



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/04460/2017

THE IMMIGRATION ACTS

Heard at HMCTS Employment Tribunal Liverpool
On 28 August 2018

Determination Promulgated
On 10 September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE O'RYAN

Between

NK
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Greer, Counsel, instructed by Broudie Jackson Canter
Solicitors

For the Respondent: Mr C Bates, Senior Home Office Presenting Officer

DECISION AND REASONS

- 1 The appellant, a Palestinian refugee born in Lebanon, appeals against the decision of Judge of the First-tier Tribunal Siddiqi dated 26 February 2018, in which the Judge dismissed the appellant's appeal against the respondent's decision of 25 April 2017 refusing his protection and human rights claim.

- 2 The appellant was born in Lebanon in 1969 as the son of a Palestinian refugee, but moved to Dubai with his family in 1975. The appellant studied and completed a degree in Dubai. The appellant returned to Lebanon in 1990/1991. He undertook some further studies and found work. He entered into a relationship with a Lebanese national (the appellant's wife, a dependent on the present appeal). The appellant remained in Lebanon until approximately 2007 when he found work in Dubai. His wife gave birth to twins in Lebanon, and all three joined the appellant in Dubai in 2008. A further child was born in Dubai. The appellant's employment in Dubai was discontinued in 2016, and he applied for and obtained entrance to enter the UK as a visitor. They entered on 8 June 2016 and claimed asylum at Heathrow airport.
- 3 The appellant claims to fear serious harm in Lebanon as a result of the discrimination which exists in Lebanon against Palestinian refugees. He cited three incidents in particular to suggest that he was at risk of serious harm. The appellant also argued that he was at risk of serious harm from his wife's family, who were said to have disapproved of their marriage. The respondent rejected the application for protection.
- 4 The appellant's appeal came before the Judge on 29 January 2018, and he and his wife gave evidence before the Judge. The appellant also argued that in addition to the above matters, their children would, as Palestinian refugees in Lebanon, face such levels of discrimination, in particular in relation to accessing education and health care services, so as to amount to persecution of the children.
- 5 In her decision, the Judge found that the three incidents relied upon in the appellant's account did not amount to persecution [19]-[24], and that the appellant did not face serious harm from his wife's family [25]-[31]. There is no challenge to the Upper Tribunal in relation to those findings. It is also to be noted that in the appellant's initial notice of appeal dated 10 May 2017 bringing the appeal against the respondent's decision, there is no reference to Article 8 ECHR, and Mr Greer, appearing for the appellant in the First tier, did not seek to rely on any argument involving Article 8 (see the decision at [8]).
- 6 The Judge considered the appellant's argument that the discrimination faced by the children would amount to persecution at [34]-[36]. The Judge referred to existing Country Guidance on conditions for Palestinian refugees in Lebanon in the cases of KK IH HE (Palestinians, Lebanon, camps) Palestine CG [2004] UKIAT 00293 and MM and FH (Stateless Palestinians, KK, IH, HE reaffirmed) Lebanon CG [2008] UKAIT 0001. The Judge also referred to a country expert report by Dr Alan George dated 13 June 2017, submitted in the present appeal.
- 7 The Judge noted at [35(a)] that when the appellant had lived in Lebanon, he had not lived in a refugee camp and there was no evidence before her to suggest that he or his children would be required to do so upon their return.

- 8 The Judge concluded at [36]: “I am not persuaded that the situation in Lebanon for Palestinian refugees has changed significantly since (KK IH HE) was promulgated and in reaching this decision, I take into account that there is a similarity in the evidence before that Tribunal on issues such as education (paras 88-89) to the evidence before me and that in MM and FH, but tribunal reaffirmed KK IH HE. I accept that the appellant’s children will not be able to access public education or healthcare and accept this means they are discriminated against by the authorities in Lebanon, but I am not persuaded that they would not be able to access education and/or healthcare services, taking into account that these services are provided by UNRWA. There is a paucity of evidence before me regarding the position of Palestinian refugees who do not live in the camp. I am not persuaded that Palestinian refugees who don’t live in the camps are effectively in a worse position than those who live in the camps... The appellant has not established that his children will be treated in a manner that amounts to persecution under the refugee Convention.”
- 9 The appellant appeals on grounds, in summary, that the Judge erred in law in:
- (i) failing to acknowledge that the previous country guidance cases dealt with adult appellants, had thus were of limited application to the assessment of the likely circumstances facing the appellant’s children on removal to Lebanon;
 - (ii) had failed to take into account a material change of circumstances since such cases were reported, in particular, the influx of refugees due to the Syrian civil war;
 - (iii) appearing to make contradictory findings, referring to evidence that the United Nations Relief and Works Agency for Palestine Refugees in the Near East (‘UNRWA’) could not meet all the education needs of an increasingly young population, but appearing to find that the education needs of the appellant’s children would be adequately met by UNRWA.
- 10 Permission to appeal was granted by Upper Tribunal Judge Rimington on 26 June 2018.
- 11 I heard submissions from the parties. Mr Greer took me to the relevant parts of the previous Country Guidance cases as to the extent, which he said was limited, that they considered education facilities for Palestinian refugees in Lebanon, and he asserted that that issue was not the primary focus of the Tribunals. Further, he took me through various passages in Dr George’s report regarding the effect of the Syrian Civil War and the influx of refugees into Lebanon. He also addressed me on the alleged inconsistent finding by the First tier Judge.
- 12 For his part, Mr Bates replied, citing extracts of Mr George’s report which painted a somewhat different picture to that portrayed by the appellant, such that the overall picture was not significantly different now to the situation as it was in 2004 and 2008 respectively when the earlier cases were decided, and thus the Judge did not err or misdirect herself in any way when referring to the previous Country Guidance cases.

Discussion

- 13 In relation to the appellant's first ground, I am satisfied that the Judge was entitled to treat as her starting point the Tribunal's consideration of the circumstances prevailing for Palestinian refugees in Lebanon as considered in KK IH HE and MM and FH. Notwithstanding that the appellants in those cases did not appear to have dependent children, the education facilities available for Palestinian refugees in Lebanon was clearly considered by the Tribunals in those cases, and I treat the Country Guidance given within the cases, as being of general application, and not limited to adult appellants only.
- 14 As regards the appellant's submission that's the Judge had failed to take into account an influx of refugees into Lebanon following the Syrian Civil War which commenced in 2011, it is right to note that the Judge does not make direct reference to the effect of that war on the pressure on resources within Lebanon, or what difference, if any, it has made to the availability of education or healthcare services to Palestinian refugees in Lebanon.
- 15 However, I find for the following reasons that there was no material error in the Judge failing to set out the evidence regarding the effect of the Syrian Civil War on circumstances prevailing in Lebanon.
- 16 It is clear that the Judge has had regard to Dr George's report, referencing it on a number of occasions in her decision, and quoting, at e.g. [35(a)-(d)], a variety of evidence cited within the report.
- 17 As regards the evidence which Mr Greer specifically drew to my attention as to the effect on the situation for Palestinian refugees in Lebanon, I note the reference in the report at [61]- [62] that as of May 2016 there were over 1.1 million Syrian refugees in Lebanon, and 42,000 Palestinian refugees previously resident in Syria (referred to as 'PRS' in the remainder of the report). At [63], (top of page 27 of the appellant's bundle), evidence quoted within the report suggests that while UNHCR has provided massive support to the Syrian refugees generally, the task of providing aid to PRS lies almost solely on UNRWA. It therefore appears to be appropriate to consider in particular the pressures placed on UNRWA by the influx of PRS, as opposed to the pressures placed on UNHCR by the wider Syrian refugee population in Lebanon.
- 18 At [72] the report cites evidence that 452,669 Palestinian refugees were registered with UNRWA as at 1 January 2015, while a further 40,465 were eligible for some assistance, giving a total of 493,134. However, the report itself seems to acknowledge the a distinction is to be made between the numbers registered, and those Palestinian refugees actually present and resident in Lebanon, which at December 2010 was estimated to be between 260,000 and 289,000. Therefore, by my estimate, the influx, by May 2016, of an additional 42,000 PRS, compared with the numbers of Palestinian refugees resident in Lebanon in December 2010, represents a 14% increase.

Alternatively, such influx would represent an increase of about 8.5% increase on those registered or eligible for assistance in January 2015.

- 19 Further, as Mr Bates points out, evidence quoted in the report at [92], from the US State Department's Country Reports on Human Rights Practices for 2016 (published 3 March 2017), was that UNRWA's verification exercise in late summer (presumably 2016) found that there were approximately 30,000 PRS recorded with the agency, which reflected a decrease of more than 10,000 PRS in the country over the previous 12 months. Again, by my estimate, this 30,000 PRS figure would represent an increase of approximately 10% over the December 2010 figure of Palestinian refugees resident in Lebanon, or a 6% increase in the January 2015 figure of those registered or eligible for assistance with UNRWA. I find that these are not dramatically different figures.
- 20 Further, as Mr Bates points out, at [93] of the report, even some persons not registered with either UNRWA or the government in Lebanon, were nonetheless in most cases provided by UNRWA with primary health care, education, and vocational training services (appellant's bundle page 38). Further, although Dr George's report clearly sets out tensions between the pre-existing Palestinian refugee population in Lebanon, and the incoming PRS refugee population, and observes that the financial assistance to PRS refugees in Lebanon has been reduced from \$30 per person per month to \$27 per person per month, I find that even if the Judge had descended in her analysis to look at the figures in the way that I have above, she would not have found any significant difference in the overall provision of education or healthcare services for Palestinian refugees in Lebanon such that the cases of KK IH HE and MM and FH should not be treated as relevant country guidance. The fact that the Judge did not consider the figures brought to my attention by Mr Greer did not amount to a material error of law.
- 21 Further and in any event, the Judge also noted that the appellant's circumstances were not typical in any event, in that he had not lived in a refugee camp in Lebanon before, and there was no evidence to suggest that he or his children would be required to do so upon the return; the appellant had received some education in Lebanon and was well educated; both he and his wife had worked in Lebanon and Dubai previously and as such have acquired work experience; and the Judge proceeded on the assumed basis, not disputed before me, that the appellant had at some point in his life been able to access healthcare whilst living in Lebanon.
- 22 Finally, I find no contradiction in the Judge reciting evidence that "UNRWA runs 74 schools across Lebanon and two vocational education centres that cannot meet all the needs of an increasingly young population', but then found at [36] that she was not persuaded that the appellant's children would not be able to access education and author healthcare services, taking into account that the services are provided by UNRWA. The fact that a government or an international agency such as UNRWA may not be able to meet all of the educational needs of a certain population, does not of itself mean that the recipients of the educational services actually existing are being discriminated against to a level crossing the threshold into persecution. In any event,

there was no suggestion that any of the appellant's children had any particular special educational need which could not be met by UNRWA in Lebanon. Although Mr Greer suggested that he recalled that one of the appellant's children had a hearing problem, no evidence on this issue was ultimately drawn to my attention.

Decision

- 23 I find that the Judge's decision did not contain any material error of law.
- 24 The appellant's appeal is dismissed.

Signed:

Date: 6.9.18



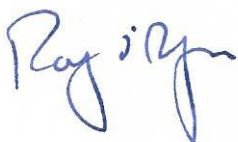
Deputy Upper Tribunal Judge O'Ryan

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

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

Signed:

Date: 6.9.18



Deputy Upper Tribunal Judge O'Ryan