



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

Appeal Number: AA/10821/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 9 February 2015**

**Decision & Reasons
Promulgated
On 20 February 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE MONSON

Between

**BQ (TURKEY)
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr Avery, Specialist Appeals Team

DECISION AND REASONS

1. The appellant appeals to the Upper Tribunal the decision of the First-tier Tribunal dismissing her appeal against a decision by the Secretary of State to refuse to recognise her as a refugee, or as otherwise requiring international or human rights protection. The First-tier Tribunal made an anonymity direction, and I consider it is appropriate the appellant is accorded anonymity for these proceedings in the Upper Tribunal.

2. The appellant is a national of Turkey, whose date of birth is 8 November 1986. She applied for a type C family multivisit visa on 20 September 2012 which was granted until 5 April 2013. She then applied for another visa of the same type on 12 April 2013, which was granted until 22 October 2013. She last arrived in the United Kingdom on 2 May 2013. She is recorded as having claimed asylum on 3 October 2013. She was given a screening interview on that day, and a substantive asylum interview on 1 November 2013.
3. As summarised in the subsequent refusal decision, the case was that she had studied at university in Turkey for three years, before gaining her diploma in 2009. In order to improve her career prospects she decided to apply for a student visa in order to learn English in the UK. Her father agreed to this plan, and provided her with the necessary financial support. She arrived in the UK on a student visa in May 2010 and studied for six months. She met her future husband, Jonny, in August 2010 in a night club and quickly became involved in a relationship with him. She fell pregnant by him, but decided to have a termination in July 2011 because she felt she was unable to return to Turkey as a pregnant unmarried woman. At this stage, she told no one about her relationship other than her sister. Jonny struggled with drug addiction and was violent towards her throughout the duration of their relationship. She reported Jonny to the police in the UK, but did not pursue the proceedings because she loved him and did not want to give up on the relationship. Eventually her family in Turkey discovered their engagement through Facebook. They did not approve of her relationship to Jonny due to the way he treated her and also due to the fact that he was not Turkish or Muslim.
4. In January 2012 the appellant told her father that if he would not allow her to marry Jonny, she would kill herself. Her father then threatened that he would kill her first, and chased her with an axe. Following this incident she fled to her aunt's home nearby. She did not report her father to the Turkish police because she did not want to aggravate him any further. She had married Jonny in Turkey in March 2012, and they had lived together in Turkey as man and wife until Christmas 2012.
5. While the appellant was in the UK with entry clearance as a visitor, her husband had ended their relationship. This was in June 2013 when he admitted he had been having an affair. She thought this might be a passing phase due to his drug addiction, but he threw her out of the home that they were sharing together. On 16 August 2013 he then contacted members of his family on Facebook and accused her of having sexual relationships with other men during the course of their relationship. He also stated that she was living with a different man out of wedlock; that she had had an abortion; and that she used ecstasy and cocaine.
6. In Turkish culture it was not right to live with a man under the same roof and her father considered that his honour had been damaged by her actions. She feared returning to Turkey because she was afraid that her father would kill her.

7. On 22 November 2013 the Secretary of State gave her reasons for refusing to recognise the appellant as a refugee. In support of her asylum claim she had submitted screen shots of Facebook messages in Turkish with translations. The Secretary of State went on to identify a number of alleged inconsistencies and discrepancies in her evidence which she said undermined the credibility of her core claim: it was not accepted she had received threats from her family in the manner in which she claimed.
8. On the issue of risk on return, it was noted that by her own admission both she and her sister had been able to stay away from home alone for prolonged periods of time (whilst at university and studying in the UK) which suggested that her family did not monitor and restrict her movements in the manner and to the degree in which she claimed. So her account was inconsistent with background information as it was considered she had failed to demonstrate that her family were a conservative family. It was also noted that Bursa (her home area) was located in northwest Turkey, whereas the background information indicated that those most likely to be at risk of honour killing were from families in the southeast of the country. She had related her claimed fear specifically to her father and therefore to a confined area of Turkey. It was considered that a sufficiency of protection would be available to her upon return to Turkey from her father, who was a non-state actor. As a female in Turkey there were a number of avenues available to her, provided by both governmental and non-governmental organisations. It was noted she claimed her father had connections in the police force, and therefore he could locate her anywhere in Turkey. But she had failed to provide evidence in support of this element of the claim. She was an educated young woman who had attended university in Turkey. Whilst studying she stayed in accommodation provided by the university, and she supported herself financially by taking up part-time jobs. After leaving university she worked for one year as a car designer. It was also noted she had been supported by her uncle's son's wife in obtaining documentary evidence in support of her asylum claim. It was therefore considered she had support of some of her family, and that her family as a whole was not against her. It was also noted that her younger sister was studying at university and living away from her parents in a student hostel in Denizli city which further demonstrated it was possible for educated young women to support themselves and live alone away from their family in Turkey.

The Hearing Before, and the Decision of, the First-tier Tribunal

9. The appellant's appeal came before Judge Ghaffar sitting in the First-tier Tribunal in Birmingham on 20 March 2014. Miss Norman of Counsel appeared on behalf of the appellant, and Miss Owen, Home Office Presenting Officer, appeared on behalf of the respondent. The judge received oral evidence from the appellant, which the judge extensively rehearsed in his subsequent decision.
10. In her closing submissions on behalf of the respondent, Miss Owen relied on the Reasons for Refusal Letter and submitted that the appellant's

father and wider family had accepted the marriage and were present at the wedding. The first e-mail at H1 and H2 of the respondent's bundle had not been seen by the father, and as a result no weight should be given to it as it had not been seen and had not caused any problems. The second email was sent in August 2013. Even if it was accepted that it was sent, there was nothing untoward about it. The appellant could return to Turkey. There was nothing to take revenge for. The father was supportive in that he funded her studies in Turkey in the UK. He agreed to the marriage that he was not keen on. He wanted his daughter to be safe. As far as the injunction was concerned, it related to the mother. In any event the court action by the mother showed that there were avenues in Turkey that could assist the appellant. The father had breached the injunction obtained by the mother, but no complaint had been made. The appellant would be able to relocate, as the father worked in a private local bus company.

11. In reply, Miss Norman submitted that the father was a violent man. She accepted that the father had not got to hear the very explicit messages that had been sent to all the other family members. But he had received the message in August 2013 stating that the appellant was living in a house where there was a 40 year old man. The expert evidence clearly showed that women can be tracked down in Turkey.
12. The judge's findings are set out at paragraphs 22 onwards. He found that the appellant was not credible in relation to the reaction of her family, which was the core of her account. He noted that she was allowed by father to travel to the UK to study. She was able to have the freedom to go to night clubs and meet boys and there was no control of her behaviour whatsoever. Throughout, her father supported her financially. The family might not have been keen about the appellant marrying someone who was not a Muslim. However the marriage took place with their blessing.
13. He did not accept her evidence that her family disowned her because she returned to the UK with her husband. There was supporting evidence of the appellant being a victim of domestic violence in her marriage to Jonny, and he found that he assaulted her and abused her and that she remained loyal to him because she continued to love him despite this mistreatment. Her family may well have been worried about the appellant leaving Turkey with her husband who they knew was violent towards her. This was out of concern for her safety, and accordingly he did not accept that they made a threat to kill her if she returned to Turkey. The judge continued in paragraph 24:

I find the appellant's account of her family to be wholly inconsistent. On the one hand they attended the wedding on the other they did not approve of it; on the one hand they were worried for her safety, and on the other they threatened to kill her; on the one hand they were extremely strict and would not let her anywhere near [Jonny] prior to marriage and on the other they let her travel within him to the UK for Valentine's Day. I find therefore that the appellant was never threatened by her family who had looked out for her

but attended her wedding and let her marry a man of her choice who was outside their culture and religion.

14. At paragraph 25 he did not accept that the appellant's father had chased her with an axe. He found that if her father was intent on harming her, he would have done so. At paragraph 26 he found that the appellant's family remained concerned about her and would be willing to offer any assistance. He found that the appellant had been able to organise "a gambit of letters" from Turkey from various relatives to support her claim to remain in the UK. But it was not because the appellant faced harm upon return.
15. At paragraph 29 the judge said the appellant presented as being about five to six months' pregnant. There was no evidence before him as to the identity of the father of her unborn child, and he was not going to speculate on this matter. The appellant's family were supportive, and that they would support her if she was returned to Turkey. He found that she had neither a well-founded nor a genuine fear of persecution on return to Turkey.

The Application for Permission to Appeal

16. Miss Norman of Counsel settled the appellant's application for permission to appeal to the Upper Tribunal. She submitted that the judge's decision was confused, did not clearly reflect the course of the proceedings, and came to conclusions which were not supported by the evidence and which were based on speculation.

Initial Refusal of Permission

17. On 1 May 2014 Judge Page refused permission to appeal for the following reasons:

It is always possible to re-argue the factual conclusions to argue that different conclusions on the fact should have been reached by the judge. No error of law is identified in these various examples where different conclusions could have been reached by the judge. I have read the determination and it was not apparent anywhere that the conclusions reached by the judge are not supported by the evidence and [are] based on speculation. The judge has clearly recorded all of the pertinent evidence going to the central issues in the appeal and made clear findings at paragraphs 22 - 30 of the determination. Both in parts and in whole the conclusions reached were open to the judge on the evidence before the Tribunal. There was no error of law in the determination.

The Eventual Grant of Permission to Appeal

18. On a renewed application for permission to appeal to the Upper Tribunal, Upper Tribunal Judge Allen granted permission to appeal on 16 July 2014 for the following reasons:

It is arguable that the matters raised in the grounds go beyond disagreement and identify material flaws in the judge's reasoning and, as a consequence, his conclusions.

The Rule 24 Response

19. On 6 August 2014 John Parkinson of Specialist Appeals Team settled the Rule 24 response opposing the appeal. In summary, the Judge of the First-tier Tribunal had directed himself appropriately. The judge did not accept core elements of the appellant's claim and gave good reasons for doing so. It was not for the judge to speculate as to what emails the appellant's father might or might not be able to discover. It was open to the judge to conclude that the appellant's father had been prepared to fund his daughter to attend college in the UK, a country materially different from Turkey, where she would be able to access night clubs and the like at will. These were not the actions of a father who would have sought to kill his daughter on return. In the alternative there was no adequate evidence that the appellant could not return to Turkey and live elsewhere without informing her family.

The Hearing in the Upper Tribunal

20. Shortly before the scheduled hearing in the Upper Tribunal, the appellant's solicitors informed the Tribunal in writing that they were without instructions and so would not be attending the hearing. Mr Avery submitted that the appeal should be dismissed for the reasons given in the Rule 24 response.

Discussion

21. As stated in the Rule 24 response, there was an inherent contradiction in the appellant's case. It was clearly open to the judge to disbelieve the appellant's claim that her father was the type of person to threaten or carry out an honour killing, when on the undisputed facts he had enabled her to enjoy complete freedom of action in the UK; and he had also allowed her to marry the man of her choice, albeit that he disapproved of her choice.
22. The first criticism is that the determination is confused. But the judge's line of reasoning is clear and coherent. The second criticism is that the determination does not clearly reflect the course of the proceedings. It is not clear what Miss Norman is driving at by this criticism. The judge set out in considerable detail the appellant's evidence, and the closing submissions made by both parties.
23. The third criticism is that the judge comes to conclusions which are not supported by the evidence and are based on speculation. I consider this is merely an elaborate way of saying that the appellant disagrees with the judge's findings of fact. The judge's findings of fact are not based on speculation, but upon a combination of those aspects of the appellant's evidence which he accepted and those aspects of the evidence which he

rejected. Thus, for example, it was an entirely legitimate inference for the judge to draw that any concerns expressed by the family about the appellant's maintenance of her relationship with Jonny was out of concern for her welfare, and not because her association with Johnny dishonoured the family.

24. A further criticism in the grounds of appeal is that the judge failed to engage with the appellant's account that her parents were opposed to the wedding, but eventually agreed to attend the wedding because she threatened to commit suicide if they did not. The judge was not bound to address every single facet of the evidence, and this particular piece of evidence did not change the landscape. Even if it was true, the fact remained that her father had eventually given way to the appellant's feelings and wishes, despite his better judgment. This is wholly inconsistent with her portrayal of her father as a controlling person who expected and commanded complete obedience from his adult daughter.
25. Finally, at paragraph 9 of the grounds of appeal the judge is criticised for not making a finding on the issue of the appellant returning as a single woman to Turkey with a child in utero. This is an entirely misconceived criticism, as the judge squarely addresses this question. The judge found that the appellant would not be returning to Turkey as a lone woman, but would be able to access the support of her family there.

Notice of Decision

The decision of the First-tier Tribunal did not contain an error of law, and accordingly the decision stands. This appeal to the Upper Tribunal is dismissed.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date **20 February 2015**

Deputy Upper Tribunal Judge Monson