IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: **UI-2024-001554**

First-tier Tribunal No:
PA/00921/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 20th of June 2024

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

S A
(anonymity order made)

Appellant (in the FtT)

and

S S H D

Respondent (in the FtT)

For the Appellant: Ms J Elliott-Kelly, counsel instructed by K B P Law LLP
For the Respondent: Ms S Nwachuku, Senior Home Office Presenting Officer

Heard at Field House on 18 June 2024

DECISION AND REASONS

1. This decision refers to parties as they were in the FtT.

2. FtT Judge Wolfson allowed the appellant's appeal by a decision promulgated on 20 March 2024, having found very significant obstacles to the appellant's (re)integration in Cameroon.

3. The SSHD applied for permission to appeal to the UT.

4. These are the grounds: …

> a)… the FTTJ's findings as to why the appellant cannot return to Cameroon without experiencing very significant obstacles has been inadequately reasoned against the facts established, which amounts to a material error of law.
>
> b) The FTTJ has rejected the appellant's claims made on protection grounds [18-23], which the SSHD endorses, however, they have found that she cannot return to Cameroon due to her mental health struggles and what they believe to be a lack of support network [24-27].
>
> c) … these findings have not been made out, for the fact that she remains in regular contact with her sister, who also looks after the appellant's daughter [22] and it has not been shown why she cannot receive support from them on return. The FTTJ's speculation that her sister may have been involved with her journey to the UK is inappropriate, as this is not something the appellant has claimed and it does not make sense if the sister continues to remain in contact and look after the appellant's daughter on her behalf when claiming her family have disowned her.
>
> d) The sister works in hairdressing [22], which the appellant could learn with her tutelage, or at the very least benefit from the practical, financial and emotional support from her and her own daughter, which will help in obtaining treatment and rehabilitation. The expert reports do not address this scenario, as the passages quoted are based on the appellant returning independently [25-26]. There is also no consideration of the fact she has no support network in the UK other than from medical facilities, which she can obtain in Cameroon, and the benefits she will have being reunited with her daughter.
>
> e) The finding that she is at risk of being re-trafficked [26] also contradicts their earlier finding that she is not in need of international protection, which undermines the overall decision.
>
> f) … the FTTJ's conclusion and decision to allow the appeal has been inadequately reasoned.

5. FtT Judge Grimes granted permission on 9 April 2024: …

> 3. It is arguable that the finding that the appellant would face very significant obstacles integrating in Cameroon and therefore meets the requirements of paragraph 276ADE is inconsistent with the finding that the appellant has not established a well-founded fear of persecution in Cameroon or that she can internally relocate there.
>
> 4. In particular the finding in the context of Article 8 that the appellant is at risk of re-trafficking [26] is inconsistent with the earlier findings on asylum [18].
>
> 5. The finding that the appellant is vulnerable with mental health issues, faces a significant risk of self-harm on return, would remain isolated and without family support apart from her sister and at risk of re-trafficking and destitution [25] is arguably inconsistent with the earlier finding that she could internally relocate to be with her sister and daughter [22].

6. Ms Nwachuku elaborated on the grounds. Her overall point was that the conclusions on protection contradicted the findings on integration and article 8, and so the respondent had no satisfactory explanation of the

outcome. She asked for the decision to be set aside and retained in the UT for remaking.

7. Ms Elliott-Kelly pointed out in course of her submission, and Ms Nwachuku acknowledged, that the second part of ground (c) is wrong. The decision contains no such speculation.

8. The principal lines advanced for the appellant were that the Judge correctly directed herself on how to approach the article 8 issues; the SSHD did not suggest otherwise; the matters which the SSHD stressed as showing ability to integrate were all acknowledged in resolving that issue; the challenge was in effect one of irrationality, a highly elevated threshold; the outcome was within the range of reasonable views, where the UT should refrain from intervention; and the grounds were only re-litigation.

9. On apparent inconsistency between the findings under protection and human rights headings, Ms Elliott-Kelly made an interesting submission. She said that the decision should be read as a whole, without excessive legalism. The paragraph on internal relocation was brief, or even cursory, because the Judge had by that stage rejected the protection claim, and the matter was hypothetical. The Judge decided on internal relocation only on physical ability to move, rather than undue harshness. If she had fully applied the test, she would have come to the same conclusion as on integration. She accepted my observation that while the tests are different, the overlap is large, and it might be difficult to conjecture cases which succeed on one but not the other. However, she said that it was legitimate at [26] to take account of matters by which the appellant fell short of a protection claim but which still had weight in an overall human rights assessment, including risks of re-trafficking and of discrimination.

10. I reserved my decision.

11. If the findings on integration stood alone, the rebuttal for the appellant might have shown that the grounds resolve into mere re-litigation. However, despite the creative and skilful analysis of Ms Eliott-Kelly to the contrary, I find that the SSHD makes a fair complaint of self-contradiction. The findings from [18 -22] of no risk of persecution for any of the reasons claimed cannot be reconciled with the finding at [26] of a risk of re-trafficking. A risk which does not reach the lower standard for a protection claim does not bear on integration. The finding at [22] of ability to relocate to Douala is brief, but it evaluates the degree of difficulty involved. There is no reason to think it is not based on the undue harshness test. This cannot stand alongside the article 8 analysis in favour of the appellant at [25 – 26]. One or the other might be within the tribunal's reasonable scope, but not both in the same decision.

12. Although it was not disputed that the conclusions on protection should remain, I agree with the suggestion for the appellant that the extent of remaking is such as should be conducted in the FtT. (The appellant has

filed an application to admit further evidence, which points to a need to update the psychiatric reports.)

13. The decision of the FtT is set aside, other than on the protection claim , and as a record of what was advanced in the FtT. The case is remitted for hearing by another Judge.

14. I am obliged to both representatives for their helpful submissions.

15. The FtT made an anonymity order. Anonymity is maintained, pending further order by a tribunal or court, pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to her. Failure to comply with this order could amount to a contempt of court.

Hugh Macleman

Judge of the Upper Tribunal
Immigration and Asylum Chamber
18 June 2024