



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004974

First-tier Tribunal No: PA/50256/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:

on 24th of January 2025

Before

UPPER TRIBUNAL JUDGE HOFFMAN
DEPUTY UPPER TRIBUNAL JUDGE ANZANI

Between

A.B.
(ANONYMITY ORDER MADE)

Appellant

-and-

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N. Ahmed (Counsel), instructed by RN Solicitors

For the Respondent: Ms S. Rushforth, Senior Home Office Presenting Officer

Heard at Field House on 16 December 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The appellant, who is a citizen of Georgia, appeals with permission against the decision of First-tier Tribunal Judge Reed promulgated on 20 August 2024 dismissing her appeal against the respondent's decision dated 22 December 2023 refusing her protection and human rights claim.

2. The First-tier Tribunal made an order granting the appellant anonymity. No application has been made to set aside that order. While we take into account the strong public interest in open justice, we continue the anonymity order on the basis that the appellant's claim relates to a fear of persecution in her home country and, for that reason, the balance weighs in favour of protecting her identity.

Background

3. The appellant arrived in the UK clandestinely in December 2020, aged 18. She claimed asylum on 14 October 2021.
4. The basis of the appellant's protection claim is that she is the victim of sexual abuse and she fears harm on return to Georgia from both her former abuser and her grandfather, with whom the appellant had been living before fleeing the country.
5. The appellant and her younger brother had lived with their grandparents in Georgia after their mother migrated to Italy in March 2017. Whilst attending private tuition lessons outside school hours, the appellant was sexually abused by a local man from the village who gave lifts to the appellant in his car. This started in around March 2018 and continued for 3 to 4 months. The appellant was 17 when the abuse occurred. Her abuser threatened the life of the appellant and her brother if she told anyone about the abuse.
6. The appellant claims that when her grandparents found out about the abuse, they were angry and blamed the appellant. They told her that she had brought shame to the family. The appellant's grandfather was physically and mentally abusive to the appellant, including confining her to the house. The appellant was not allowed out, even to study.
7. The appellant eventually fled Georgia with the assistance of various friends, including a friend of her mother's. She flew to France on around 4 September 2018 where she remained until December 2020. The appellant worked in cleaning jobs in France, but she did not claim asylum.
8. The appellant suffers with both physical and mental health problems. There was a report from a consultant psychiatrist dated 8 June 2024 before the First-tier Tribunal, as is confirmed by the judge at [12].

First-tier Tribunal appeal

9. First-tier Tribunal Judge Reed ('the judge') dismissed the appellant's appeal in a decision dated 20 August 2024. The judge began by acknowledging that the appellant was a minor when the events in Georgia occurred and that it was accepted by the respondent that the appellant was a victim of sexual abuse [36]. The judge also acknowledged the diagnosis of post-traumatic stress disorder (PTSD) and mixed anxiety and depression. The judge suggests that the appellant's credibility was assessed considering her vulnerability.
10. Nevertheless, the judge goes on to find at [37]-[40] that there were multiple inconsistencies in the appellant's accounts, such as her age when the abuse occurred and who her abuser was. She also provided unclear details regarding

threats from the abuser and her grandfather, and aspects of her escape from Georgia were said to be confusing.

11. The judge referred at [41] to the appellant's failure to claim asylum in France. She concluded that this negatively impacted the appellant's credibility, though not significantly.
12. Letters from the appellant's Georgian doctor and former school were given little weight due to the lack of detail and because it was unclear how the authors were aware of the truth of what had happened to the appellant [42]. A psychiatric report diagnosed the appellant's mental health conditions but could not determine causation [43]. The judge referred again to a discrepancy in the appellant's stated age when the abuse occurred.
13. The judge did not find sufficient evidence to suggest the appellant would face harm upon return to Georgia. The circumstances surrounding her abuse no longer applied, and as an adult, she would not have to live with her grandparents [46]-[47]. The judge concluded that the appellant could reasonably relocate within Georgia if necessary and found no evidence of insufficient state protection [49]-[50]. The judge also found, owing to a lack of country evidence, that the appellant would not fall within the definition of a particular social group [48].
14. In relation to Article 8 ECHR the judge found no significant obstacles to the appellant reintegrating into Georgian society. Her mental health conditions could be treated in Georgia, and although vulnerable, she had some prior support in Georgia [53].

Upper Tribunal appeal

15. The appellant was granted permission to appeal by First-tier Tribunal Judge Iqbal on 24 October 2024.
16. Mr Ahmed, on behalf of the appellant, submitted a skeleton argument on the morning of the error of law hearing. This was dated 10 January 2025. The skeleton argument reiterated the four grounds of appeal previously pleaded. Ms Rushforth confirmed that she had had sight of the skeleton argument and was content to proceed with the hearing.
17. We heard submissions from both parties and, at the end of the hearing, we reserved our decision.

Decision and reasons

18. Mr Ahmed presented his arguments with conviction; however, after careful consideration, we are satisfied that the judge's decision is not undermined by any material error of law that would warrant setting it aside.
19. It is evident from the First-tier Tribunal's decision that the judge had access to all the documents submitted by both parties. These documents are outlined in paragraphs [21]-[22] of the determination. The appellant relied upon a 33-page bundle, which included:
 - (a) A witness statement from the appellant dated 03 June 2024
 - (b) An Appeal Skeleton Argument (ASA)

- (c) The appellant's GP records
- (d) A letter from the appellant's village doctor in Georgia
- (e) A letter from the appellant's former headmaster in Georgia
- (f) A report from Consultant Psychiatrist, Dr Mahmood Nasiri

20. Mr Ahmed confirmed that the appellant had not provided any objective country evidence regarding the sufficiency of protection in Georgia or feasibility of internal relocation. We note that the Respondent's Bundle similarly contained no objective evidence, and it was agreed by both parties that there had been no Country Policy and Information Note (CPIN) for Georgia to assist with these considerations at the date of hearing.
21. In Ground 1, Mr Ahmed argued that the judge erred by failing to give sufficient reasons for finding that the appellant did not fall within the definition of a 'particular social group' (PSG). At paragraph [48], the judge stated:
- Furthermore, due to the lack of country evidence, I do not find that the Appellant would fall within the definition of a particular social group.*
22. We agree that the judge did not adequately explain why the absence of country evidence would necessarily lead to the conclusion that the appellant could not fall within the definition of a PSG. The finding on this point is not sufficiently detailed and lacks proper reasoning.
23. We see similar force in Mr Ahmed's second ground of appeal, which highlights the apparent inconsistency in the judge's assessment of the appellant's credibility. At [36] of the determination, the judge acknowledged that the appellant was under 18 at the time of the events in question and that it was accepted the appellant had been a victim of sexual abuse. The judge also noted the appellant's diagnosis of PTSD and mixed anxiety/depression and acknowledged her vulnerability as a witness, which is a relevant factor when assessing credibility. However, the judge then proceeded, in paragraphs [37]-[40], to identify inconsistencies in the appellant's account and ultimately concluded, at paragraph [45], that she was not a credible witness.
24. Nonetheless, for an appeal to succeed on the grounds of an error of law, the error must be material—that is, it must have had the potential to affect the outcome of the decision: *R (Iran) v Secretary of State for the Home Department* [2005] EWCA Civ 982. In other words, even if an error of law is identified, it will only be relevant if it had a bearing on the overall decision or outcome of the appeal. Having carefully considered both parties' submissions and the evidence before the First-tier Tribunal, we cannot conclude that the errors identified in relation to Grounds 1 or 2 would have materially affected the outcome of the appeal.
25. To succeed on asylum grounds, the appellant needed to demonstrate not only a well-founded fear of persecution for a Convention reason but also that there would be insufficient protection available to her in Georgia and that internal relocation would not be a viable option. The burden of proof was on the appellant.
26. The appellant did not provide any country information or background evidence to support her claim. Mr Ahmed submitted that no CPIN existed for Georgia on the issues of sufficiency of protection or internal relocation, a point not disputed

by Ms Rushforth. However, the burden of proving insufficient protection and the unfeasibility of internal relocation lay with the appellant, not the respondent.

27. The respondent had referred to country background evidence in the reasons for refusal letter. In particular she referred to a OSCE POLIS report on Georgia which was said to confirm that the police in Georgia are generally willing and able to provide protection to victims of abuse such as the appellant. The respondent also referred to a USSD Human Rights Report on Georgia from 2022 which confirmed a general freedom of movement in the country. The respondent suggested Martvili or Tbilisi as viable internal relocation options. The respondent noted that the people the appellant feared were non-state actors and it was suggested that she had failed to demonstrate that either would have sufficient power or influence over the authorities in Georgia to suggest that the appellant could not seek state protection, or alternatively that they would have sufficient power or influence to be able to locate you anywhere in Georgia.

28. We queried with Mr Ahmed what evidence the judge had before her addressing or countering either of these issues. He took us to the appellant's witness statement, which mentioned her lack of family support and vulnerability. In paragraph [15], the appellant stated:

I will not get any protection if I am required to leave the UK. The Government is politically corrupt and there is persecution violation of human rights in Georgia and I have no trust on Police and will not get protection if I am require to live there [sic].

29. In paragraph [12], the appellant also referred to her abuser's connections throughout the country. However, aside from these two passages, no other evidence was provided to support the assertion that the appellant could not receive protection from the state. On this point, we also note that at paragraph [4] of her witness statement, the appellant said that her abuser threatened to kill her and her brother if she went to the police, which suggests that he believed that the authorities would take action against him if a report was made. Furthermore, no evidence was adduced to support the appellant's contention that she could not safely relocate elsewhere in Georgia, away from her village and her abuser.

30. Given that the burden of proof rested with the appellant, event taking into account the lower standard of proof which applied, the judge was clearly entitled to conclude that the appellant had not established that there was insufficient protection or that internal relocation would be unreasonable [49]-[50].

31. The third ground asserts that the judge erred in law by failing to provide adequate reasoning on the issues of sufficiency of protection and internal relocation, claiming there was "no basis or evidence" to support the findings in paragraphs [49]-[50] of the determination. We have already referred above to the objective country evidence relied upon by the respondent in the refusal letter. The appellant did not submit any evidence to counter the evidence relied upon by the respondent or the conclusions reached in the refusal letter as to sufficiency of protection and internal relocation. The judge was unarguably entitled to reach the findings she did as to there being sufficiency of protection available to the appellant in Georgia, or alternatively to the appellant being able to relocate to another part of Georgia to avoid her former abuser and grandfather on the evidence she had before her.

32. As for the suggestion that the judge erred in failing to take into consideration the factors detailed at [53] of the determination when considering internal relocation, the grounds and submissions from Mr Ahmed fail to identify any evidence to indicate that those factors, individually or cumulatively, would have meant that the appellant could not reasonably internally relocate.
33. Ground 4 in relation the appellant's Article 8 rights is dependent upon the outcome of the appellant's challenge to the protection claim findings outlined in Ground 1 to 3. Given that we find that the judge has not materially erred in relation to her assessment of the protection appeal, Ground 4 must fail.
34. For these reasons, we conclude that even if the first and second grounds disclosed an error of law, they are not errors that would have made any material difference to the outcome of the appeal in light of the judge's assessment of sufficiency of protection and internal relocation.
35. For the reasons given above, we conclude that the First-tier Tribunal decision did not involve the making of an error on a point of law.

Notice of Decision

The decision of the First-tier Tribunal did not involve the making of any material error of law and therefore stands.

The decision shall stand.

S. Anzani
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

20 January 2025