



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

Appeal Number: AA/08017/2015

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision &  
Promulgated**

**Reasons**

**On 31 March 2016 and 23 June 2016**

**On 22 July 2016**

**Before**

**Mr H J E LATTER  
(DEPUTY UPPER TRIBUNAL JUDGE)**

**Between**

**AM  
(ANONYMITY DIRECTION MADE)**

**and**

Appellant

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

Respondent

**Representation:**

For the Appellant: Ms E Lagunju of Counsel, instructed by Howe & Co Solicitors (31 March 2016)

Ms S Panagiotopoulou, Counsel, instructed by Howe & Co Solicitors (23 June 2016)

For the Respondent: Mr D Clarke, Home Office Presenting Officer (31 March 2016)

Mr C Avery, Home Office Presenting Officer (23 June 2016)

**DECISION AND REASONS**

1. This is an appeal by the appellant against a decision of the First-tier Tribunal (Judge Telford) dismissing his appeal on asylum, humanitarian protection and human rights grounds against the respondent's decision made on 1 May 2015 to remove the appellant following the refusal of his claim for asylum.

## Background

2. In a brief outline the background to this appeal is as follows. The appellant is a citizen of Lebanon born on [ ] 1983. He entered the UK as a student in September 2011 and was granted leave to remain as a Tier 4 Migrant until 19 April 2015. However, in August 2014 his college's licence was revoked. On 21 November 2014 he made an appointment with the respondent claiming asylum on 1 December 2014. His application was refused for the reasons set out in the decision letter dated 1 May 2015. Although the appellant is a citizen of Lebanon, he was born in Libya, subsequently moving at a young age to Syria where he lived all his life prior to coming to the UK to study.
3. He claimed to be at risk in Syria because he was Druze and at risk of being killed by ISIS. He feared returning to Lebanon because his family did not own any property there, he had no relatives there and he would be homeless. He was also at risk of being treated as a Syrian because of his accent. The respondent was not satisfied that the appellant had a genuine fear of returning to Lebanon. He was not a Syrian national and his application was considered only on the basis of a return to Lebanon. In so far as the appellant claimed to be at risk because of his Syrian accent, it was the respondent's view that there was no risk in the light of the number of Syrians in Lebanon and the freedom of movement there. The appellant had claimed that he would not have a home or be able to work if returned to Lebanon but the respondent noted that he had studied and worked in the UK and had acquired skills and experience that would assist him on return. He had previously travelled from Syria to Lebanon and had found accommodation, albeit temporary, and therefore it was considered reasonably likely that he would have the knowledge to find accommodation and work on return. The respondent was not satisfied that there would be substantial grounds for believing that the appellant would be at risk of treatment contrary to articles 2 and 3 on return to Lebanon and that his return would be in breach of article 8.

## The Hearing before the Immigration Judge

4. At the hearing before the judge it was accepted at the beginning of the hearing [3] that this was no longer an asylum appeal but that the appellant would be relying on para 276ADE of HC 395 as amended, private life rights under article 8 and harsh treatment under article 3. The judge said that he did not find the evidence on the core issues of fear of harm to the appellant to be credible either as a person who had suffered any harm in Lebanon in the past or as a person at risk of harm in the future as a Druze or a Lebanese with a Syrian accent. The background evidence showed that the police and judicial systems in Lebanon had problems but there was no overall basis for claiming that there was no system in place for protection for Druze, with or without Syrian accents [6].

5. The judge commented on the fact that the appellant had made an application to come to the UK but had failed to mention any of the allegations he had later made in his asylum claim, which had now been withdrawn. He took into account s.8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 as the appellant had not made his asylum claim at the earliest opportunity when entering in the UK but only after three years of living and studying here. The judge found that this claim had been made not to have a right to live in the UK due to his private life but because the appellant knew as an educated, intelligent and resourceful person that it would delay his return to his country of nationality [8].
6. The judge found that the appellant's claim did not engage the Refugee Convention. He went on to consider humanitarian protection but found that there was no evidence of any risk of harm for any of the specified reasons [15]. He then went on to consider para 276ADE(1)(vi) which required the appellant to show that as an adult there were very significant obstacles to his integration into the country to which he would have to go if required to leave the UK. The judge commented that the appellant had failed even to come close to establishing that he would face such obstacles. He presented as a mature adult, 32 years of age with language skills in at least two languages, with family in or around Syria and the Lebanon, who would be prepared to help him, and as a person with evident intelligence and qualifications with a character, which included resourcefulness and strength of mind. He noted that the appellant's family had travelled from Syria to Lebanon in 2015 and stayed there before returning and that this practice had been repeated many times over the years to renew their visas. The judge found when considering article 8 that private life but not family life was engaged. However, this was undermined because he had a poor immigration history from early 2014 and had made a false claim for asylum in November 2014. Accordingly, his appeal was dismissed.

### The Grounds and Submissions

7. Permission to appeal was refused by the First-tier Tribunal but granted by the Upper Tribunal, UTJ McWilliam, commenting that there was an arguable Robinson point in that the decision to dismiss the appeal on asylum grounds and under articles 2 and 3 was inadequately reasoned.
8. The grounds essentially raise the following issues. They argue that the judge erred in law by failing to consider and assess article 3, failed properly to consider the documentary evidence in the round and had simply determined that the appellant was not at risk due to minor inconsistencies and so failed to apply the lower standard of proof. The judge had erred by concluding the appellant had made a false asylum claim. He had been unrepresented and it was only on obtaining legal advice that he no longer appealed the adverse asylum decision. He had

not deceived the authorities by making a false claim. In order to make an article 3 claim, so it is argued, he would have to go through the asylum route and he was therefore not deceiving the authorities. Finally, it is argued that the judge whilst referring to s.117B of the Nationality, Immigration and Asylum Act 2002 had not given any reasons why the appellant did not meet this section and finally, that the judge erred in law by completely failing to assess properly articles 3 and 8.

9. Ms Lagunju submitted that as the asylum claim had been withdrawn the judge had erred by making findings on that issue. Even so, he had failed to make any reference to the background evidence submitted and made no proper finding on the credibility of the appellant's claim, particularly in the light of the fact that he had never lived in Lebanon. The claim the appellant was seeking to put forward on article 3 grounds, that he would suffer discrimination and hardship on return, had not been properly considered, if at all. The issues set out in the skeleton argument and in the appellant's witness statements had, so she argued, not been properly recorded or dealt with. At the heart of the appellant's case was his claim that he would be at risk of serious ill treatment as a Lebanese returnee from Syria and would encounter the same ill treatment that Syrian refugees were currently exposed to in Lebanon.
10. Mr Clarke submitted that whilst it might be the case that the judge had not dealt fully with the appellant's article 3 case, that error would not be material as the evidence did not go nearly far enough to reach the high threshold for a breach of article 3. The judge had been entitled to draw an adverse inference from the fact that the appellant had made an asylum claim which had failed. His findings in relation to private life under para 276ADE were clearly open to him as were his findings under article 8.

#### Assessment of whether the First-tier Tribunal erred in Law

11. I must consider whether the judge erred in law such that his decision should be set aside. The argument put forward by the appellant under article 3 was that, given his identity as a Lebanese returnee from Syria with no links to Lebanon, he would be harassed, denied access to basic needs and stigmatised as a burden on the Lebanese authorities, all of which would be equivalent to inhuman and degrading treatment: see 2.6 of the skeleton argument produced at the hearing before the First-tier Tribunal. This refers to and relies on the documents produced in the appellant's bundle and in particular those at 32 - 56 dealing with the background situation in Lebanon.
12. These documents cover the period from December 2013 to September 2015 and include reports which are at least capable of supporting the appellant's claim: see for example Human Rights Watch - Lebanon: Rising Violence Targets Syrian Refugees 30 September 2014 at 73 to 84 and the Amnesty International Report, Syrian Refugees in Lebanon 21 May 2014 at 70 - 72. The appellant also set out in his witness statement dated 29

September 2015 his reasons for claiming that he would be at risk of ill treatment in Lebanon (see paras 11 - 17), which were supported to some extent by the statements of the two witnesses at 12 - 16 of his bundle. I am not satisfied that the judge dealt adequately with this evidence.

13. The judge recorded at [11] that the background evidence was before him and accepted by both sides but, when dealing with the appeal on humanitarian protection grounds, the judge simply said that there was no evidence of any risk of harm for any reason, which did not come within the Refugee Convention. When dealing with the claims under articles 2 and 3, the judge said that they were not made out as they stood or fell with the Refugee Convention claim, which had been found not to be credible [20]. However, this was an appeal where there was a distinct article 3 claim which did not necessarily depend upon the outcome of the claim under the Refugee Convention.
14. I am also satisfied that the evidence produced in support of the article 3 claim was relevant to the issue of whether the appellant would face significant obstacles in integrating into Lebanon and to a lesser degree with the question of interference to his private life. For this reasons I am satisfied that the judge erred in law either by failing to take relevant matters into account or by failing to give adequate reasons for his decision. The decision should accordingly be set aside. At the hearing before me Ms Lagunju submitted that if there is an error of law the appeal should go back to the First-tier Tribunal for a rehearing whereas Mr Clarke argued that the decision should be re-made in the Upper Tribunal. My view is that the proper course is for the matter to remain in the Upper Tribunal with the appeal being relisted to hear submissions on whether the appeal should be allowed or dismissed.
15. Following the directions made at the conclusion of the error of law hearing, the appellant filed a bundle of further evidence (2A) indexed and paginated 1 - 321 and relied on the bundle before the First-tier Tribunal (1A) indexed and paginated 1 - 115. Ms Panagiotopoulou submitted a skeleton argument dated 22 June 2016. She indicated that she did not intend to call any further oral evidence and that the appeal would proceed by submissions only. The background evidence primarily relied on by the parties is referred to in the summary of the submissions.

#### The Appellant's Witness Statement

16. The appellant in his statement dated 29 September 2015 confirms that he has never lived in Lebanon but only travelled there occasionally for the purpose of renewing his residency in Syria. After he left for the UK his family continued to travel back to Lebanon every six months. Most times they just crossed the border and then returned back to their home in Syria on the same day. On his last visit to Syria in July 2011 he witnessed the deterioration of the security situation and the escalation of violence there and following his arrival in the UK the situation in Syria continued to

deteriorate. He confirms that he speaks the Syrian dialect of Arabic and that he would be identified as a Syrian given the considerable time he has lived in Syria even though he is a Lebanese citizen. His identity would be determined in accordance with his dialect, values and lack of familiarity with Lebanon. He knows nothing about the country and would be singled out as non-Lebanese and subjected to ill-treatment.

#### The Witness Statements of RB and WS

17. RB is a Syrian national and a recognised refugee in the UK. The appellant is his maternal cousin. He confirms that the appellant speaks Syrian Arabic fluently but does not speak in the Lebanese dialect. He says that the appellant does not have any familial, cultural or social ties and would not be able to relocate in Lebanon. He would be treated as a foreigner there. In his statement WS, a British national originally from Syria, says that he is a friend of the appellant. He had always known the appellant as a Syrian and had never questioned his origins. The appellant had never mentioned that he was Lebanese. His mother is a full Syrian national and his father retained his Lebanese nationality by descent. He says that the appellant would be lost if he had to return to Lebanon where he has no one. He has no social, cultural or familial ties there. He says that in July 2013 his mother and brother visited Lebanon to make an application at the British Embassy for entry clearance to visit him in the UK but when they were identified as Syrians at the border, they were subjected to very poor treatment and harassment. He was told by his family that the Lebanese people are very hostile towards anyone they suspect to be Syrian.

#### Submissions on behalf of the Appellant

18. Ms Panagiotopoulou submitted that the appellant would be at real risk of treatment contrary to article 3 as he had never lived in the Lebanon even though he was a Lebanese national and had no family or social ties there. He would be perceived as a Syrian due to his Syrian accent and his lack of familiarity with and connections to Lebanon. As a Lebanese returnee from Syria, he would encounter the same ill treatment and discrimination that Syrian refugees were currently exposed to in Lebanon. He would be harassed, denied access to basic needs and stigmatised as a burden on Lebanese resources and thus be exposed to inhuman and degrading treatment contrary to article 3. In particular, she relied on the background evidence in 1A and to the International Organisation for Migration (IOM) "Refugees at Home - A Livelihoods Assessment of Lebanese Returnees from Syria - November 2014" at 1A, 32 - 53. This confirmed that many Lebanese returnees from Syria had Syrian accents and were seen by much of Lebanon's population as Syrian (59). There was evidence that there was an inability to access basic services, find employment or be accepted by other Lebanese people and that this was hampered by people's perceptions as they were seen by much of Lebanon's population as Syrian.

19. There was clear evidence, so she submitted, of an increased hostility in Lebanon towards Syrian refugees set out in the European Commission, Humanitarian Aid and Civil Protection report June 2015 at 1A, 67 – 69. The treatment of Syrian refugees in Lebanon was set out in the Human Rights Watch Report, “Lebanon: Rising Violence Targets Syrian Refugees”, 30 September 2014. This recorded that the authorities in Lebanon were failing to take adequate steps to prevent and prosecute increasing violence by private citizens against Syrians and that there had in some cases been attempts to expel Syrians from certain neighbourhoods and violent attacks against unarmed Syrians or those perceived to be Syrians by Lebanese citizens.
20. She further relied on the document at 2A, 1 – 106, “Unprotected Refugees”, prepared by the Lebanese Institute for Democracy and Human Rights, which records in the introduction that the Lebanese government considers the growing number of Syrian refugees in Lebanon to be a serious threat to the security, political, economic and social stability, as well as the job market and infrastructure in a country already struggling in all of these fields. It describes Syrian refugees as being trapped in a huge concentration camp named Lebanon. It records receiving many complaints from Syrian nationals about having been mistreated in Lebanese police stations and that the Lebanese government has issued a decision depriving Syrian refugees in Lebanon of the right to work. She referred to the IOM report, “Returnees at Risk: Profiling Lebanese Returnees from the Syrian Arab Republic Four Years into the Crisis”, 2015, at 2A, 261 and in particular to 268 setting out key findings including that despite being Lebanese citizens returnees’ economic status and living conditions more closely resembled those of displaced Syrians and that a significant portion of returnees faced difficulty accessing healthcare, 19% of households reported being unable to receive primary healthcare and 16% being unable to obtain secondary/specialised healthcare and hospitalisation.
21. She further submitted that if the appellant had to return to Lebanon he would be exposed to harassment and discrimination. His position would inevitably be precarious. Although he had travelled with his family regularly to renew his permit to live in Syria it had only been a day and in any event was before the influx of Syrian refugees. In addition, the appellant was a member of the Druze faith, a minority group regarded in Syria as being allied to the regime. The reality of the position was, so she submitted, that the appellant was Lebanese in name only and would be treated as if Syrian on return to Lebanon. She further argued that his situation was such that he could show that there would be very significant obstacles to him integrating into Lebanon and he therefore met the requirements of para 276ADE(1)(vi). If his claim could not succeed under article 3, he had a properly arguable claim under article 8.

#### Submissions on behalf of the Respondent

22. Mr Avery submitted that whilst the evidence showed very real problems faced both by the Lebanese authorities and refugees from Syria it would not establish that Syrian refugees were at risk of article 3 treatment in Lebanon. The reports referred to a number of incidents but these had to be looked at in the context of the number of Syrian refugees. However, the position of Lebanese citizens returning to Lebanon from Syria could not be equated with the situation of Syrian refugees. There may be some similarities in the difficulties they faced but no more. The two IOM reports relied on did disclose difficulties but not such as to approach the higher threshold required to establish a breach of article 3. Further, that report had to be read in the context of the findings at 295 where a large majority (86%) of Lebanese returnees describe their relations with Lebanese host communities as being either positive or very positive, 12% characterised their relations as neutral and 2% as negative or very negative. Mr Avery submitted that the appellant was unable to meet the higher threshold of showing a breach of article 3 and could not meet the requirements of para 276(1)(vi) nor were there any circumstances justifying further consideration under article 8.

### Assessment of the Issues

23. It is not in dispute that the appellant is a Lebanese national who has lived most of his life in Syria. According to the respondent's records the appellant last left Syria in September 2011 following a visit from July to September and was granted leave to remain as a Tier 4 Migrant. The appellant's case is that he came to the UK in 2006 and this is consistent with the Respondent's records that the appellant applied for a student visa in Damascus on 23 October 2006. He continued his studies until they were interrupted by his college losing its licence. The appellant claimed asylum on 1 December 2014 and his application was refused for the reasons set out in the detailed reasons for refusal annexed to the respondent's decision of 1 May 2015 refusing his application not only on asylum but also on humanitarian protection grounds, under the rules and under articles 3 and 8. It was the respondent's view that he had failed to establish that he would be at real risk of serious harm on return to Lebanon because of homelessness, his Druze faith, lack of work or how he would be treated because of his Syrian accent.
24. The respondent referred to the Lebanese Constitution and the fact that this protects against arbitrary arrest or detention and provides protection for private ownership and the right to be secure in one's own domicile. It also guarantees religious freedom, freedom of education, freedom of speech, association and freedom of the press. It was the respondent's view that the appellant would not suffer mistreatment because of having a Syrian accent and, although he claimed he would not have a home on return to Lebanon, he would be offered information about the Assisted Voluntary Return scheme and, in any event, he had travelled regularly from Syria to Lebanon and found accommodation, albeit temporary. It



was also the respondent's view that he had failed to demonstrate that the authorities in Lebanon would be unable or unwilling to offer him protection if he sought it.

25. The appellant has based his claim primarily on the fact that he would be at risk of discrimination and ill-treatment as a Lebanese returnee from Syria and as he has a Syrian accent he will be perceived and treated as a Syrian.
26. It is clear from the background evidence that the Lebanese authorities are having to cope with a substantial influx of Syrian refugees and the problems have been highlighted by Ms Panagiotopoulou in her references to the country evidence. The fact that there are problems is understandable as according to a report from the Washington Times 13 May 2014, 1A, 64, Lebanon has more refugees in need of humanitarian aid than international agencies can accommodate and the situation is worsening as Syrians enter the country to escape civil war. It is reported that refugees account for one third of Lebanon's 4,430,000 people, straining the finances and resources of the host country and aid agencies such as the World Food Programme and the UNHCR. This is confirmed by the European Commission report at 1A, 67 recording that Lebanon, as the neighbouring country, is hardest hit by the Syrian crisis, having more than 1,100,000 Syrian refugees which, combined with the other refugee communities there, makes it the country with the world's largest number of refugees per capita.
27. The situation in Syria has led to Lebanese nationals resident there returning to Lebanon. The Displaced Lebanese report of September 2015 says that Lebanese returnees are referred to the Lebanese government's High Relief Commission (HRC) and the IOM. They have been working with various local international NGOs to assess where returnees are located and what their needs are. In a report about the situation released in December 2013 it was estimated that the true number at that time was around 29,000 individuals and it was projected that there would be 50,000 returnees by the end of 2014. The most recent evidence relating to the returnees is in the IOM report 2015 at 2A, 261, which, whilst setting out the difficulties faced by the authorities in Lebanon and the problems faced by returnees, does not support an argument that Lebanese returnees generally are at real risk of treatment contrary to article 3.
28. If anything the situation, although bleak, has improved. At 2A, 292 it is recorded that in 2013 when returnees were first registered by HRC and IOM 84% of households said they had not received any type of assistance since arriving in Lebanon whereas in 2015 by contrast, fully half of Lebanese returnee households reported receiving some form of humanitarian assistance within the previous three months. The setting up of a registration system described in this report in itself is evidence that the HRC and IOM are attempting to identify the needs of returnees. It is also significant in the light of the appellant's fears that he would be

regarded as a Syrian and treated accordingly that Lebanese returnees taken into consideration in the report showed a large majority describing their relations with their Lebanese host communities as being either positive or very positive. The evidence therefore does not satisfy me that the situation for Lebanese returnees generally is such that there are substantial grounds for believing that they are at risk of treatment contrary to article 3. The background evidence, when considered as a whole, does not substantiate the concerns expressed by the appellant and his witnesses as set out in their statements.

29. Further, I am not satisfied that there are any specific factors relating to the appellant which would put him at risk. He has been in the UK since 2006 and has been studying. The fact that he has been studying as a foreign student indicates that he must have been receiving financial support from his family. He accepts this but makes the point that in the light of the current civil war in Syria he no longer receives such support. Nonetheless, he would be returning to Lebanon as someone who has been educated and to that extent he is in a better position than a Lebanese returnee with no qualifications.
30. The appellant has also relied on the fact that he is a member of the Druze religion but I am not satisfied that there is any risk of treatment under article 3 in this context. There is some evidence in the background documents about Druze being killed in the Syrian conflict, 1A, 97, and further articles about the risk to Syrian Druze in 2A, 227 - 240, but the fact remains that the Druze are an established community in Lebanon and there is no cogent evidence before me to show that this factor would put the appellant at risk there.
31. It is further argued that the appellant would face very significant difficulties in integrating into Lebanon and therefore meets the requirements of para 276ADE(1)(vi). Whilst I accept that there will be problems, I am not satisfied that they can be categorised as very significant in the light of the evidence, particularly in the IOM report, and the procedures which have been set up by the Lebanese authorities to register returnees with a view to providing them with at least basic assistance. There is no reason to believe that the appellant would have any difficulty in establishing his citizenship as he holds a Lebanese passport or that he would be unable to access the assistance being offered by the Lebanese authorities.
32. In respect of article 8 I accept that removal would interfere with his private life but I am not satisfied that there are any compelling circumstances not covered by the rules which would justify further consideration under article 8 or, taking into account the provisions of s.117B of the 2002 Act, support an argument that in his particular circumstances removal would be disproportionate to a legitimate aim.

33. In summary, the evidence fails to satisfy me that there are substantial grounds for believing that the appellant would be at risk of treatment contrary to article 3 on return to Lebanon. He does not meet the requirements of para 276ADE and there is no basis on which his claim can succeed under article 8 outside the rules.

Decision

34. The First-tier Tribunal erred in law and its decision is set aside. I re-make the decision by dismissing the appeal on all grounds. No application has been made to vary or discharge the anonymity order made by the First-tier Tribunal and accordingly it remains in force.

Signed H J E Latter

Date: 21 July 2016

Deputy Upper Tribunal Judge Latter