



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

Appeal Number: HU/13654/2015

THE IMMIGRATION ACTS

Heard at Field House

On 12th January 2018

Decision & Reasons

Promulgated

On 6th February 2018

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MRS FATMA TURK
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr S Kotas (Senior Home Office Presenting Officer)

For the Respondent: Mr R Chowdhury (Counsel)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Secretary of State in relation to a Decision and Reasons of Judge Majid promulgated on 1st June 2017 after a hearing on 24th April at Taylor House. The Appellant before Judge Majid is a citizen of Turkey and she appealed a Decision to refuse her leave to enter to join her husband, who is in the UK under the terms of the standstill provisions in the Ankara Agreement.
2. The Secretary of State relies in part on a Decision by the Vice President and others of this Tribunal where several Decisions by this particular Judge

were looked at and found severely lacking. They also refer to his reasoning being inadequate.

3. Mr Chowdhury argued with some force that this is not a Decision which is without engagement with the evidence or analysis or findings and that it does not contain misdirections of law because the Judge set out the law he is applying.
4. At paragraph 3 the Judge says:

“I put on record that in considering this appeal I shall bear in mind the legal provisions of the relevant paragraphs of the Immigration Rules, HC 395 (as amended). They are detailed but I have borne every provision of these paragraphs in mind meticulously during the assessment of the Appellant’s case. I am taking into account all of the relevant law including the recent changes in the Immigration Acts 2014 and 2016.”

The Judge says that but nowhere does he specify precisely what it is he is looking at and finding. He makes no mention of Section 117B of the Immigration and Asylum Act 2002. This is a human rights appeal and the Judge is required by Section 117 to take certain matters into account and he ignores that completely. Notwithstanding that he says he has taken all relevant law into account he plainly has not.

5. Again, notwithstanding Mr Chowdhury’s submissions I cannot agree that this Decision and Reasons contains an analysis of the evidence. It simply says “I accept what has been said” and in terms of the balancing exercise, quite frankly, there is not one and as in other Decisions by this particular Judge there are rambling statements which go to a political view which have no place in a judicial Decision.
6. Furthermore, at paragraph 17 the Judge says:

“A review of all of the evidence adduced by the Appellant convinces me that the appeal should be allowed. Wherever one feels that the case misses the point marginally the judicial discretion should help in light of the factors detailed in paragraph 12 above.”

That is a clear misdirection. There is no such thing as a near miss. He has to carry out a balancing exercise starting through the lens of the Rules and taking into account Section 117. He does none of that.

7. I therefore set the Decision aside in its entirety and remit it to the First-tier Tribunal for a full rehearing in front of a different Judge.

Notice of Decision

The appeal is allowed to the extent that it is remitted to the First-tier Tribunal for a full rehearing on all issues.

No anonymity direction is made.

Upper Tribunal Judge Martin

2nd February 2018