



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002658
First-tier Tribunal No:
PA/51367/2021
IA/03803/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 11 April 2023

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

SK
(Anonymity Order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Radford, instructed by Turpin Miller LLP
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

Heard at Field House on 20 February 2023

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing her appeal against the decision to refuse her protection and human rights claim.
2. The appellant is a national of Algeria born on 26 March 1976, from Annaba. She arrived in the UK on 15 August 2015 on a six month business visa valid until 3 February 2016. She claimed asylum on 21 March 2019 and attended an initial, screening interview. She was interviewed substantively about her claim on 5 February 2021. Her claim was refused on 11 March 2021 and she appealed against that decision.
3. The basis of the appellant's claim is that she feared her ex-husband whom she had met through his sister who worked with her at a cosmetics company. She was married in 2014 and her husband started being violent towards her from the end of that year. She became pregnant. She managed to get a business visa for a trip to the UK which

she had earned through her work. Her husband attacked her when she went to the consulate in Algiers to sort out her visa on 26 July 2015 and she reported the incident to the police who recorded the opposite to what she had said. When she returned to her home area she went to stay with her mother. She never went anywhere without her mother and sister because her husband was threatening her. She flew to the UK on the visa obtained through her employment and returned to Algeria after a week and returned to her mother's house. Her husband continued to threaten her and went to her father to try to get her to return to him. Her father and brother told her to return to her husband, but she did not. Since her visa for the UK was a multi-entry visa she was able to return to UK. She did not realise that she was able to claim asylum. She stayed with her brother and gave birth to her son in the UK. Her mother applied on her behalf to divorce her husband through a power of attorney. She found out that her husband had made a complaint to the police that she had kidnapped his son. Her brother wanted her to return to Algeria so she left his house and found work and subsequently claimed asylum. She believed that her husband would kill her if she returned to Algeria. He had influential relatives who worked for the government and the army.

4. The respondent, in her letter of 11 March 2021 refusing the appellant's claim, did not accept her account of her divorce and her issues with her ex-husband. The respondent did not accept that the appellant would have problems as a divorced woman in Algeria, since her own mother was divorced and was able to live there without problems. The respondent noted that the background country information showed that divorce was common in Algeria and considered that being divorced would not place the appellant at a social disadvantage. The respondent noted the three and a half year delay in the appellant making her asylum claim and considered that that adversely affected her credibility. The respondent did not accept that the appellant had a genuine subjective fear on return to Algeria and considered that even if she did, there was a sufficiency of protection available to her from the Algerian authorities. The respondent considered further that the appellant could safely and reasonably relocate to another part of Algeria such as one of the main cities and that support would be available to her. There was no evidence to suggest that her ex-husband would be able to locate her. She could return to live with her mother and could receive support from her mother and through employment. The respondent therefore considered that the appellant would not be at risk on return to Algeria and that her removal to that country would not breach her human rights.

5. The appellant appealed against that decision and her appeal was heard in the First-tier Tribunal on 21 February 2022 by Judge Courtney. The appellant gave oral evidence before the judge. The judge had before her evidence of the appellant's divorce on 18 January 2016 and accepted that evidence. The judge did not accept that divorced women in Algeria formed a particular social group and did not accept that the appellant would be at risk of persecution on such a basis. However she accepted the appellant's account of the problems she experienced with her husband including the incident when she was attacked at the consulate in Algiers, and she believed that the appellant remained at risk from her husband in her home area of Annaba. The judge found that there was no sufficiency of protection available to the appellant in her home area, but she found that the appellant could relocate to another part of the country where her husband would not be able to locate her. She accepted that the appellant would not have support from her male family members but she considered that she would be supported by her mother and sister. She considered that it may be possible for the appellant to reside temporarily in a shelter whilst she looked for work and long-term accommodation in her place of relocation. The judge found further that there was no objective evidence before her appertaining to the current economic climate in Algeria or any absence of job opportunities there and considered that there

was no evidence to show that the appellant would not be able to obtain employment and pay for accommodation and childcare. The judge noted the absence of any evidence to suggest that the appellant's son would be disadvantaged by the respondent's decision and she concluded that it would not be unduly harsh for the appellant to re-establish herself in a large city such as Oran or Constantine. The judge found further that the appellant could not meet the requirements of the immigration rules on the basis of her family and private life and that there were no compelling circumstances outside the rules. She found that the appellant's removal would not breach her human rights and she accordingly dismissed the appeal on all grounds.

6. The appellant sought permission to appeal against that decision to the Upper Tribunal, challenging the judge's findings on internal relocation and Article 8. Permission was granted in the First-tier Tribunal on all grounds, but primarily with regard to the first ground. The respondent filed a rule 24 response opposing the appeal. Mr Melvin produced a skeleton argument for the hearing.

7. The matter then came before me and both parties made submissions. I shall address the submissions in the discussion which follows.

Discussion

8. Ms Radford raised three challenges under the first ground. The first was that the judge's finding at [76], that there was no objective evidence before her appertaining to the present economic climate in Algeria or any absence of job opportunities there, was unsupported by the evidence and was irrational. Ms Radford took me through the country information before the judge and submitted that that evidence provided detailed information about the high unemployment rate in Algeria and the limited employment opportunities available to women in particular. However, as Mr Melvin submitted, that country information was not current or even recent. The Landinfo report referred to by Ms Radford was dated March 2018 and the other reports in the appeal bundle were similarly several years old. Judge Courtney clearly gave careful consideration to the evidence available to her, quoting from several of the reports, and was perfectly entitled to consider that there was little if any objective evidence of the current situation in Algeria. There was nothing irrational about such a conclusion.

9. As for the evidence of the appellant's ability to find accommodation, Ms Radford submitted that the judge failed to explain why she concluded that the appellant would not be destitute, given the reports in the country information about the severe housing shortage and the problems in particular for lone single women. However, again, the country reports relied upon by the appellant largely dated back several years, as did the sources relied on by the country expert Ms Pargeter, to which the judge referred and indeed specifically cited at [70] to [72]. The grounds criticise the judge for saying at [74] that it *may* be possible for the appellant to reside temporarily in a shelter", asserting that she misdirected herself on the standard of proof. However that was simply part of the judge's overall assessment of the evidence and of the appellant's ability to accommodate and support herself and her son, which was undoubtedly undertaken to the correct standard of proof.

10. Having given full and detailed consideration to all the evidence, including the expert report and the country reports, the judge assessed the appellant's evidence of her own circumstances against that background and made appropriate findings. She found that the appellant could obtain emotional support from her mother and sister, that she had a reasonable level of education and that she had marketable employment skills which would enable her to find employment and pay for accommodation and childcare for her son. As Mr Melvin submitted, the appellant's own

evidence was that she had worked in Algeria after leaving school and had achieved a sufficiently senior position in a recognised cosmetics company as to have been sent to the UK on a business trip. Her evidence was, further, that her mother, also a divorcee, was employed, as was her sister, and it was therefore entirely open to the judge to find that the appellant would be able to find work and accommodate and support herself and her son in one of the large cities in Algeria.

11. Accordingly, I find nothing of substance in the challenges made in the appellant's first ground of appeal. Ms Radford's submissions were essentially an attempt to re-argue the case and a disagreement with the judge's conclusions on the evidence, whereas the judge's decision was reached upon a detailed and careful assessment of all the evidence and supported by cogently reasoned findings open to her on that evidence.

12. As for the second ground, challenging the judge's decision on Article 8, I find that to be equally lacking in merit. Indeed, the First-tier Tribunal, in granting permission, found that ground less persuasive than the first. The challenge was to the judge's failure to consider that the appellant's Article 8 rights would be breached on the basis of her inability to form a non-platonic relationship in Algeria without losing custody of her son. However, as Mr Melvin submitted, that was not a matter argued before Judge Courtney and I reject the suggestion by Ms Radford that it was something the judge should have considered in any event. As Mr Melvin submitted, such an argument was entirely speculative and it was not a matter upon which the judge could, or ought to, have made findings, particularly when it was not raised before her. Whilst the appellant's evidence made reference to her being informed that her ex-husband had complained about her abducting their son, there was no evidence to suggest that he had challenged custody being granted to her or that he had made any attempt to claim custody of their son or would do so in the future. There is therefore no merit in this ground of appeal. The judge's findings on Article 8 were fully and properly made on the evidence before her.

13. For all of these reasons I find no errors of law in Judge Courtney's decision. The grounds are without any merit. The judge made fully and properly reasoned findings on the evidence before her and was entitled to reach the conclusions that she did. I uphold her decision.

Notice of Decision

14. The making of the decision of the First-tier Tribunal did not involve an error on a point of law requiring it to be set aside. The decision to dismiss the appeals stands.

Anonymity

The First-tier Tribunal made an order pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal)(Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

21 February 2023