



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-001557  
UI-2023-001555

First-tier Tribunal No: PA/52666/2022  
PA/52666/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

3<sup>rd</sup> November 2023

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DOYLE**

**Between**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MA  
(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr Wood, counsel, instructed by IAS.

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer.

**Heard at Phoenix House (Bradford) on 20 October 2023**

**DECISION AND REASONS**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant and any member of his family 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 or any family member. Failure to comply with this order could amount to a contempt of court.**

## Introduction

1. I preserve the anonymity direction previously made in this appeal.
2. The Secretary of State for the Home Department brings this appeal but to avoid confusion the parties are referred to as they were in the First-tier Tribunal. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge Fisher, promulgated on 5 April 2023, which allowed the Appellant's appeal on article 8 ECHR grounds only.

## Background

3. The Appellant was born on 05/04/2004 and is a national of Algeria.
4. The appellant entered the UK on 2/04/2021. He claimed asylum on 19/04/2021. The respondent refused the appellant's protection claim on 28/06/2022.
5. On 31/10/2022 the NRM issued a conclusive grounds decision which accepted that the appellant was a victim of modern slavery (domestic servitude) in Algeria and also a victim of forced criminal exploitation in the UK.
6. In light of the NRM decision, the respondent has granted the appellant limited leave to remain in the UK.

## The Judge's Decision

7. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Fisher ("the Judge") dismissed the appellant's appeal on asylum and humanitarian protection grounds, but allowed the Appellant's appeal on article 8 ECHR grounds.
8. Grounds of appeal were lodged by the respondent, and on 19/06/2023 Upper Tribunal Judge Pickup gave permission to appeal stating

1. This is a cross-appeal, with applications by both the appellant and the respondent against the decision of the First-tier Tribunal (Judge Fisher) dismissing the appellant's appeal on international protection grounds but allowing it on article 8 ECHR human rights grounds.
2. The appellant had claimed to have been mistreated by his paternal uncles in Algeria over property left to him and his siblings by his father. Although a conclusive grounds decision had concluded that the appellant had been the victim of modern slavery (domestic servitude) in Algeria and forced criminal exploitation in the UK, the respondent's case was that there was a sufficiency of protection in Algeria and he could, if necessary, internally relocate.

3. For the cogent reasons set out in the impugned decision, the First-tier Tribunal Judge concluded that there would be a sufficiency of protection to the Horvath standard in Algeria. The judge also found that if returned to live with his maternal family he would not be at risk of re-trafficking, the risk of which had not existed since he was 6-7 years old. It followed that the issue of internal relocation was academic.
4. However, the First-tier Tribunal Judge found that there would be very significant obstacles to integration (paragraph 276ADE) in the form of a deterioration of his mental health for which he “may not” seek treatment due to his self-isolation and limited ability to build positive relationships.
5. It is arguable that having found that the appellant’s return would not breach articles 2 or 3 ECHR, the judge applied too low a standard when considering article 8 ECHR, the decision being based on what the appellant may or may not wish to do. It was clear that it was open to the appellant to live with his maternal family, with whom he lived between 2010-2019. He had lived in Algeria until the age of 14 and arguably would therefore have sufficient understanding as a returning adult of life in Algeria to be able to integrate. There was no consideration as to whether living with his maternal family might assist with his mental health and self-isolation issues. It is difficult to understand how the judge could conclude in the circumstances why he would only have limited knowledge of life in Algeria and there to be significant obstacles to integration. The judge also appears at [20] of the decision to believe that a comparable standard of support to that available to him in the UK must be available in Algeria. All in all, the article 8 assessment is arguable inadequate and applied the wrong standard of proof.
6. As far as the appellant’s grounds of appeal are concerned, these are little more than a disagreement with the decision in respect of international protection and an attempt to reargue the appeal. In MR (permission to appeal: Tribunal’s approach) Brazil [2015] UKUT 00029 (IAC) the Upper Tribunal held that, “A judge considering an application for permission to appeal to the Upper Tribunal must avoid granting permission on what, properly analysed, is no more than a simple quarrel with the First-tier Tribunal judge’s assessment of the evidence.”
7. The grounds argue that the First-tier Tribunal Judge made a material misdirection given that at [2] of the decision it is stated that the appellant’s factual account was largely accepted. The grounds argue that every aspect of the claim must be accepted including the issue of a dispute as to inheritance. Unarguably, however, the judge provided cogent reasons entirely open on the evidence as to why there would be a sufficiency of protection against his mistreatment by his uncles, which would include in relation to any ongoing inheritance or property dispute. The grounds do not disclose any arguable misdirection or other error of law in this regard. In the circumstances, the appellant’s grounds fail as they disclose no properly arguable error of law.

8. For the reasons explained above, an arguable material error of law is disclosed by the grounds but only in relation to the article 8 ECHR assessment. Permission is refused to the appellant but granted to the respondent only.

### The Hearing

9. For the respondent, Mr McVeety moved the grounds of appeal. He took me straight to [19] and [20] of the Judge's decision where the Judge undertakes the article 8 proportionality balancing exercise. Mr McVeety said that the Judge placed inadequate weight on the almost 15 years the appellant spent in Algeria, and too much weight on the few years the appellant has been in the UK.

10. Mr McVeety said that there were further flaws in the Judge's balancing exercise because, although the Judge finds that there are supports for the appellant in the UK, the Judge did not factor into his finding that those supports are not working for the appellant. He said the Judge ignored the fact that the appellant had previously lived with his maternal family in Algeria who offered him care and support.

11. Mr McVeety told me that the Judge's proportionality balancing exercise was inadequate and that the appeal should not have been allowed on article 8 ECHR grounds. He asked me to set the Judge's decision aside.

12. In response, Mr Wood took me to [18] of the decision, and told me that there the Judge correctly took guidance from the case of SSHD v Kamara [2016] EWCA Civ 813. He took me through [19] and [20], and said that, there, the Judge took account of all relevant factors in a flawless balance sheet approach to the proportionality exercise. He told me that the grounds of appeal are misconceived, and that when applying weight to the period of time the appellant lived in Algeria (compared to the period of time the appellant has lived in the UK) the Judge sensitively took account of the exploitation the appellant endured in Algeria, and how it has blighted his life.

13. Mr Wood told me that there are no errors in the Judge's fact-finding exercise; all relevant factors were carefully weighed in the balancing exercise; and that the Judge took correct guidance in law. He asked me to dismiss the appeal and allow the decision to stand.

### Analysis

14. The focus in this appeal is on [18] to [22] of the judge's decision. At [18] the Judge correctly took guidance from SSHD v Kamara [2016] EWCA Civ 813. 19. The Judge succinctly lists the relevant factors to be considered in the article 8

balancing exercise required by paragraph 276 ADE(1)(vi) of the immigration rules.

15. [19] cannot be read in isolation. [19] must be read in light of the Judge's findings between [8] and [15] when considering the asylum appeal. [19] & [20] must also be read in the light of the NRM decision that the appellant is a victim of modern slavery.

16. At [19] & [20] the Judge is considering whether or not there are very significant obstacles to the appellant's integration in Algeria. The proportionality assessment that he is carrying out has a focus narrowed by paragraph 276 ADE of the immigration rules.

17. Between [19] & [21] the Judge explains why he finds that there are very significant obstacles to integration, and all by reference to the guidance given in SSHD v Kamarra, where Lord Justice Sales wrote at § 14:

*The idea of "integration" calls for a broad evaluative judgment to be made as to whether the individual will be enough of an insider in terms of understanding how life in the society in that other country is carried on and a capacity to participate in it, so as to have a reasonable opportunity to be accepted there, to be able to operate on a day-to-day basis in that society and to build up within a reasonable time a variety of human relationships to give substance to the individual's private or family life.*

18. At [21] the Judge says

The appellant would, at best, have a limited knowledge of how life is conducted in Algeria, but the evidence before me demonstrates that really he would have no capacity to participate in it, nor would he be able to build up within a reasonable time the variety of human relationships envisaged.

19. In the light of that finding (at [21]) it is not surprising that the Judge concludes that there are very significant obstacles to integration. Having made that finding, the only decision that the Judge could competently make was to allow the appeal on article 8 ECHR grounds. (TZ (Pakistan) and PG (India) v The Secretary of State for the Home Department [2018] EWCA Civ 1109 ).

20. A fair reading of the decision demonstrates that the Judge applied the correct test in law. The Judge carried out a holistic assessment of all of the evidence. There is nothing unfair in the procedure adopted nor in the manner in which the evidence was considered. There is nothing wrong with the Judge's fact-finding exercise. The appellant might not like the conclusion that the Judge arrived at, but that conclusion is the result of the correctly applied legal test. The correct test in law has been applied. The decision does not contain a material error of law.

21. The decision does not contain a material error of law. The Judge's decision stands.

**DECISION**

22. The appeal is dismissed. The decision of the First-tier Tribunal, promulgated on 05 April 2023, stands.

Signed **Paul Doyle**  
25 October 2023  
Deputy Upper Tribunal Judge Doyle

Date