rejected by the First-tier Tribunal is GRANTED

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, without her express consent. Failure to comply with this order could amount to a contempt of court.

#### REASONS

[1] The appellant asserts that she is a Somali national and seeks international protection.

[2] Being mindful as to the relevant test, I am satisfied that the grounds advanced are arguable.

[3] I consider there to be greater merit to ground 2 than ground 1. Unlike Judge Kelly when refusing permission to appeal to this Tribunal, I consider ground 2 to be more nuanced than Judge Kelly observed. I understand the ground to be that the Judge failed to cumulatively assess the appellant's understanding of her asserted Bajuni heritage, which required positive weight to be given to the correct information she provided, the scope of the answers she was directed to give to the respondent in interview and her limited education. It is arguable that these relevant factors favourable to the appellant are not identified in paras. 25 to 33 of the First-tier Tribunal decision, and in particular para. 32. It will be for the appellant to establish that the criticisms establish a material error of law.

[4] The parties should properly be expected to direct the Tribunal's attention to the reported decision of ASA (*Bajuni: correct approach: Sprakab reports*) *Somalia CG* [2022] UKUT 00222 (IAC) at the error of law hearing.

#### Direction

[5] The First-tier Tribunal did not make an anonymity direction, and in doing so made no reference to paras. 22 and 23 of the First-tier Tribunal's Presidential Guidance Note No 2 of 2022: 'Anonymity Orders and Directions regarding the use of documents and information in the First-tier Tribunal (Immigration and Asylum Chamber)'.

[6] In respect of this protection appeal, I am satisfied having granted permission to appeal that there is a proper basis for concluding that the appellant's rights under article 8 ECHR presently outweigh the public interest in open justice protected by article 10 ECHR: *Re: Guardian News & Media Ltd* [2010] UKSC 1; [2010] 2 AC 697. I therefore make an anonymity direction, which is detailed above.

[7] The continuation of the anonymity direction may be addressed at the error of law hearing.

4. Decisions may be succinct, and do not need to deal with every dot and comma of an appellant's evidence. However, apart from giving weight to the Sprakab report, the FtT deals with credibility in summary terms at [32]. The criticisms in ground 2 disclose a failure, as was fairly and correctly conceded by the respondent, to come to grips with the appellant's case.
5. There was also an error (although not identified in the grounds, and contributed to by both parties in the FtT) of failing to consider and apply country guidance.

6. Ground 1 appears to go further than is supported by case law touching on Sprakab reports, but it is unnecessary to resolve that here. The weight to be given to the report is open to debate at the fresh hearing.
7. There may be no ongoing need for anonymity, but that is preserved herein. The matter should be considered at the next hearing in the FtT.
8. The decision of the FtT is set aside (other than as a record of what took place at the hearing). The case is remitted for a fresh hearing before another Judge.

Hugh Macleman

Judge of the Upper Tribunal  
Immigration and Asylum Chamber  
13 December 2023