



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

Case No: UI-2024-000653

First-tier Tribunal No: PA/51443/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 25<sup>th</sup> of June 2024

**Before**

**TRIBUNAL JUDGE MACLEMAN**  
**DEPUTY UPPER TRIBUNAL JUDGE DOYLE**

**Between**

**SK**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Winter, counsel, instructed by Rea Law, solicitors  
For the Respondent: Ms E Blackburn, Senior Home Office Presenting Officer

**Heard at 52 Melville Street, Edinburgh, on 12 June 2024**

**Order Regarding Anonymity**

**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.**

**DECISION AND REASONS**

Introduction

1. We make an anonymity direction because this appeal arises from the appellant's protection claim.
2. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Prudham, dated 01/02/2024.

### Background

3. The Appellant is a Russian citizen. The Appellant claimed asylum on 22/09/2022. On 20/02/2023 the respondent refused her claim for international protection.

### The Judge's Decision

4. The Appellant appealed to the First-tier Tribunal. First-tier Tribunal Judge Prudham ("the Judge") dismissed the appeal on all grounds.
5. The Appellant lodged grounds of appeal, and, on 27/02/2024, Tribunal Judge Lawrence gave permission to appeal on two grounds. He said

3. It is arguable that the Judge materially erred in law in their assessment of the consistency between the opinion of the country expert and other sources of information such as the sources referred to in the Home Office country information and policy reports and Human Rights Watch reports, for the reasons advanced in the grounds of appeal.

4. It is arguable that the Judge materially erred in law in their approach to the opinion of the country expert by requiring support for the proposition put forward by the expert that the appellant would be questioned on arrival, which is arguably material as relating to the claimed risk arising from activities in the UK.

### The Hearing

6. For the appellant, Mr Winter moved the grounds of appeal. He focused on the appellant's Sur Place activities and told us that the determinative question is whether or not the appellant would be questioned on return to Russia. He discussed the evidence of the appellant's participation in demonstrations in the UK and told us that the appellant will have been seen on closed-circuit television outside the Russian consulate and that the appellant has been photographed at demonstrations and featured prominently in the local Edinburgh press.
7. Mr Winter referred us to the two expert reports (both by the same author) relied on by the appellant. Mr Winter conceded that the Judge attaches little weight to the expert reports at [26] of the decision, but argued that the

findings at [26] relate solely to the appellant's activities in Russia and do not address the prospect of questioning on return.

8. Mr Winter took us to [38] of the decision. There, the Judge considers the prospect of questioning on return to Russia, and rejects the expert's opinion by apparently looking for corroboration of the expert's opinion rather than treating the expert's opinion as a freestanding strand of evidence.

9. In his decision the Judge says that the expert does not refer to the Home Office CPIN or to the human rights watch report. Mr Winter referred us to passages of the expert report where both of those documents are referred to, and said the Judge simply got it wrong.

10. Mr Winter asked us to set the decision aside and substitute our own decision allowing the appeal on asylum grounds.

11. Ms Blackburn, for the respondent, resisted the appeal. She told us that the Judge's decision does not contain errors of law, material or otherwise. She told us that the Judge gave adequate consideration to the expert evidence and gave good reasons for finding that the expert's opinion was not persuasive.

12. Ms Blackburn told us that the Judge balanced the expert's opinion against the objective evidence and found the CPIN and the HRW report to be more reliable. Ms Blackburn said that the expert's conclusion that the appellant will immediately be detained and questioned on return to Russia is not adequately reasoned by the expert. She said that the Judge's treatment of the expert evidence is beyond criticism.

13. Ms Blackburn asked us to dismiss the appeal and allow the Judge's decision to stand.

### Analysis

14. Both Mr Winter and Ms Blackburn dwelt on whether or not the expert report had references to the respondent's CPIN and to a Human Rights Watch (HRW) report. Mr Winter said that the expert reports are adequately referenced; Ms Blackburn said the opposite.

15. The expert reports may not be perfect, but they contain clear reference to the respondent's CPIN and the HRW report. There are detailed footnotes throughout the expert reports. We find that at [25-26] of his decision, the Judge misdirects himself as to the degree of support for the appellant's account which might be taken from the expert reports. He also looks for an unnecessarily exact correspondence between the sources on when the "anti-war laws" were implemented, the behaviour of the police, and the appellant's account. This goes to the Judge's findings on activities in Russia, which is not the principal challenge; but we find some force in Mr Winter's point that unjustified general scepticism of the expert feeds into the finding about risk on return.

16. The main focus in this appeal is on [37] and [38] of the Judge's decision. At [37] the Judge finds that the appellant has attended three demonstrations (protesting against the Russian government's actions) since July 2022, and that the appellant's photograph from at least one of those demonstrations has featured in the Edinburgh Reporter and online. The Judge qualifies his findings by saying that the appellant

...has largely been a face in the crowd.

17. At [38] the Judge turns his attention to the prospect of questioning on return to an airport in Russia. The only evidence the Judge about questioning on return is contained in the expert's reports. The Judge says that he could find no support for the proposition put forward by the expert that the appellant would be questioned simply because of the length of time she has been in the UK.

18. There is no requirement for corroboration. An expert report is a freestanding source of evidence which requires some Judicial analysis. An expert's opinion does not need to be accepted, but the Judge must give reasons for either accepting or rejecting expert witness evidence. Those reasons are not in the Judge's decision.

19. The Judge does not give adequate reasons for rejecting the expert reports, which form an important strand of evidence. That is an error of law which affect the outcome of the appeal. It is a material error of law.

20. Because the decision is tainted by a material error of law we set it aside. We are able to substitute our own decision.

21. The Judge found in fact that the appellant arrived in the UK in July 2022 and has participated in protests against the Russian regime outside the Russian consulate in Edinburgh, and in George Square in Glasgow. There has been some modest publicity of the appellant's activities in the UK.

22. No challenge is taken to the expert's credentials. The respondent does not argue that the expert is not in a position to provide the opinion that he provides. The expert says, and the objective background materials confirm, that repressive laws restricting public protest became part of Russian domestic law in 2022.

23. The expert says that because the appellant has been in the UK since July 2022 she will be detained and questioned on return to Russia. There is no countervailing evidence.

24. We therefore find that the appellant has shown to the necessary standard that she faces a risk of detention and questioning. The background materials tell us that that detention and questioning raises a real risk of mistreatment, which amounts to persecution.

25. We therefore find that the appellant establishes a real risk of persecution because of her political opinion. We find that the appellant is a refugee.

26. We allow the appeal on asylum grounds and on article 3 ECHR grounds.

27. We thank both representatives for their helpful and carefully focused submissions.

## DECISION

The decision of the First-tier Tribunal dated on 01/02/2024 errs materially in law and is set aside.

We substitute our own decision.

The appeal is allowed on asylum grounds

The appeal is allowed on article 3 ECHR grounds.

**Signed**            **Paul Doyle**  
June 2024  
Deputy Upper Tribunal Judge Doyle

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